

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

_____))
IN RE SALIX PHARMACEUTICALS, LTD.) Case No. 14 Civ. 8925 (KMW)
_____)) CLASS ACTION
_____)

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT
OF (I) LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL
OF SETTLEMENT AND PLAN OF ALLOCATION; AND
(II) LEAD COUNSEL'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

Salvatore J. Graziano
John Rizio-Hamilton
Katherine M. Sinderson
1251 Avenue of the Americas, 44th Floor
New York, NY 10020
Tel: (212) 554-1400
Fax: (212) 554-1444

*Counsel for Lead Plaintiff the Pentwater
Funds and Lead Counsel for the Settlement
Class*

Dated: July 17, 2017

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

PRELIMINARY STATEMENT 1

I. THE REACTION OF THE SETTLEMENT CLASS SUPPORTS APPROVAL OF THE SETTLEMENT, THE PLAN OF ALLOCATION AND THE REQUESTED ATTORNEYS’ FEES AND LITIGATION EXPENSES 2

II. LEAD COUNSEL REQUESTS REIMBURSEMENT FOR AN ADDITIONAL \$23,164.17 IN LITIGATION EXPENSES THAT WERE INADVERTENTLY EXCLUDED FROM ITS INITIAL MOTION PAPERS 6

CONCLUSION..... 7

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>In re Advanced Battery Techs., Inc. Sec. Litig.</i> , 298 F.R.D. 171 (S.D.N.Y. 2014)	4
<i>In re AOL Time Warner, Inc. Sec. & “ERISA” Litig.</i> , No. MDL 1500, 2006 WL 903236 (S.D.N.Y. Apr. 6, 2006).....	4
<i>In re Bisys Sec. Litig.</i> , No. 04-CV-3840 (JSR), 2007 WL 2049726 (S.D.N.Y. July 16, 2007).....	5
<i>In re Citigroup Inc. Sec. Litig.</i> , 965 F. Supp. 2d 369 (S.D.N.Y. 2013).....	4
<i>In re FLAG Telecom Holdings, Ltd. Sec. Litig.</i> , No. 02-CV-3400 (CM)(PED), 2010 WL 4537550 (S.D.N.Y. Nov. 8, 2010).....	4
<i>Maley v. Del Global Techs. Corp.</i> , 186 F. Supp. 2d 358 (S.D.N.Y. 2002).....	5
<i>In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.</i> , 986 F. Supp. 2d 207 (E.D.N.Y. 2013)	5
<i>In re Rite Aid Corp. Sec. Litig.</i> , 396 F.3d 294 (3d Cir. 2005).....	5
<i>In re Sturm, Ruger, & Co. Sec. Litig.</i> , No. 3:09cv1293 (VLB), 2012 WL 3589610 (D. Conn. Aug. 20, 2012).....	4
<i>In re Veeco Instruments Inc. Sec. Litig.</i> , No. 05 MDL 01695 (CM), 2007 WL 4115808 (S.D.N.Y. Nov. 7, 2007)	5
<i>In re Veeco Instruments Inc. Sec. Litig.</i> , No. 05 MDL 01695 (CM), 2007 WL 4115809 (S.D.N.Y. Nov. 7, 2007)	5
<i>Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.</i> , 396 F.3d 96 (2d Cir. 2005).....	4

Lead Plaintiff, PWCM Master Fund Ltd., Pentwater Equity Opportunities Master Fund Ltd., Oceana Master Fund Ltd., Pentwater Merger Arbitrage Master Fund Ltd., and LMA SPC for and on behalf of the MAP98 Segregated Portfolio (collectively, “Lead Plaintiff” or the “Pentwater Funds”), on behalf of itself and the Settlement Class, and Lead Counsel respectfully submit this memorandum of law in further support of (i) Lead Plaintiff’s motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation, and (ii) Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses.¹ As explained below, Lead Counsel also seeks to make a minor modification to its motion for fees and expenses to include \$23,164.17 of expenses that were inadvertently omitted from its motion.

PRELIMINARY STATEMENT

The proposed Settlement resolves this litigation in its entirety in exchange for a cash payment of \$210 million. As detailed in Lead Plaintiff’s and Lead Counsel’s opening papers (ECF Nos. 221-225), the Settlement is the product of hard-fought litigation and extensive arm’s-length settlement negotiations, and represents a very favorable result for the Settlement Class in light of the amount of the Settlement in comparison to the maximum recovery that could be reasonably be expected to be obtained through trial, the substantial challenges that Lead Plaintiff would have faced in proving liability and establishing loss causation and damages, and the costs and delays of continued litigation.

