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11 *Counsel for Plaintiff and the Class*

12 UNITED STATES DISTRICT COURT  
 13 CENTRAL DISTRICT OF CALIFORNIA  
 14 SOUTHERN DIVISION

15 HSINGCHING HSU, Individually and )  
 16 on Behalf of All Others Similarly )  
 Situated, )

17 Plaintiff, )

18 vs. )

19 PUMA BIOTECHNOLOGY, INC., et )  
 20 al., )

21 Defendants. )

Case No. 8:15-cv-00865-DOC-SHK

CLASS ACTION

NOTICE OF NON-OPPOSITION AND  
 REPLY IN FURTHER SUPPORT OF  
 LEAD PLAINTIFF'S MOTION FOR  
 FINAL APPROVAL OF CLASS  
 ACTION SETTLEMENT AND  
 APPROVAL OF PLAN OF  
 ALLOCATION, AN AWARD OF  
 ATTORNEYS' FEES AND  
 EXPENSES, AND AN AWARD TO  
 LEAD PLAINTIFF PURSUANT TO 15  
 U.S.C. §78u-4(a)(4)

DATE: April 11, 2022  
 TIME: 8:00 a.m.  
 CTRM: 9D  
 JUDGE: Hon. David O. Carter

1           Lead Plaintiff Norfolk County Council, as Administering Authority of the  
2 Norfolk Pension Fund, on behalf of itself and the Class, respectfully submits this  
3 notice of non-opposition and reply in further support of its motion for: (1) final  
4 approval of the Settlement of this securities class action; (2) approval of the Plan of  
5 Allocation; (3) an award of attorneys’ fees and expenses; and (4) an award to Lead  
6 Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4). ECF Nos. 896, 897.<sup>1</sup>

7 **I. INTRODUCTION**

8           Pursuant to the Court’s December 29, 2021 Order Preliminarily Approving  
9 Settlement and Providing for Notice (ECF No. 890), the Court-appointed claims  
10 administrator, Gilardi & Co. LLC, sent the Notice of Class Action Settlement  
11 (“Notice”) to representatives of all Class Members who submitted a validated claim,  
12 and published the Notice in *The Wall Street Journal* and over the *Business Wire*. See  
13 Declaration of Ross D. Murray Regarding Notice Dissemination, Publication, and  
14 Objections Filed to Date (ECF No. 900) (“Murray Decl.”), ¶¶6-8.

15           The Notice advised validated claimants that: (1) a proposed Settlement for  
16 \$54,248,374 in cash had been reached; (2) the Settlement Amount represents the  
17 complete amount of claimed damages and prejudgment interest due to validated  
18 claims under the jury verdict; (3) under the Plan of Allocation, validated claimants  
19 would receive 100% of their damages and prejudgment interest minus (i) their pro rata  
20 share of any Court-awarded attorneys’ fees and litigation expenses and any Court  
21 award to Lead Plaintiff, (ii) settlement administration expenses, and (iii) taxes and tax  
22 expenses; (4) the maximum amount of attorneys’ fees, expenses, and Lead Plaintiff  
23 award that would be sought; (5) the name and telephone number of representatives of  
24 Lead Counsel who would be reasonably available to answer questions concerning  
25  
26

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27 <sup>1</sup> All capitalized terms not defined herein shall have the same meanings set forth  
28 in the Stipulation and Agreement of Class Action Settlement dated December 1, 2021  
(ECF No. 889) (the “Stipulation”).

1 matters contained in the Notice; (6) the right of Class Members to object to the  
2 Settlement; and (7) the March 21, 2022 deadline for objecting to the Settlement.

3 Now that the March 21, 2022 deadline for filing objections has passed, Lead  
4 Plaintiff and Lead Counsel are pleased to report that no Class Members have objected  
5 to the Settlement, the Plan of Allocation, or the application for an award of attorneys'  
6 fees, expenses, and Lead Plaintiff award.

7 **II. THE REACTION OF THE CLASS STRONGLY SUPPORTS**  
8 **APPROVAL OF THE SETTLEMENT AND PLAN OF**  
9 **ALLOCATION**

10 The “reaction of the class members to the proposed settlement” is a factor to be  
11 considered in assessing the adequacy of the settlement. *Hanlon v. Chrysler Corp.*,  
12 150 F.3d 1011, 1026 (9th Cir. 1998). Indeed, “the reaction of the class to the  
13 proffered settlement . . . is perhaps the most significant factor to be weighed in  
14 considering its adequacy.” *In re Rambus Inc. Derivative Litig.*, 2009 WL 166689, at  
15 \*3 (N.D. Cal. Jan. 20, 2009) (citation omitted).

