

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

<p>ELAINE WANG, derivatively on behalf of BIOMARIN PHARMACEUTICAL INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>JEAN-JACQUES BIENAIMÉ, ELIZABETH MCKEE ANDERSON, WILLARD DERE, ELAINE J. HERON, ROBERT HOMBACH, BRYAN LAWLIS, RICHARD A. MEIER, DAVID E. I. PYOTT, DENNIS J. SLAMON, MICHAEL GREY, MARK J. ALLES, MAYKIN HO, and HENRY J. FUCHS,</p> <p>Defendants,</p> <p>and</p> <p>BIOMARIN PHARMACEUTICAL INC.,</p> <p>Nominal Defendant.</p>	<p>C.A. No. 2023-0058-NAC</p>
--	-------------------------------

Additional caption on next page

<p>BILL TSANTES, on behalf of BIOMARIN PHARMACEUTICAL INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>JEAN-JACQUES BIENAIMÉ, ELIZABETH MCKEE ANDERSON, WILLARD DERE, ELAINE J. HERON, ROBERT HOMBACH, BRYAN LAWLIS, RICHARD A. MEIER, DAVID E. I. PYOTT, DENNIS J. SLAMON, MICHAEL GREY, MARK J. ALLES, MAYKIN HO, and HENRY J. FUCHS,</p> <p>Defendants,</p> <p>and</p> <p>BIOMARIN PHARMACEUTICAL INC., a Delaware Corporation,</p> <p>Nominal Defendant.</p>	<p>C.A. No. 2023-0569-NAC</p>
--	-------------------------------

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF ACTIONS

TO: ALL PERSONS OR ENTITIES WHO HELD SHARES OF COMMON STOCK OF BIOMARIN PHARMACEUTICAL INC., EITHER OF RECORD OR BENEFICIALLY, AS OF April 9, 2024

IF YOU HOLD COMMON STOCK OF BIOMARIN PHARAMCEUTICAL INC. FOR THE BENEFIT OF ANOTHER, PLEASE PROMPTLY TRANSMIT THIS DOCUMENT TO SUCH BENEFICIAL OWNER.

The purpose of this Notice is to inform you of (i) the pendency of the above-captioned actions (the “Derivative Actions”), which were brought in the Court of Chancery of the State of Delaware (the “Court”) by stockholders of BioMarin Pharmaceutical Inc. (“BioMarin” or the “Company”), asserting claims derivatively on behalf of the Company; (ii) the proposed settlement of the Derivative Actions (the “Settlement”), subject to Court approval and subject to other conditions of the Settlement being satisfied, as provided for in a Stipulation of Compromise and Settlement dated March 27, 2024 (the “Stipulation”), which was filed with the Court and is publicly available for review; and (iii) your right to participate in a hearing to be held on July 23, 2024, at 11:00 a.m., before the Court at the Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801 (the “Settlement Hearing”). The purposes of the Settlement Hearing are to determine whether the Court should: (i) approve the proposed Settlement as fair, reasonable and adequate; (ii) dismiss the Derivative Actions with prejudice; (iii) enter an Order and Final Judgment approving the Settlement; (iv) approve a petition for an award of attorneys’ fees and expenses to Plaintiffs’ Counsel in the Derivative Actions (the “Fee Award”); (v) approve an application for fee for the reasonable services of each Plaintiff to be paid from the Fee Award (the “Service Award”); and (vi) hear and determine any objections to the Settlement, the Fee Award or the Service Award.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF THE LITIGATION REFERRED TO IN THE CAPTIONS AND CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS. IF THE COURT APPROVES THE PROPOSED SETTLEMENT, YOU WILL BE FOREVER BARRED FROM CONTESTING THE FAIRNESS, REASONABLENESS OR ADEQUACY OF THE PROPOSED SETTLEMENT, AND FROM PURSUING THE RELEASED CLAIMS (AS DEFINED BELOW).

The Stipulation was entered into as of March 27, 2024 by and among (i) Elaine Wang (“Wang”), the plaintiff in the above-captioned action *Wang v. Bienaimé, et al.*, C.A. No. 2023-0058-NAC (Del. Ch.) (the “*Wang Action*”); (ii) Bill Tsantes (“Tsantes” and together with Wang, “Plaintiffs”), the plaintiff in the above-captioned action *Tsantes v. Bienaimé, et al.*, C.A. No. 2023-0569-NAC (Del. Ch.); defendants Jean-Jacques Bienaimé, Elizabeth McKee Anderson, Willard Dere, Elaine J. Heron, Robert Hombach, Bryan Lawlis, Richard A. Meier, David E. I. Pyott, Dennis J. Slamon, Michael Grey, Mark J. Alles, Maykin Ho, and Henry J.