Pursuant to the Court’s Order Preliminary Approving Proposed Settlement and Providing for Notice (ECF No. 220) (the “Preliminary Approval Order”), the Claims Administrator, under

¹ Unless otherwise noted, capitalized terms have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated March 24, 2017 (ECF No. 216-1) or in the Declaration of Salvatore J. Graziano in Support of (I) Lead Plaintiff’s Motion for Final Approval of Settlement and Plan of Allocation, and (II) Lead Counsel’s Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (ECF No. 225).

the supervision of Lead Counsel, conducted an extensive notice program, including mailing the Notice to over 73,000 potential Settlement Class Members and nominees. In response to this notice program, *no Settlement Class Member has objected* to the Settlement, the Plan of Allocation or Lead Counsel's motion for an award of attorneys' fees and reimbursement of expenses, and four requests for exclusion from the Settlement Class have been received. In particular, although institutional investors held the vast majority of Salix common stock during the Class Period, no institutional investor has objected to the Settlement or fee request. As explained further below, this reaction of the Settlement Class further demonstrates that the proposed Settlement, the Plan of Allocation, and the request for attorneys' fees and reimbursement of expenses are fair and reasonable, and should be approved.

In addition, Lead Counsel respectfully requests to modify its motion for attorneys' fees and reimbursement of Litigation Expenses to include \$23,164.17 in outstanding expenses that were inadvertently excluded from its initial motion filed on June 19, 2017. If the Court agrees to reimburse these additional expenses, Lead Counsel's request for attorneys' fees will be reduced to \$44,609,218, because Lead Counsel's fee request is based on a percentage of the Settlement Amount *after* deduction of litigation expenses. The revised fee request still represents approximately 21.24% of the \$210 million Settlement.

I. THE REACTION OF THE SETTLEMENT CLASS SUPPORTS APPROVAL OF THE SETTLEMENT, THE PLAN OF ALLOCATION AND THE REQUESTED ATTORNEYS' FEES AND LITIGATION EXPENSES

Lead Plaintiff and Lead Counsel respectfully submit that their opening papers demonstrate why approval of the motions is warranted. Now that the time for objecting or requesting exclusion from the Settlement Class has passed, the lack of any objections from the Settlement Class and the very small number of opt-outs provide additional support for approval of the motions.

Pursuant to the Court's Preliminary Approval Order, more than 73,000 copies of the Notice and Claim Form have been mailed to potential Settlement Class Members and their nominees. *See* Supplemental Declaration of Stephanie A. Thurin Regarding (A) Mailing of the Notice and Proof of Claim Form and (B) Report on Requests for Exclusion Received ("Supp. Thurin Decl.") at ¶ 2. The Notice informed Settlement Class Members of the terms of the proposed Settlement and Plan of Allocation, and that Lead Counsel would apply for an award of attorneys' fees in an amount not to exceed 22% of the Settlement Fund and reimbursement of Litigation Expenses in an amount not to exceed \$2.5 million. *See* Notice ¶¶ 5, 77. The Notice also apprised Settlement Class Members of their right to object to the proposed Settlement, the Plan of Allocation and/or the request for attorneys' fees and reimbursement of expenses, their right to exclude themselves from the Settlement Class, and the July 5, 2017 deadline for filing objections and for receipt of requests for exclusion. *See* Notice at p. 3 and ¶¶ 78-90.²

As noted above, following this notice program, no Settlement Class Member objected to the Settlement, the Plan of Allocation or Lead Counsel's application for fees and expenses. In addition, only four requests for exclusion were received. *See* Supp. Thurin Decl. ¶ 4.³

² The Summary Notice, which informed readers of the proposed Settlement, how to obtain copies of the Notice and Claim Form, and the deadlines for the submission of Claim Forms, objections and requests for exclusion, was published in *The Wall Street Journal* and released over the *PR Newswire*. *See* Declaration of Stephanie A. Thurin Regarding (A) Mailing of the Notice and Proof of Claim Form; (B) Publication of Summary Notice; and (C) Report on Requests for Exclusion Received to Date (ECF No. 225-1) at ¶ 8.

