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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE IMMUNITYBIO, INC.
SECURITIES LITIGATION

THIS DOCUMENT RELATES TO ALL
ACTIONS

Case No.: 23-cv-01216-GPC-VET

**ORDER GRANTING
AUTHORIZATION TO
DISTRIBUTE THE NET
SETTLEMENT FUND**

[ECF No. 98]

On June 16, 2025, this Court granted final approval of the class action settlement (“Settlement”) and entered judgment in the above-captioned case. ECF No. 96. The Court approved the proposed Plan of Allocation, pursuant to which the Settlement Fund, after deduction of Court-approved attorneys’ fees and expenses, lead plaintiff awards, administration expenses, and tax expenses, will be allocated on a *pro rata* basis to Authorized Claimants. *Id.* at 5. The deadline for Class Members to submit Claims in connection with the Settlement was July 7, 2025. ECF No. 98 (“Mot.”) at 2.

Before the Court is Plaintiff’s Motion for Distribution of the Net Settlement Fund. ECF No. 98. On November 3, 2025, Claimant Stephen M. Gelber filed a Formal Request

1 for Court Review of Claim. ECF No. 100. On December 2, 2025, Plaintiff filed a
2 response. ECF No. 101. Court-appointed Lead Plaintiff Dipak Patel (“Plaintiff”) informs
3 the Court in the pending motion that the Court-appointed Claims Administrator, Epiq
4 Class Action & Claims Solutions, Inc. (“Epiq” or “Claims Administrator”), has processed
5 and audited all Claims submitted in connection with this Settlement. Mot. at 4.¹ Plaintiff
6 further informs the Court that Epiq is ready to distribute monetary payments to all
7 Authorized Claimants in accordance with the Plan of Allocation. *Id.*

8 **Funds Available for Distribution.** In total, Plaintiff recovered \$10,500,000 for
9 the Class. *Id.* at 3. In its Final Approval Order, the Court approved an award of \$10,000
10 for Lead Plaintiff, \$2,987,985 in attorneys’ fees, \$180,049.92 in expenses, and up to
11 \$350,000 in administrator’s fees. ECF No. 96 at 24-30. The Net Settlement Fund will be
12 calculated and distributed after deducting those costs.

13 **Valid Claims.** After a comprehensive audit process, Epiq has determined there are
14 5,576 valid and properly documented claims. ECF No. 101 (“Rep.”) at 2. In addition,
15 Epiq has identified 14,771 claims for rejection. *Id.* The claims were rejected because they
16 did not result in a Recognized Loss, had no eligible purchases during the Class Period,
17 were withdrawn by the filing entity, were deficient with condition of ineligibility never
18 cured, or duplicative of another claim. Mot. at 6-7. Epiq also received 18 requests for
19 review by the Court. *Id.* at 5. Sixteen have been cured or retracted, while two disputed
20 claims have continued to request Court review. *Id.* The Court has also received on
21 additional request for judicial review by Claimant Gelber. ECF No. 100. Based on the
22 Plan for Allocation established in this case, the Court approves Epiq’s administrative
23 determinations in accepting and rejecting Claims for this Settlement.

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26 ¹ Throughout the order, the pagination for docketed documents is derived from the
27 numbering generated by the ECF system.

1 The Plan of Allocation provides, in pertinent part, “in order to have been damaged
2 by the alleged violations of the federal securities laws, ImmunityBio common stock
3 purchased or acquired during the Settlement Class Period must have been held during a
4 period of time in which its price declined due to the disclosure of information which
5 corrected a misleading statement or omission allegedly made by Defendants.” ECF No.
6 80, Exhibit B-1, at 13. Because the Lead Plaintiff determined the price decline occurred
7 on May 11, 2023, “if a share ImmunityBio common stock was sold before May 11,
8 2023...the Recognized Loss for that share is \$0.00, and any loss suffered is not
9 compensable under the federal securities laws.” *Id.*

10 In approving a settlement, the Court’s objective is to determine whether a plan of
11 allocation fairly and equitably distributes the settlement fund. The Court finds that the
12 law supports the plan of allocation in this case. Courts routinely find that it is fair to deny
13 a potential claim when the claimant did not experience a loss caused by the alleged
14 misleading statements. *See, e.g., In re China Med. Corp. Sec. Litig.*, 2014 WL 12581781,
15 at *6 n.5 (C.D. Cal. Jan. 7, 2014) (“Recognized Loss is zero for shares sold before the
16 corrective disclosures because any loss on such shares would have been caused by market
17 forces.”); *Destefano v. Zynga, Inc.*, 2016 WL 537946, at *15 (N.D. Cal. Feb. 11, 2016)
18 (“[T]he recognized loss is zero for Cass Members who sold their shares . . . while the
19 stock price was still benefitting from Zynga’s alleged misrepresentations”).