Fuchs (the “Individual Defendants”); and (iv) Nominal Defendant BioMarin (and together with the Individual Defendants, “Defendants”). Plaintiffs and Defendants are collectively referred to herein as the “Parties.”

This Notice describes the rights you may have in the Derivative Actions and, pursuant to the Stipulation, what steps you may take, but are not required to take, in relation to the Settlement. If the Court approves the Settlement, the Parties will ask the Court at the Settlement Hearing to enter an Order and Final Judgment dismissing the Derivative Actions with prejudice in accordance with the terms of the Stipulation.

These Derivative Actions were brought as stockholder derivative actions on behalf of the Company. The benefits of the Settlement will go to the Company. Other than any award by the Court of fees and expenses to Plaintiffs’ Counsel, or any fee for the reasonable services of each Plaintiff to be paid from the attorneys’ fees awarded to Plaintiffs’ Counsel, no monetary payments under the Settlement will be made.

WHAT IS THE PURPOSE OF THIS NOTICE?

1. The purpose of this Notice is to explain the Derivative Actions, the terms of the proposed Settlement, and how the Settlement affects the legal rights of the Company’s stockholders.

2. In a derivative action, one or more people and/or entities who are current stockholders of a corporation sue on behalf of and for the benefit of the corporation, seeking to enforce the corporation’s legal rights.

3. As described more fully in paragraphs 35-36 below, current stockholders have the right to object to the proposed Settlement, the Fee Award or the Service Award. They have the right to appear and be heard at the Settlement Hearing, which will be held before The Honorable Nathan A. Cook on July 23, , 2024, at 11:00 a.m., Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801 or as may be undertaken via a remote proceeding such as Zoom or by telephone. At the Settlement Hearing, the Court will: (a) determine whether the proposed Settlement should be approved as fair, reasonable and adequate; (b) determine whether the Court should finally approve the Stipulation and enter the Order and Final Judgment as provided in the Stipulation and dismiss the Derivative Actions with prejudice,

thereby extinguishing and releasing the Released Claims; (c) determine whether and in what amount an award of attorneys' fees (including expenses) should be paid to Plaintiffs' Counsel in the Fee Award; (d) determine whether and in what amount a Service Fee should be paid to Plaintiffs from the Fee Award; (e) hear and determine any objections to the Settlement, the Fee Award, the Service Award; and (e) rule on any other matters the Court may deem appropriate.

4. The Court has reserved the right to adjourn or continue the Settlement Hearing, including consideration of the application by Plaintiffs' Counsel for the Fee Award and/or Plaintiffs' application for the Service Award to be paid from the Fee Award, without further notice to you other than by announcement at the Settlement Hearing or any adjournment thereof, or notation on the docket in the Derivative Actions. The Court has further reserved the right to approve the Settlement, at or after the Settlement Hearing, with such modifications as may be consented to by the Parties and without further notice of any kind.

WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?

THE FOLLOWING RECITATION DOES NOT CONSTITUTE FINDINGS OF THE COURT AND SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY CLAIMS OR DEFENSES BY ANY OF THE PARTIES. IT IS BASED ON STATEMENTS OF THE PARTIES AND IS SENT FOR THE SOLE PURPOSE OF INFORMING YOU OF THE EXISTENCE OF THE DERIVATIVE ACTIONS AND OF A HEARING ON A PROPOSED SETTLEMENT SO THAT YOU MAY MAKE APPROPRIATE DECISIONS AS TO STEPS YOU MAY, OR MAY NOT, WISH TO TAKE IN RELATION TO THIS LITIGATION.

5. BioMarin, a publicly traded Delaware corporation with its principal executive offices located in San Rafael, California, is a pharmaceutical company that developed Valrox, a gene therapy treatment for hemophilia A, a hereditary disease caused by the lack of a blood clotting protein called "Factor VII."

6. Plaintiffs allege that between March 3, 2020 and August 18, 2020 (the "Relevant Period"), Defendants, among other things, breached their fiduciary duties

by issuing, and/or permitting the issuance of, materially false and misleading statements regarding the status of the U.S. Food and Drug Administration's (the "FDA") approval process for Valrox. Plaintiffs allege that the Individual Defendants failed to disclose that the FDA had informed the Company in June 2020 that approval of Valrox by August 2020, the deadline under the Prescription Drug User Fee Act, was virtually impossible.

7. On August 19, 2020, the Company announced that the FDA would not approve Valrox at that time. On this news, BioMarin stock dropped by \$41.82 per share, or 35%, to close at \$76.72 per share on August 19, 2020.

