

**LEVI & KORSINSKY, LLP**

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Ferraro Family Foundation, Inc.,  
and James L. Ferraro*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

FERRARO FAMILY FOUNDATION, INC. and  
JAMES L. FERRARO, on behalf of themselves and  
all others similarly situated,

Plaintiff,

v.

CORCEPT THERAPEUTICS INCORPORATED,  
JOSEPH K. BELANOFF, CHARLES ROBB, and  
SEAN MADUCK,

Defendants.

Case No. 3:19-CV-01372-JD

**CLASS ACTION**

**LEAD PLAINTIFF’S MEMORANDUM  
IN FURTHER SUPPORT OF MOTION  
FOR FINAL APPROVAL OF  
PROPOSED CLASS ACTION  
SETTLEMENT AND LEAD  
COUNSEL’S MOTION FOR  
ATTORNEYS’ FEES,  
REIMBURSEMENT OF EXPENSES,  
AND AWARD OF COSTS AND  
EXPENSES TO LEAD PLAINTIFF**

Date: June 6, 2024

Time: 10:00 a.m.

Room: Courtroom 11, 19th Floor

Judge: Honorable James Donato

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1 Court-appointed Lead Plaintiff the Ferraro Group (consisting of Ferraro Family Foundation, Inc.  
 2 and James L. Ferraro) (“Lead Plaintiff”), on behalf of itself and the Settlement Class, respectfully  
 3 submits this memorandum in further support of: (i) Lead Plaintiff’s Motion for Final Approval of  
 4 Proposed Class Action Settlement (ECF. No. 202) (the “Final Approval Motion”); and (ii) Lead  
 5 Counsel’s Motion for Attorneys’ Fees, Reimbursement of Expenses, and Award of Costs and Expenses  
 6 to Lead Plaintiff (ECF No. 203) (the “Fee and Expense Award”).<sup>1</sup>

7 **PRELIMINARY STATEMENT**

8 Now that the deadlines for exclusions and objections (both set for May 13, 2024) have passed,  
 9 Lead Plaintiff and Lead Counsel respectfully submit that the reaction of the Settlement Class to the  
 10 Settlement, Plan of Allocation, and requested Fee and Expense Award has been overwhelmingly  
 11 positive. A total of 39,611 Notice and Claim Packets have been mailed and/or emailed where possible  
 12 to potential Settlement Class Members or their nominees through May 30, 2024, which informed  
 13 recipients of, among other things, the essential terms of the Settlement, the Plan of Allocation, and Lead  
 14 Counsel’s intention to apply to the Court for attorneys’ fees not to exceed 25% of the Settlement Fund  
 15 and reimbursement of Litigation Expenses not to exceed \$975,000 and reimbursement of Lead  
 16 Plaintiff’s cost and expenses not to exceed \$15,000. *See* Supplemental Declaration of Kathleen  
 17 Schumacher Regarding Notice Dissemination, Requests for Exclusion Received, and Claims Received  
 18 to Date (“Schumacher Supp. Decl.”), ¶4, attached as Exhibit 1 to the Declaration of Shannon L.  
 19 Hopkins in Further Support of Lead Plaintiff’s Motion for Final Approval of Proposed Class Action  
 20 Settlement and Lead Counsel’s Motion for Attorneys’ Fees, Reimbursement of Expenses and Award  
 21 of Costs and Expenses to Lead Plaintiff (“Hopkins Supp. Decl.”), filed herewith. The Summary Notice  
 22 was published in the *Investor’s Business Daily* and transmitted over the *PR Newswire* on February 5,  
 23 2024, and a copy of the Notice, the Claim Form and Stipulation along with the papers in support of  
 24 final approval of the Settlement, the Plan of Allocation, and Lead Counsel’s fee and expense request,  
 25 including reimbursement of Lead Plaintiff’s expenses, are available on the website dedicated to the  
 26 \_\_\_\_\_

27 <sup>1</sup> Capitalized Terms used herein shall have the same meaning set forth in the Stipulation of Settlement  
 28 dated April 11, 2023 (the “Stipulation” or “Stip.”). ECF No. 195-3.

1 Settlement. *See* Corcept Therapeutics Incorporated Securities Litigation  
2 (corceptsecuritieslitigation.com). Additionally, Defendants mailed notice pursuant to the Class Action  
3 Fairness Act. *See* ECF Nos. 209, 209-1 and 209-2.