20 **Claim Nos. 117 & 385.** Claim Nos. 117 and 385 have requested the Court review
21 Epiq’s rejection of their claims. Claim No. 117 was rejected by Epiq because it
22 determined that the claim did not calculate to a Recognized Loss under the Plan of
23 Allocation. *Id.* at 5. Specifically, the Claimant had purchased 1,000 shares of
24 ImmunityBio common stock on January 13, 2022 and sold the stock before May 11,
25 2023. *Id.* at 5-6. Similarly, Claim No. 385 was rejected because the claim did not
26 calculate to a Recognized Loss. *Id.* at 6. This second claimant had purchased 500 shares
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1 of ImmunityBio common stock on March 15, 2021, bought 500 more shares on
2 December 12, 2022, and sold them before May 11, 2023. *Id.*

3 Given the Plan of Allocation, Claims Nos. 117 & 385 did not incur a Recognized
4 Loss. Thus, the Court approves Epiq’s administrative determinations in rejecting these
5 two Claims.

6 **Request from Claimant Gelber.** Claimant Stephen M. Gelber has requested
7 judicial review of Epiq’s rejection of his claim. ECF No. 100. While Claimant Gelber’s
8 claim was rejected for calculating to no Recognized Loss, he does not contest the
9 substantive result but, instead, the procedure. *Id.* at 2. Specifically, he argues that there
10 was “no requirement, indication, or mention in the Notice that [he] and other similarly
11 situated investors received that there was any requirement that the investor continue to
12 hold the ImmunityBio shares as of May 10, 2023.” *Id.* He also alleges that there was a
13 “different and longer form Notice...[which] may have been sent to institutional investors
14 and not individual investors.” *Id.*

15 First, while Claimant argues there was no notice that shares must have been held
16 through May 11, 2023, the exhibits Claimant filed in support of his request indicate the
17 opposite. The short-form notice states that a class member is one “who purchased or
18 acquired ImmunityBio, Inc. (NASDAQ: IBRX) securities from March 10, 2021 to May
19 10, 2023, both dates inclusive...and were damaged thereby.” ECF No. 100-2 at 3. The
20 notice also specifies that “[a]dditional details are listed within the long-form Notice,
21 which can be obtained as described below.” *Id.* at 4. Just a few paragraphs down from
22 that language, the notice notifies claimants that the long-form notice can be downloaded
23 on the Claim’s Administrator’s website or by contacting the Claims Administrator. *Id.*
24 The long-form notice, once accessed, states that shares sold before May 11, 2023 do not
25 have any recognized loss. *Id.* at 58.

1 Second, there is no indication that the long-form notice was sent only to
2 institutional investors. As approved by this Court, a short-form notice was sent to all
3 investors, regardless of whether they were institutional or retail. Mot. at 3. The Court also
4 directed that a long-form notice, stipulation, and other exhibits be available to claimants
5 via a website. *Id.*; ECF No. 23-24. The exhibits Claimant filed do not demonstrate the
6 contrary.

7 Claimant Gelber had received notice and does not have a claim that calculates to a
8 Recognized Loss. Thus, the Court approves Epiq’s administrative process and
9 determinations for this claim.

10 **Procedures of Distribution.** Pursuant to the Stipulation, “[t]he Claims
11 Administrator shall administer and calculate the claims submitted by Settlement Class
12 members and shall oversee distribution of the Net Settlement Fund to Authorized
13 Claimants.” ECF No. 80-2 (“Stipulation”) ¶ 6.0. Epiq will distribute the entire available
14 balance of the Net Settlement Fund to Authorized Claimants, after deducting the
15 payments this Court allowed, and after the payment of any estimated taxes, tax expenses,
16 and escrow fees. Mot. at 7. No distribution will be made on a claim where the potential
17 distribution amount is less than \$10.00 in cash. *Id.* Epiq will also deduct and maintain a
18 5% reserve of the Net Settlement Fund in order to address any tax liability and claims
19 administrated-related contingencies that may arise. *Id.* To encourage Authorized
20 Claimants to promptly cash their distributions and to avoid or reduce future expenses
21 relating to unpaid distributions, all the distribution checks will bear the notation:
22 “DEPOSIT PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT
23 NEGOTIATED WITHIN 90 DAYS OF ISSUE DATE.” *Id.* at 8.

24 If there is any balance remaining in the Net Settlement Fund after 6 months from
25 the initial distribution date, Epiq will distribute the entire available balance of the Net
26 Settlement Fund to Authorized Claimants who cashed their checks from the initial
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1 distribution and who would receive at least \$10.00 from such re-distribution, after
2 payment of any unpaid fees and expenses incurred in administering the Settlement,
3 including for such re-distribution. *Id.* If there is any balance remaining in the Net
4 Settlement Fund after 6 months from the second distribution date, Epiq will distribute the
5 remaining balance to Authorized Claimants who cashed their checks from the second
6 distribution, after payment of any unpaid fees and expenses incurred in administering the
7 Settlement, including for such re-distribution. *Id.*

8 **Claim Administration Costs.** Through September 30, 2025, Epiq has incurred
9 \$84,994.01 in fees and costs in administering the Settlement. Mot. at 8. Epiq also
10 requests \$25,898.22 for invoices submitted for reimbursement by brokers and nominees.
11 *Id.* The Court approves payment of these amounts to Epiq.