³ Requests for exclusion were required to be mailed or otherwise delivered such that they were received by July 5, 2017. *See* Notice ¶ 69. One of the requests, submitted by Margaret C. Maddox, was postmarked on July 3, 2017, but was not received by the Claims Administrator until July 6, 2017. *See* Supp. Thurin Decl. ¶ 4. In addition, Ms. Maddox's request did not specify the number of shares she purchased during the Class Period. Although the request for exclusion was received after the deadline and is missing some of the information required by the Notice, the Preliminary Approval Order and the Notice provide the Court with discretion to accept requests for exclusion that do not comply with all of the requirements set forth in the Notice. *See* Preliminary Approval

The absence of any objections and the very small number of requests for exclusion support a finding that the Settlement is fair, reasonable, and adequate. Indeed, “the favorable reaction of the overwhelming majority of class members to the Settlement is perhaps the most significant factor in [the] *Grinnell* inquiry.” *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 119 (2d Cir. 2005); *see also In re Advanced Battery Techs., Inc. Sec. Litig.*, 298 F.R.D. 171, 176 (S.D.N.Y. 2014) (“The absence of . . . objections and minimal investors electing to opt out of the Settlement provides evidence of Class members’ approval of the terms of the Settlement.”); *In re Sturm, Ruger, & Co. Sec. Litig.*, No. 3:09cv1293 (VLB), 2012 WL 3589610, at *5 (D. Conn. Aug. 20, 2012) (“[T]he absence of objectants may itself be taken as evidencing the fairness of a settlement.”) (internal quotation marks omitted); *In re FLAG Telecom Holdings, Ltd. Sec. Litig.*, No. 02-CV-3400 (CM)(PED), 2010 WL 4537550, at *16 (S.D.N.Y. Nov. 8, 2010) (“The absence of objections to the Settlement supports the inference that it is fair, reasonable and adequate.”).

In addition, as noted above, no institutional investors – which held the vast majority of the Salix common stock during the Class Period – have objected to the Settlement. The absence of objections by these sophisticated class members (as well as from any retail class members) is further evidence of the fairness of the Settlement. *See In re Citigroup Inc. Sec. Litig.*, 965 F. Supp. 2d 369, 382 (S.D.N.Y. 2013) (the reaction of the class supported the settlement where “not a single objection was received from any of the institutional investors that hold the majority of Citigroup stock”); *In re AOL Time Warner, Inc. Sec. & “ERISA” Litig.*, No. MDL 1500, 2006 WL 903236,

Order ¶ 13, Notice ¶ 78. Lead Plaintiff consents to the exclusion of Ms. Maddox from the Settlement Class, but Defendants have not yet decided whether to consent to her exclusion. The proposed Judgment submitted with this brief includes only the three timely opt-outs on the schedule of persons and entities excluded from the Settlement Class. If Defendants subsequently consent to the exclusion of Ms. Maddox, a revised version including Ms. Maddox will be submitted to the Court.

at *10 (S.D.N.Y. Apr. 6, 2006) (the lack of objections from institutional investors supported approval of settlement).

The lack of objections from institutional or retail class members also supports approval of the Plan of Allocation. *See, e.g., In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 986 F. Supp. 2d 207, 240 (E.D.N.Y. 2013) (conclusion that the proposed plan of allocation was fair and reasonable was “buttressed by the relatively small number of opt-outs and absence of objections from class members”); *In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695 (CM), 2007 WL 4115809, at *14 (S.D.N.Y. Nov. 7, 2007) (“not one class member has objected to the Plan of Allocation which was fully explained in the Notice of Settlement sent to all Class Members. This favorable reaction of the Class supports approval of the Plan of Allocation.”).

Finally, the positive reaction of the Settlement Class should also be considered with respect to Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses. The absence of any objections to the requested fee supports a finding that the fee and expense request is fair and reasonable. *See, e.g., In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695 (CM), 2007 WL 4115808, at *10 (S.D.N.Y. Nov. 7, 2007) (the reaction of class members to a fee and expense request “is entitled to great weight by the Court” and the absence of any objection “suggests that the fee request is fair and reasonable”); *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 374 (S.D.N.Y. 2002) (the lack of any objection to the fee request supported its approval). In particular, the lack of objections by institutional investors supports approval of the fee request. *See In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005) (the fact that “a significant number of investors in the class were ‘sophisticated’ institutional investors that had considerable financial incentive to object had they believed the requested fees were excessive” and did not do so, supported approval of the fee request); *In re Bisys Sec. Litig.*,

No. 04-CV-3840 (JSR), 2007 WL 2049726, at *1 (S.D.N.Y. July 16, 2007) (lack of objections from institutional investors supported the approval of fee request because “the class included numerous institutional investors who presumably had the means, the motive, and the sophistication to raise objections if they thought the [requested] fee was excessive”).

II. LEAD COUNSEL REQUESTS REIMBURSEMENT FOR AN ADDITIONAL \$23,164.17 IN LITIGATION EXPENSES THAT WERE INADVERTENTLY EXCLUDED FROM ITS INITIAL MOTION PAPERS

In connection with the prosecution of the Action, Lead Counsel incurred \$23,164.17 in expenses which were inadvertently not included in Lead Counsel’s original June 19, 2017 motion for attorneys’ fees and reimbursement of Litigation Expenses. These additional expenses are for the costs of photocopying services provided by an outside vendor that were incurred in January 2017 in connection with preparing for and taking multiple depositions in the Action. *See* Supplemental Declaration of Salvatore J. Graziano, filed herewith, at ¶ 3. The inclusion of these additional expenses increases the total request for reimbursement of Plaintiff’s Counsel’s litigation expenses from \$1,930,744.24 (*see* ECF Nos. 225-3, 225-7) to \$1,953,908.41 (Supp. Graziano Decl. ¶ 4), still well below the amount specified in the Notice.