8. On May 4, 2021, Tsantes, a BioMarin stockholder, served BioMarin with a demand for the inspection of books and records pursuant to 8 Del. C. § 220 ("§ 220") concerning potential wrongdoing in connection with various statements issued regarding Valrox. In response thereto, after BioMarin and Tsantes negotiated the scope of a document production and entered into a confidentiality agreement, the Company produced 1,902 pages of internal, non-public Company documents to Tsantes, which counsel for Tsantes reviewed and analyzed.

9. On March 14, 2022, Tsantes, through his counsel, served a pre-suit litigation demand (the "Litigation Demand") on BioMarin's Board of Directors (the "Board"), which included certain allegations based on the confidential § 220 materials, demanding that the Board cause the Company to file an action against defendants Bienaimé and Fuchs for breach of fiduciary duty, contribution, and indemnification. The Litigation Demand also demanded that the Board commence an independent investigation in good faith into the events regarding alleged breaches of fiduciary duties by other current and/or former officers and directors of the Company. The Litigation Demand further demanded that the Board cause BioMarin to enter into tolling agreements with each individual implicated in the alleged wrongdoing to preserve the Company's claims during the pendency of the Board's investigation.

10. On April 25, 2022, Wang, a BioMarin stockholder, served BioMarin with a demand for the inspection of books and records pursuant to § 220. In response thereto, after BioMarin and Wang negotiated the scope of a document production and entered into a confidentiality agreement, the Company produced 1,248 pages of internal, non-public Company documents to Wang, which counsel for Wang reviewed and analyzed.

11. On June 1, 2022, the Company responded to Tsantes' Litigation Demand, stating that the Board determined it was in the best interests of the

Company to defer consideration of the Litigation Demand during the pendency of a related federal securities class action, *BioMarin Pharmaceutical Inc. Securities Litigation*, 3:20-cv-06719-WHO (N.D. Cal.) (the “Securities Class Action”).

12. On January 19, 2023, Wang filed a Confidential Verified Stockholder Derivative Complaint in the action *Wang v. Bienaimé, et al.*, C.A. No. 2023-0058-NAC (the “Wang Action”), on behalf of the Company alleging, among other things, that the Individual Defendants breached their fiduciary duties. Certain of the allegations in the Wang Action are based on the confidential § 220 materials.

13. On March 1, 2023, Defendants filed a motion to dismiss the complaint in the *Wang* Action (the “Motion to Dismiss”) pursuant to Court of Chancery Rules 23.1 (“Rule 23.1”), 12(b)(1), and 12(b)(6).

14. While the parties to the *Wang* Action were discussing a mutually agreeable briefing schedule in connection with the Motion to Dismiss, the parties in the Securities Class Action reached a proposed settlement, and, on April 28, 2023, moved for preliminary approval of that settlement. The settlement of the Securities Class Action provides for a cash payment of \$39,000,000.00 to the class.

15. A hearing on the motion for final approval of the settlement of the Securities Class Action was conducted on November 8, 2023. That same day, the United States District Court for the Northern District of California entered a Minute Order that states “[t]he Court finds the settlement to be fair, adequate, and reasonable and anticipates granting final approval.” *See* 3:20-cv-06719-WHO, ECF No. 153. The order granting final approval of the Securities Class Action settlement was entered on November 14, 2023.

16. On June 2, 2023, Tsantes filed a Confidential Verified Stockholder Derivative Complaint in the action *Tsantes v. Bienaimé, et al.*, C.A. No. 2023-0569-NAC (the “*Tsantes* Action”), on behalf of the Company alleging, among other things, that the Individual Defendants breached their fiduciary duties. Certain of the allegations in the *Tsantes* Action are based on the confidential § 220 materials.

17. Shortly thereafter, Plaintiffs agreed to work cooperatively to attempt to negotiate a resolution of the claims asserted in the Derivative Actions and, in or about July 2023, commenced negotiations with Defendants.

18. The negotiations between the Parties continued for several months and, in October 2023, the Parties agreed to schedule a mediation with Michelle Yoshida, Esq. (“Ms. Yoshida” or the “Mediator”) of Phillips ADR Enterprises (“PADRE”) to

take place on November 9, 2023. Ms. Yoshida served as the mediator in connection with the Securities Class Action settlement.

19. The Parties continued negotiations regarding the substantive terms of the Settlement and, on November 6, 2023, reached an agreement-in-principle regarding those terms.