4 There have been ***no objections*** to any aspect of the Settlement, the proposed Plan of Allocation  
5 for the proceeds of the Settlement, the requested Fee and Expense Award or Lead Plaintiff's request  
6 for an award of costs and expenses pursuant to the PSLRA. In addition, there has ***only been one request***  
7 ***for exclusion*** from the proposed Settlement from a potential class member who purportedly had two  
8 (2) shares during the Class Period. *See* Schumacher Supp. Decl., ¶9; *Id.*, Ex. A. The exclusion request,  
9 represents a miniscule number of shares and is otherwise invalid as it does not state when those shares  
10 were purchased to confirm the investor is even a Settlement Class member.

11 Therefore, Lead Plaintiff and Lead Counsel respectfully submit that the reaction of the  
12 Settlement Class strongly supports approval of the Settlement, the Plan of Allocation, and the requested  
13 Fee and Expense Application.

14 **THE REACTION OF THE CLASS SUPPORTS APPROVAL OF THE SETTLEMENT, THE**  
15 **PLAN OF ALLOCATION, AND THE REQUESTED FEES AND EXPENSE AWARD**

16 There have been no objections to any aspect of the Settlement and only one request for  
17 exclusion. The reaction of a class to a settlement is a significant factor in assessing its fairness and  
18 adequacy. Indeed, “the absence of a large number of objections to a proposed class action settlement  
19 raises a strong presumption that the terms of a proposed class settlement action are favorable to the  
20 class members.” *Gatchalian v. Atl. Recovery Sols., LLC*, 2024 WL 2112862, \*6 (N.D. Cal. May 9,  
21 2024); *In re Omnivision Techs, Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2008); *Destefano v. Zynga,*  
22 *Inc.*, 2016 WL 537946, at \*13 (N.D. Cal. Feb. 11, 2016) (“By any standard, the lack of objection of the  
23 Class Members favors approval of the Settlement.”).

24 That there is only one request for exclusion further supports the Settlement's fairness. *Giroux*  
25 *v. Essex Prop. Tr., Inc.*, 2019 WL 2106587, at \*5 (N.D. Cal. May 14, 2019) (“The Court finds that the  
26 absence of objections and very small number of opt-outs indicate overwhelming support among the  
27 Class Members and weigh in favor of approval.”); *see also Churchill Village, L.L.C. v. General*

28 Case No. 3:19-CV-01372-JD

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REIMBURSEMENT OF EXPENSES, AND AWARD OF COSTS AND EXPENSES TO LEAD PLAINTIFF

1 *Electric*, 361 F.3d 566 (9th Cir. 2004) (affirming approval of a settlement that received 45 objections  
2 (0.05%) and 500 opt-outs (0.56%) out of 90,000 notices delivered).

3 Moreover, the absence of objections from institutional investors, which have ample means and  
4 incentive to object to the Settlement if they deemed it unsatisfactory, is further evidence of the  
5 Settlement's fairness. *See, e.g., In re Cathode Ray Tube (CRT) Antitrust Litig.*, 2017 WL 2481782, at  
6 \*4 (N.D. Cal. June 8, 2017) (absence of any objections from institutions means that "the inference that  
7 the class approves of the settlement is even stronger."); *In re Facebook, Inc. IPO Sec. & Deriv. Litig.*,  
8 343 F. Supp. 3d 394, 410 (S.D.N.Y. 2018) ("That not one sophisticated institutional investor objected  
9 to the Proposed Settlement is indicia of its fairness."); *In re AT&T Corp. Sec. Litig.*, 2005 WL 6716404,  
10 at \*4 (D.N.J. Apr. 25, 2005) (the reaction of the class "weigh[ed] heavily in favor of approval" where  
11 "no objections were filed by any institutional investors who had great financial incentive to object").