16 Here, the “[l]ack of objection speaks volumes for a positive class reaction to the  
17 settlement.” *Morgan v. Childtime Childcare, Inc.*, 2020 WL 218515, at \*2 (C.D. Cal.  
18 Jan. 6, 2020); *see also In re Omnivision Techs.*, 559 F. Supp. 2d 1036, 1043 (N.D.  
19 Cal. 2007) (“[T]he absence of a large number of objections to a proposed class action  
20 settlement raises a strong presumption that the terms of a proposed class settlement  
21 action are favorable to the class members.”) (citation omitted). Accordingly, the lack  
22 of any objection weighs heavily in favor of finding that the Settlement is fair,  
reasonable, and adequate and should be approved.

23 **III. THE REACTION OF THE CLASS STRONGLY SUPPORTS**  
24 **APPROVAL OF LEAD COUNSEL’S REQUEST FOR**  
25 **ATTORNEYS’ FEES AND EXPENSES AND LEAD**  
26 **PLAINTIFF’S AWARD PURSUANT TO 15 U.S.C. §78u-4(a)(4)**

27 “[D]istrict courts in the Ninth Circuit also traditionally consider the reaction of  
28 the class when deciding whether to award the requested fee.” *Cagle v. Anti-Aging*  
*Essentials, Inc.*, 2012 WL 12883828, at \*5 (C.D. Cal. June 6, 2012); *see also In re*

1 *Heritage Bond Litig.*, 2005 WL 1594389, at \*15 (C.D. Cal. June 10, 2005) (“The  
2 presence or absence of objections from the class is also a factor in determining the  
3 proper fee award.”).

4 The Notice informed validated claimants that Lead Counsel would request a fee  
5 award of 25% of the Settlement Amount, as well as the payment of litigation expenses  
6 in an amount not to exceed \$3,100,000, and an award to Lead Plaintiff pursuant to 15  
7 U.S.C. §78u-4(a)(4) in an amount not to exceed \$100,000. *See* Murray Decl., Ex. A.  
8 In seeking final approval of the Settlement, Lead Counsel has requested an award of  
9 attorneys’ fees of 25% of the Settlement Amount, payment of litigation expenses of  
10 \$2,890,129.74, and an award to Lead Plaintiff of \$64,505 pursuant to 15 U.S.C. §78u-  
11 4(a)(4) for its time and effort in representing the Class. ECF No. 896. Lead  
12 Counsel’s fee request of 25% is the benchmark rate that courts in the Ninth Circuit  
13 consider presumptively reasonable, and is eminently fair and reasonable under the  
14 circumstances here. That no objections to the requested fee and expense application  
15 have been filed following the Court-approved notice program bolsters the argument in  
16 support of the award. *See, e.g., Omnivision.*, 559 F. Supp. 2d at 1048 (noting that  
17 class members’ reaction may be “a determining factor in . . . determining the fee  
18 award” and holding that this factor supported the requested award where no objection  
19 “raised any concern about the amount of the fee”); *Heritage Bond*, 2005 WL 1594389,  
20 at \*16 (concluding “that the lack of significant objections to the requested fees”  
21 supported the requested 33.3% fee award); *In re Wireless Facilities, Inc. Sec. Litig. II*,  
22 2008 U.S. Dist. LEXIS 128674, at \*23 (S.D. Cal. Dec. 19, 2008) (“The lack of  
23 objections from potential claimants favors awarding Lead Counsel the requested  
24 amount of attorneys’ fees.”).

25 The lack of any objection to Lead Plaintiff’s request for an award under 15  
26 U.S.C. §78u-4(a)(4) also supports the approval of that request. *See Omnivision*, 559  
27 F. Supp. 2d at 1049 (finding it “appropriate to reimburse Lead Plaintiffs for their  
28 reasonable costs and expenses” where “[t]he Notice adequately informed all potential

1 Class Members that the Lead Plaintiffs would seek to recover these costs, and no one  
2 objected”).

3 **IV. CONCLUSION**

4 For the foregoing reasons, as well as the reasons set out in Lead Plaintiff’s  
5 opening Memorandum of Points and Authorities, the Court should approve the  
6 Settlement and Plan of Allocation as fair, reasonable, and adequate and in the best  
7 interests of the Class, grant Lead Counsel’s request for an award of attorneys’ fees of  
8 25% of the Settlement Amount and expenses of \$2,890,129.74, and award Lead  
9 Plaintiff \$64,505 as allowed by the PSLRA.

10 DATED: April 4, 2022

Respectfully submitted,

11 ROBBINS GELLER RUDMAN  
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20 s/ Marco Janoski

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on April 4, 2022, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Marco Janoski

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## Mailing Information for a Case 8:15-cv-00865-DOC-SHK HsingChing Hsu v. Puma Biotechnology, Inc. et al

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