20. Ms. Yoshida was provided with the substantive terms of the Settlement by the Parties and, on November 9, 2023, conducted a full day mediation session (the “Mediation”) with the Parties concerning the amount of attorneys’ fees and expenses to be paid to Plaintiffs’ Counsel (defined herein) in consideration of the substantial benefits achieved for the Company and its current stockholders through the filing, litigation, and settlement of the Derivative Actions. By the conclusion of the Mediation, the Parties had reached an impasse and the Mediation session ended with no agreement reached by the Parties.

21. On November 10, 2023, Ms. Yoshida issued a double-blind mediator’s recommendation to the Parties (the “Mediator’s Proposal”). The Mediator’s Proposal recommended the payment of \$1,250,000.00 in attorneys’ fees and expenses to Plaintiffs’ Counsel, subject to approval by the Court. The Parties accepted the Mediator’s Proposal on November 10, 2023.

22. The Parties executed the Stipulation on March 27, 2024.

WHAT ARE THE TERMS OF THE SETTLEMENT?
--

23. Set forth below is a summary of the principal terms of the proposed Settlement, as agreed to by the Parties, subject to the approval of the Court. The following statements are a summary, and reference is made to the Stipulation, which is publicly available as indicated in paragraph 37 below, for a full and complete statement of the terms of the Settlement.

24. In consideration for the full settlement and release of the Released Claims (as defined below), and subject to the terms and conditions set forth in the Stipulation, within thirty (30) days after entry of Judgment, BioMarin’s Board shall adopt resolutions and amend its Bylaws, committee Charters, and other applicable corporate policies to implement the following reforms (the “Reforms”) set forth below, which shall remain in effect for no less than four (4) years (the “Term”):

The Disclosure and Controls Committee

- a) The Company will establish a management-level Disclosure and Controls Committee (the “Disclosure Committee”). The Disclosure Committee shall be charged with ensuring: (i) the accuracy of earnings releases and material press releases; (ii) accurate filings with the U.S. Securities and Exchange Commission (the “SEC”); (iii) the effectiveness of the Company’s disclosure controls and procedures.
- b) The Disclosure Committee will ensure effective procedures and protocols are in place at the Company such that all the Company’s SEC filings and material press releases are vetted for accuracy, integrity, and completeness, and for reviewing with management its ongoing compliance with these protocols and procedures.
- c) The approval of the Disclosure Committee shall be required prior to any earnings releases or SEC filings, and such approval shall not be granted without first fully considering the Company’s abilities to meet any applicable goals or targets and determining that any authorized corporate public statement is true and accurate.
- d) The Disclosure Committee shall hold regular meetings prior to the preparation and filing of the Company’s annual and quarterly reports with the SEC, and ad hoc meetings from time to time. Other personnel of the Company, or representatives of its outside advisors, may be invited to attend Disclosure Committee meetings as deemed necessary or appropriate by the Disclosure Committee in performing its duties and responsibilities.

The Science and Technology Committee

- e) BioMarin shall amend the Charter for its Board-level Science and Technology Committee (the “Science Committee”), and post the new Charter on the Investor Relations portion of its website and include a link to this charter in each Proxy Statement.
- f) The Science Committee shall be comprised solely of Independent Directors (as defined in the existing charter) and persons who have no financial or other material interest in any matter to be reviewed. At least two members of the Science Committee must be a scientist (Ph.D.

level) or medical doctor, with relevant work and/or academic research experience.

- g) The Science Committee's responsibilities shall include evaluating the impacts of developments relating to preclinical studies and near-clinical phase programs on the Company's collaborations and drug development plans, including but not limited to BioMarin's relationships with any collaborating entities.
- h) The Science Committee, from a scientific and technical perspective, shall review, evaluate, and advise the Board and management regarding the long-term strategic goals and objectives and the quality and direction of the Company's research and development ("R&D") programs, and regularly review the Company's R&D pipeline.
- i) The Science Committee shall identify and discuss new and emerging trends in health care, pharmaceutical science, technology, manufacturing, and regulation to assist the Company in making well-informed choices in the investment of its R&D resources, and recommend to the Board and management emerging technologies for potentially building the Company's technological assets and capabilities.
- j) The Science Committee shall assist management in identifying world-class experts, including potential members for scientific advisory boards, to provide strategic scientific and clinical advice regarding the Company's programs and, in coordination with the Company's management, engage with the Company's scientific advisory boards and other advisors.
- k) The Science Committee shall ensure that the Audit Committee and the Board are promptly made aware when any issues arising out of a clinical trial, including those pertaining to clinical trial data and protocols, are sufficiently material to trigger a disclosure obligation.
- l) The Science Committee shall have access to all communications to the Company from the FDA, or from the FDA to the Company.
- m) The Science Committee shall meet from time to time as it deems necessary to perform its responsibilities, but in no event less than twice

annually, and shall report regularly, but in no event less than twice annually, to the Board.