12 The complete lack of objections from Settlement Class Members to the Plan of Allocation and  
13 Fee and Expense Award and the fact that there is only one small request for exclusion strongly supports  
14 their approval. *See, e.g., In re Extreme Networks, Inc. Sec. Litig.*, 2019 WL 3290770, at \*4 (N.D. Cal.  
15 July 22, 2019) (settlement, plan of allocation, fee and expense and incentive award granted where there  
16 were "no object[ors]" and "only two requests for exclusion"); *Acosta v. Frito-Lay, Inc.*, 2018 WL  
17 2088278, at \*12 (N.D. Cal. May 4, 2018) ("The absence of objections or disapproval by class  
18 members ... supports the finding that Plaintiffs' request is reasonable"); *Destefano*, 2016 WL 537946,  
19 at \*18 ("the lack of objection by any Class Members also supports the 25 percent fee award..."). *In re*  
20 *Heritage Bond Litig.*, 2005 WL 1594403, at \*11 (C.D. Cal. June 10, 2005) ("The fact that there has  
21 been no objection to this plan of allocation favors approval of the Settlement."); *Patel v. Axesstel, Inc.*,  
22 2015 WL 6458073, at \*7 (S.D. Cal. Oct. 23, 2015) (approving plan of allocation where it "was laid out  
23 in detail in the notice, and no class members objected."); *In re Veeco Instruments Inc. Sec. Litig.*, 2007  
24 WL 4115809, at \*14 (S.D.N.Y. Nov. 7 2007) ("[N]ot one class member has objected to the Plan of  
25 Allocation which was fully explained in the Notice of Settlement sent to all Class Members. This  
26 favorable reaction of the Class supports approval of the Plan of Allocation.").

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28 Case No. 3:19-CV-01372-JD

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**CLAIMS INFORMATION TO DATE**

As indicated *supra*, at 1, and in the accompanying Schumacher Supp. Decl., the Notice program set forth in the Order Re Preliminary Approval of Settlement (ECF No. 201) issued January 4, 2024 (the “Preliminary Approval Order”), has been fully complied with. Schumacher Supp. Decl., ¶¶3-7; ECF No. 204, ¶¶ 61, 65. Pursuant to the Preliminary Approval Order and as set forth in the Notice and on the Settlement website, the deadline to submit claims was May 13, 2024. A.B. Data has received a total of 15,672 claim forms, of which 4,786 have been deemed valid, representing 51,109,114 damaged shares (Schumacher Supp. Decl., ¶11), or approximately 75% of Plaintiff’s estimated damaged shares for both corrective disclosures on a LIFO basis and 66% of estimated damaged shares on a FIFO basis. *See*, Ex. 5 to the Hopkins Supp. Decl.<sup>2</sup> Approximately 48,385,159 damaged shares that submitted valid claims relate to losses incurred through the first alleged corrective disclosure on January 25, 2019. Schumacher Supp. Decl., ¶11.<sup>3</sup>

A.B. Data, thus, estimates a per share recovery for claimants of \$0.20 per share. Schumacher Supp. Decl., ¶12.

**CONCLUSION**

For the reasons set forth above and in the accompanying Schumacher Supp. Decl., as well as in Lead Plaintiff’s opening papers, Lead Plaintiff respectfully requests that the Court grant final approval of the proposed Settlement, approve the Plan of Allocation and approve the requested Fee and Expense Application, including an award of costs and expenses to Lead Plaintiff, by entering the three proposed

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<sup>2</sup> Plaintiff’s expert estimates institutional ownership on a LIFO and FIFO basis of approximately 58% to 63%, respectively, for both corrective disclosures, and 60% to 65%, respectively for the January 25, 2019 corrective disclosure that currently remains in the case.

<sup>3</sup> Plaintiff’s expert’s estimated damaged share count includes shares relating to overall market gains, as there is way to accurately determine estimated damaged shares excluding shares from market gains without obtaining each Class members individual transaction records. Accordingly, for an apples-to-apples analysis of the claims rate, Plaintiff’s Counsel used total shares from validly submitted claims.

1 orders attached as Exhibits 2,<sup>4</sup> 3 and 4, respectively, to the Hopkins Supp. Decl.

2 DATED: May 30, 2024

Respectfully submitted,

3 **LEVI & KORSINSKY**

4 By: /s/ Shannon L. Hopkins

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9 *Foundation, Inc. and James L. Ferraro*

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27 <sup>4</sup> Exhibit 2, the “[Proposed] Final Judgment and Order of Dismissal with Prejudice,” was previously  
28 attached as Exhibit B to the Stipulation of Settlement (ECF No. 195-3 at page 88) and has been updated  
to reflect the correct title and date of the Preliminary Approval Order and to provide the date of the  
Stipulation.