12 In addition, Epiq estimates that it will incur costs of approximately \$14,137.50 to
13 complete the initial distribution of the Net Settlement Fund to Authorized Claimants. *Id.*
14 The Court finds Epiq’s estimate reasonable and therefore authorizes Plaintiff to approve
15 additional disbursements to Epiq, up to a maximum of \$14,137.50, for reasonable future
16 expenses Epiq incurs through the initial distribution of the Net Settlement Fund to
17 Authorized Claimants.

18 Based on the above and the record before it, **IT IS HEREBY ORDERED,**
19 **ADJUDGED AND DECREED:**

20 1. The Motion is GRANTED in its entirety. The Court approves the
21 administrative determinations of Epiq Class Action & Claims Solutions, Inc. (“Epiq”),
22 the Court-appointed Claims Administrator, accepting and rejecting the Proof of Claim
23 forms submitted by potential Settlement Class members (the “Claim Forms” or
24 “Claims”).

25 2. The Net Settlement Fund (less any necessary amounts to be withheld for
26 payment of potential tax liabilities and related fees and expenses) established by the
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1 settlement of this Action shall be distributed to Authorized Claimants identified in
2 Exhibits D-1 and D-2 to the Declaration of Nicholas Schmidt in Support of Lead
3 Plaintiff’s Motion for Authorization to Distribute Net Settlement Fund (“Schmidt
4 Declaration”), as revised by Exhibit A to the Supplemental Declaration of Susanna Webb
5 in Support of Lead Plaintiff’s Motion for Authorization to Distribute Net Settlement Fund
6 (“Webb Declaration”), at the direction of Co-Lead Counsel, Pomerantz LLP and Holzer
7 & Holzer, LLC, pursuant to the Stipulation, and the Plan of Allocation of the Net
8 Settlement Fund set forth in the Notice of Pendency and Proposed Settlement of Class
9 Action that was distributed pursuant to this Court’s Order: (1) Provisionally Approving
10 Certification of the Proposed Settlement Class; (2) Appointing Class Counsel; (3)
11 Conditionally Approving the Proposed Notice Form and Proof of Claim Form; (4)
12 Approving Lead Plaintiff’s Plan of Allocation; (5) Granting Preliminary Approval of
13 Class Action Settlement. ECF No. 89.

14 3. Epiq’s administrative determinations rejecting the ineligible or otherwise
15 deficient Claims, which are set forth in Exhibit D-3 to the Schmidt Declaration, as
16 revised by Exhibit A to the Webb Declaration, are approved. Such claims may not
17 receive any distributions from the Net Settlement Fund.

18 4. Any Claims that were received after July 21, 2025, and any responses to
19 deficiency and/or rejection notices received after October 29, 2025, are hereby rejected as
20 untimely and shall not be accepted.

21 5. All distribution checks shall bear the notation “DEPOSIT PROMPTLY,
22 VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT NEGOTIATED WITHIN 90
23 DAYS OF ISSUE DATE.” Authorized Claimants who do not cash their Initial
24 Distribution checks within the time allotted will irrevocably forfeit all recovery from the
25 Settlement. The funds allocated to all such stale-dated checks will be available to be re-
26 distributed to other Authorized Claimants in the Second Distribution as discussed below.

1 6. Pursuant to the Stipulation, if there is any balance remaining in the Net
2 Settlement Fund six months after the date of the initial distribution of the Net Settlement
3 Fund, the Claims Administrator at Lead Counsel's discretion shall, after payment of any
4 outstanding Notice and Administration Expenses, reallocate such balance among
5 Authorized Claimants who negotiated the checks sent in the initial distribution and who
6 would receive a minimum of \$10.00 as part of an additional distributions. These
7 additional distributions shall be repeated every six months until the balance remaining in
8 the Net Settlement Fund is reduced to zero.

9 7. Epiq is hereby ordered to discard paper or hard copies of Proofs of Claims
10 and supporting documents not less than one (1) year after all distributions of the Net
11 Settlement Fund to the eligible claimants, and electronic copies of the same not less than
12 one (1) years after all distributions of the Net Settlement Fund to the eligible claimants.

13 8. Epiq's request to withhold \$84,994.01 in fees and expenses incurred during
14 the claims administration process from the initial distribution is approved.

15 9. Epiq's request to withhold \$14,137.50 in anticipated costs for the initial
16 distribution to Settlement Class members is approved.

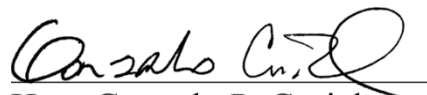
17 10. Epiq's request to withhold \$25,898.22 for invoices submitted for
18 reimbursement by brokers and nominees is approved.

19 11. The Court retains jurisdiction to consider any further applications
20 concerning the administration of the Settlement, and such other and further relief as this
21 Court deems appropriate.

22 The Court also VACATES the hearing set for January 9, 2026.

23 **IT IS SO ORDERED.**

24 Dated: December 16, 2025


25 Hon. Gonzalo P. Curiel
26 United States District Judge