- n) The Science Committee may from time to time request any officer(s), employee(s) or advisor(s) of the Company to meet with the Science Committee or any advisor(s) engaged by the Science Committee;

The Public Data Disclosures to Stockholders

- o) If management and/or the Board chooses to publicly release interim product candidate results, the Company will do so in a manner that is not false or misleading.
- p) At least a subset of the Disclosure Committee shall review any disclosure releasing new clinical trial data before it disseminated to investors;

Improvements to the Audit Committee

- q) BioMarin shall adopt a resolution to amend its Audit Committee Charter, and post the amended Charter on the Investor Relations section of the Company's website.
- r) The amended Charter shall provide that the Audit Committee shall plan to meet at least six (6) times annually and in separate executive sessions with the Company's management, independent auditor, and Chief Compliance Officer in carrying out its duties. The Chief Financial Officer will not be present at such meetings.
- s) The Audit Committee shall, in conjunction with BioMarin's independent outside auditor, annually review staffing of the Company's internal audit function to ensure that necessary staffing levels of the internal audit function are fulfilled and maintained.
- t) The Audit Committee shall meet with the Disclosure Committee, or its designee, at least four times annually to discuss the Company's R&D, production, and/or marketing goals as it relates to material press releases, SEC Form 10-Qs, and Form 10-Ks to align on processes and procedures to facilitate accurate public disclosures.

Limited Director and Committee Engagements

- u) BioMarin shall limit director and committee engagements outside the Company to help ensure that each director fulfills his or her fiduciary oversight duties by devoting sufficient attention to BioMarin's business and operations.

Expansion of the Duties and Responsibilities of the General Counsel

- v) The duties and responsibilities of the Company's General Counsel shall be expanded to include liaising between management, the Board, and the Audit Committee.
- w) In conjunction with the CCO, the General Counsel shall: (i) be primarily responsible for identifying and initiating investigations into material misconduct and noncompliance with applicable laws and regulations; (ii) if the General Counsel determines that there has been non-compliance with applicable laws and regulations, report those issues to the Disclosure Committee and the Audit Committee, within three days of identification of these issues; and (iii) make recommendations for further evaluation and/or remedial action within deadlines agreed to by the Disclosure and Audit Committees.
- x) As part of the Disclosure Committee, review BioMarin's draft quarterly and annual reports, filed with the SEC on Forms 10-K and 10-Q, and related materials prior to their publication to ensure (i) the accuracy, completeness, and timeliness of disclosures relating to compliance with applicable laws and regulations; and (ii) accurate reporting of any material issues that may merit disclosure to other BioMarin constituencies.
- y) As part of the Disclosure Committee, review BioMarin's press releases and related materials prior to their publication to ensure the accuracy, completeness, and timeliness of disclosures relating to BioMarin's compliance with applicable laws and regulations, and reporting any material issues that may merit disclosure to other BioMarin constituencies.
- z) Working with the Audit Committee as a part of the Disclosure Committee's subcommittee to evaluate the adequacy of BioMarin's

internal controls over compliance and develop proposals for improving these controls.

Internal Controls and Compliance Functions

- aa) By no later than December 31, 2024, the Board shall work with an independent consultant to strengthen its internal audit and control functions, including, but not limited to, the accuracy of public disclosures.
- bb) The consultant shall prepare a written report with recommended changes, if any, to the Audit Committee. This consultant shall meet with the Board and a member of senior management to present the written report in advance of BioMarin's finalization of its annual Form 10-K report for the year end December 31, 2024. The Board shall consider implementation of each recommendation contained in the report, and such consideration shall be recorded in the meeting minutes.
- cc) BioMarin's CFO shall not have been employed by any of BioMarin's outside auditor firms during the prior two (2) years or, if involved in the auditor firm's audit of BioMarin, during the prior five (5) years.

Insider Trading Policy And Controls

- dd) To the extent not already required, the Company's Insider Trading Policy shall be amended, and the amended policy posted on the Company website. The amended policy shall provide that when Company insiders elect to enter into 10b5-1 trading plans ("Trading Plans"), the Trading Plans shall prohibit the commencement of trading until ninety days (90) following a Trading Plan's adoption.
- ee) The adoption of a Trading Plan, and the aggregate number of shares involved, shall be publicly disclosed for Section 16 officers.
- ff) Trading Plans shall only be adopted during "open window" periods.
- gg) All Trading Plans shall be approved by the Company's General Counsel or designee.

Director Education

- hh) BioMarin shall require that every three years, each member of the Board shall receive director training and that training may be conducted either at an outside entity or internally by the Company's General Counsel or outside counsel. Any such programs or training may concern, for example, compliance with laws and regulations, disclosures to stockholders, and fiduciary duties in the context of a regulated public company, including compliance with GAAP, the Sarbanes- Oxley Act, corporate governance, assessment of risk, compliance auditing, and reporting requirements for publicly-traded corporations.
- ii) All new Board members shall receive such training within six (6) months of election or appointment to the Board.

Employee Training

- jj) The Company shall provide all new hires and appropriate employee populations with training on expectations with respect to integrity and compliance and the Code of Conduct. The Company shall require the appropriate employee populations to attest on an annual basis that they have read, understand, and will comply with the Code of Conduct.

Whistleblower Policy

- kk) The Company shall adopt and implement a written policy (the "Whistleblower Policy") to protect employees, contractors, vendors and other individuals from retaliation for reporting misconduct, non-compliance with applicable laws and regulations or violations of the Company's Corporate Governance Principles, Global Code of Conduct and Business Ethics, Corporate Compliance and Ethics Program, and Environmental, Social and Governance (ESG) Practices.
- ll) The Whistleblower Policy will adequately notify employees of the following: (i) complaints may be directed to an employee's manager, any member of Human Resources, that employee's designated officer, or via a whistleblower phone number (the "Reporting Hotline"); (ii) reports made through the Reporting Hotline made be made

anonymously (unless prohibited by local law); (iii) information gathered during investigations into reports will be kept confidential to the extent possible; and (iv) BioMarin strictly prohibits retaliation against any individual who raises complaints in good faith.

mm) The Company shall post information regarding the Reporting Hotline phone number on the Company website and make clear that it is available to assist on matters pertaining to a potential violation of the Code of Conduct. The Reporting Hotline shall be confidential, and reports made to the Reporting Hotline relating to accounting, auditing, or embezzlement matters shall be directed to the Chairperson of the Audit Committee.

25. Defendants shall pay for, and administer, notice of any settlement in a form and manner mutually acceptable to the parties.

WHAT ARE THE PARTIES' REASONS FOR THE SETTLEMENT?

26. The Settlement set forth in the Stipulation reflects the results of the Parties' negotiations and the terms of the Stipulation, and an agreement-in-principle was reached only after arm's-length negotiations, with the assistance of—and following a mediator's proposal from—Ms. Yoshida as mediator, among the Parties, all of which were represented by counsel with extensive experience and expertise in stockholder derivative litigation.

27. Plaintiffs believe that the Released Claims had merit when filed and continue to have merit, and Plaintiffs are settling the Released Claims because Plaintiffs believe that the Settlement will provide substantial value to the Company and its stockholders. Plaintiffs have concluded that the Settlement is fair, reasonable, and in the best interests of the Company and its stockholders, and that it is reasonable to pursue the Settlement based on the terms and procedures outlined in the Stipulation.

28. Defendants have denied, and continue to deny, that they have committed or threatened to commit any violations of law, breaches of duty, breaches of contract, or other wrongdoing toward the Company, Plaintiffs, or anyone else concerning any of the claims, allegations, or requests for relief set forth in the complaints filed in these Derivative Actions.

29. If the Settlement is approved, the Court will enter an order approving the Settlement in accordance with the Stipulation, at which time the Derivative Actions will be dismissed with prejudice on the merits. The first date by which such order is finally affirmed on appeal or is no longer subject to appeal, and the time for any petition for re-argument, appeal or review, by leave, writ of certiorari, or otherwise, has expired, constitutes “Final Approval.” Upon receipt of Final Approval, and subject to the conditions set forth in the Stipulation, the following releases will occur:

The Released Parties shall be deemed to have, and by operation of the Order and Final Judgment approving the Settlement shall have, completely discharged, dismissed with prejudice on the merits, released and settled, to the fullest extent permitted by law, the Released Claims against the Released Parties (as defined below) and shall be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any of the Released Claims against any of the Released Parties.

The obligations incurred pursuant to the Stipulation shall be in full and final disposition of the Derivative Actions and each of the Released Claims. It is the intention of the Parties that the Settlement eliminate all further risk and liability relating to the Released Claims, and that the Settlement shall be a final and complete resolution of all claims asserted or which could be or could have been asserted with respect to the Released Claims against any of the Released Parties, including without limitation any claims for contribution in accordance with *10 Del. C. § 6304* and any similar laws or statutes.

“Released Claims” means Plaintiffs’ Released Claims and Defendants’ Released Claims; provided, however, for the avoidance of doubt, that Released Claims shall not include any claims relating to the enforcement of this Stipulation or Settlement or any claims by BioMarin or the Individual Defendants for insurance coverage or any claims by the Individual Defendants for indemnification or advancement.

“Released Defendant Parties” means all Defendants in the Derivative Actions, and any and all of their and BioMarin’s respective current or former agents, parents, controlling persons, general or limited partners, members, managers, managing members, direct or indirect equity holders, subsidiaries, affiliates, employees, officers, directors,

predecessors, successors, attorneys, heirs, assigns, insurers, reinsurers, consultants, and other representatives, servants and related persons, in their capacities as such.

“Plaintiffs’ Released Claims” means all claims and causes of action of every nature and description, whether known or unknown, whether arising under federal, state, common or foreign law, including Unknown Claims, that arise out of or relate in any way to Released Plaintiff Parties’ (as defined below) institution, prosecution, or settlement of the Derivative Actions.

“Released Plaintiff Parties” means Plaintiffs and Plaintiffs’ Counsel and each of their respective agents, assigns, and related persons.

“Released Party” or “Released Parties” means each and all of the Released Plaintiff Parties and the Released Defendant Parties.

“Released Parties” means the Released Plaintiff Parties and the Released Defendant Parties, individually or collectively as the context may require.

The Settlement is intended to extinguish all of the Released Claims by the Releasing Parties as against the Released Parties and, consistent with such intention, upon Final Approval of the Settlement, the Releasing Parties shall waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of any state, federal, or foreign law or principle of common law, which may have the effect of limiting the Released Claims. This shall include a waiver of any rights pursuant to California Civil Code § 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law), which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR THE RELEASED PARTY.

30. If the Settlement is approved and Final Approval occurs, since the Company will have released the Released Claims described above against the Released Parties, no Company stockholder will be able to bring another action

asserting those claims against those persons on behalf of the Company or individually.

31. Pending final determination of whether the Settlement should be approved, all proceedings in the Derivative Actions, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement and determine a fee award, have been stayed and suspended. Subject to an Order of the Court, until the earlier of Final Approval (defined below) or an order of the Court substantially denying or declining to approve the Settlement in accordance with the Stipulation, the Released Parties, or any individual, are barred and enjoined to the maximum extent permitted under law from commencing, prosecuting, instigating, or in any way participating in the commencement or prosecution of any action asserting any of the Released Claims, either directly, representatively, derivatively or in any other capacity, against any of the Released Parties. The Parties agree to use their best efforts to prevent, stay, seek dismissal of, or oppose entry of any interim or final relief in favor of any of the Released Parties in any other litigation against any of the Released Parties or their affiliates that challenges the Settlement or brings claims, the release of which are contemplated by the Stipulation.

32. “Final Approval” means the later of (a) the expiration of the time for the filing or noticing of an appeal or motion for reargument or rehearing from the Court’s Order and Final Judgment approving the Settlement; (b) the date of final affirmance of the Court’s Order and Final Judgment on any appeal or reargument or rehearing; or (c) the final dismissal of any appeal.

HOW WILL THE ATTORNEYS BE PAID?

33. Concurrent with seeking final approval of the Settlement, Plaintiffs’ Counsel intends to petition the Court for an award of attorneys’ fees and expenses not to exceed \$1,250,000. Plaintiffs’ Counsel also intends to seek a Service Award of up to \$2,000.00 to be paid to each Plaintiff for their reasonable efforts in prosecuting the Derivative Actions. Any such Service Award shall be paid out of the Fee Award granted to Plaintiffs’ Counsel. Defendants agree not to object or oppose the requested Fee Award. Plaintiffs’ Counsel will make this petition not less than thirty (30) calendar days prior to the Settlement Hearing.

34. Any award to Plaintiffs’ Counsel for fees and expenses and any service fee to Plaintiffs shall be determined by the Court.

WHEN AND WHERE WILL THE SETTLEMENT HEARING BE HELD? DO I HAVE THE RIGHT TO APPEAR AT THE SETTLEMENT HEARING?

35. The Court will consider the Settlement and all matters related to the Settlement at the Settlement Hearing. The Settlement Hearing will be held before The Honorable Nathan A. Cook on July 23, 2024, at 11:00 a.m., Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801, or as may be undertaken via a remote proceeding such as Zoom or by telephone. Any current stockholder who objects to the Settlement, the application for attorneys' fees and expenses by Plaintiffs' Counsel, or Plaintiffs' application for Service Awards, or who otherwise wishes to be heard, may appear in person or through his, her, or its attorney at the Settlement Hearing and present any evidence or argument that may be proper and relevant; provided, however, that no such person shall be heard or entitled to contest the approval of the terms and conditions of the Settlement, or, if approved, the Order and Final Judgment to be entered thereon, or the allowance of fees and expenses to Plaintiffs' Counsel, or otherwise be heard with respect to the matters considered at the Settlement Hearing unless, no later than twenty (20) calendar days before the Settlement Hearing, such person files with the Register in Chancery, Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801, the following: (a) proof of ownership of the Company's stock as of April 9, 2024, and continuously to the present; (b) a written and signed notice of the Objector's intention to appear, which states the name, address and telephone number of the Objector and, if represented, his, her, or its counsel; (c) a detailed statement of the objections to any matter before the Court; and (d) a detailed statement of all of the grounds thereon and the reasons for the Objector's desire to appear and to be heard, as well as all documents or writings which the Objector desires the Court to consider. Any such filings with the Court must also be served upon each of the following counsel (by e-service, hand, or overnight mail) such that they are received no later than twenty (20) calendar days prior to the Settlement Hearing:

Timothy J. MacFall
RIGRODSKY LAW, P.A.
300 Delaware Avenue, Suite 210
Wilmington, DE 19801
(302) 295-5310

Counsel for Plaintiff Elaine Wang

Rusty E. Glenn
SHUMAN, GLENN & STECKER
600 17th Street, Suite 2800 South
Denver, CO 80202
(303) 861-4531

Counsel for Plaintiff Bill Tsantes

D. McKinley Measley
MORRIS, NICHOLS, ARSHT TUNNELL LLP
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200

Brett De Jarnette
COOLEY LLP
3175 Hanover Street
Palo Alto, CA 94304-1130 (650) 849-7005

*Attorneys for Defendants Bienaimé, Anderson, Dere, Heron, Hombach,
Lawlis, Meier, Pyott, Slamon, Grey, Alles, Fuchs, and Nominal Defendant
BioMarin Pharmaceutical Inc.*

36. Unless the Court otherwise directs, any person who fails to object in the manner prescribed above shall be deemed to have waived his, her, or its right to object and shall be forever barred from raising any objection to the Settlement or the application by Plaintiffs' Counsel for an award of attorneys' fees and expenses, or any other matter related to the Settlement, in the Action or in any other action or proceeding.

CAN I SEE THE COURT FILE? WHOM SHOULD I CONTACT IF I HAVE
QUESTIONS?

This Notice does not purport to be a comprehensive description of the Derivative Actions, the allegations related thereto, the terms of the Settlement, or the Settlement

Hearing. For a more detailed statement of the matters involved in the Derivative Actions, you may inspect the pleadings, the Stipulation, the Orders entered by the Court, and other papers filed in the Derivative Actions at the Office of the Register in Chancery in the Court of Chancery of the State of Delaware, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, DE 19801, during regular business hours of each business day. If you have questions regarding the Settlement, you may write or call Plaintiff's counsel: Timothy J. MacFall, RIGRODSKY LAW, P.A., 300 Delaware Avenue, Suite 210, Wilmington, DE 19801, (302) 295-5310; Rusty E. Glenn, SHUMAN, GLENN & STECKER, 600 17th Street, Suite 2800 South Denver, CO 80202, (303) 861-3003; Brett D. Stecker, SHUMAN, GLENN & STECKER, 326 W. Lancaster Avenue, Ardmore, PA 19003, (303) 861-3003; Gustavo F. Bruckner, Samuel J. Adams, POMERANTZ LLP, 600 Third Avenue, New York, NY 10016, (212) 661-1100.

DO NOT CALL OR WRITE THE COURT OR THE OFFICE OF THE REGISTER IN CHANCERY REGARDING THIS NOTICE

37. Brokerage firms, banks, and other persons or entities who hold shares of the Company's common stock as record owners, but not as beneficial owners, are directed to either (a) promptly request from the Company sufficient copies of this Notice to forward to all such beneficial owners and after receipt of the requested copies promptly forward such Notices to all such beneficial owners; or (b) promptly provide a list of the names and addresses of all such beneficial owners to the Company, after which the Company will promptly send copies of the Notice to such beneficial owners. Copies of this Notice may be obtained by calling the Company toll-free at 1 (833) 243-3003. A copy of the Stipulation can also be found on the Company's Investor Relations page at <https://investors.biomarin.com/overview/default.aspx>.

BY ORDER OF THE COURT:

Dated: _____, 2024

Register in Chancery