The Notice mailed to Settlement Class Members informed them that Lead Counsel intended to apply for reimbursement of expenses in an amount “not to exceed \$2.5 million.” Notice ¶¶ 5, 77. Including the additional expenses for which Lead Counsel now requests reimbursement would bring the entirety of its request for reimbursement of expenses (including reimbursement of \$29,800 in costs incurred by Plaintiffs) to \$1,983,708.41; which is still over \$500,000 *less* than the maximum that the Settlement Class was advised could be sought.

Because Lead Counsel’s request for attorneys’ fees is based, under the terms of its pre-litigation retainer agreement with Lead Plaintiff, on a percentage of the Settlement Amount after deduction of litigation expenses, if the Court agrees to reimburse these additional expenses, Lead

Counsel's fee request will be reduced by \$4,632 to a revised request of \$44,609,218.⁴ This amount represents approximately 21.24% of the \$210 million Settlement.

CONCLUSION

For the foregoing reasons and the reasons set forth in Lead Plaintiff's and Lead Counsel's opening papers, they respectfully request that the Court approve the Settlement, the Plan of Allocation, and the request for attorneys' fees and reimbursement of litigation expenses (as modified as indicated herein). Copies of the (i) proposed Judgment, (ii) proposed Order Approving Plan of Allocation of Net Settlement Fund, and (iii) proposed Order Awarding Attorneys' Fees and Reimbursement of Litigation Expenses are attached hereto as Exhibits 1, 2 and 3, respectively.

Dated: July 17, 2017

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

/s/ Salvatore J. Graziano

Salvatore J. Graziano
John Rizio-Hamilton
Katherine M. Sinderson
1251 Avenue of the Americas, 44th Floor
New York, NY 10020
Tel: (212) 554-1400
Fax: (212) 554-1444

*Counsel for Lead Plaintiff the Pentwater Funds
and Lead Counsel for the Settlement Class*

#1095378

⁴ Based on the revised request for reimbursement of expenses, the amount of the Settlement, net of expenses, would be \$208,046,091.59. The revised fee requested pursuant to the terms of the retainer agreement is \$22 million (22% of first \$100 million) plus \$21 million (21% of the second \$100 million) plus \$1,609,218 (20% of \$8,046,091.59), for a total of \$44,609,218.

Exhibit 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
IN RE SALIX PHARMACEUTICALS, LTD.)	Case No. 14 Civ. 8925 (KMW)
)	CLASS ACTION
)	

JUDGMENT APPROVING CLASS ACTION SETTLEMENT

WHEREAS, a consolidated class action is pending in this Court entitled *In re Salix Pharmaceuticals, Ltd.*, Case No. 14 Civ. 8925 (KMW) (the “Action”);

WHEREAS, (a) Lead Plaintiff PWCM Master Fund Ltd., Pentwater Equity Opportunities Master Fund Ltd., Oceana Master Fund Ltd., Pentwater Merger Arbitrage Master Fund Ltd., and LMA SPC for and on behalf of the MAP98 Segregated Portfolio (collectively, “Lead Plaintiff”), on behalf of itself and the Settlement Class (including City of Fort Lauderdale General Employees’ Retirement System and further defined below), and (b) Defendant Salix Pharmaceuticals, Ltd. (“Salix”), and Defendants Carolyn J. Logan and Adam C. Derbyshire (collectively, the “Individual Defendants,” and together with Salix, the “Defendants,” and together with Lead Plaintiff, the “Parties”) have entered into a Stipulation and Agreement of Settlement dated March 24, 2017 (the “Stipulation”), that provides for a full, final, and complete dismissal with prejudice of the claims asserted against Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court (the “Settlement”);

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meaning as they have in the Stipulation;

WHEREAS, by Order dated April 5, 2017 (the “Preliminary Approval Order”), this Court: (a) preliminarily approved the Settlement; (b) certified the Settlement Class solely for purposes of effectuating the Settlement and for no other purpose; (c) ordered that notice of the proposed

Settlement be provided to potential Settlement Class Members; (d) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class and no objections to the Settlement have been received;

WHEREAS, the Court conducted a hearing on July 24, 2017 (the “Settlement Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement are fair, reasonable and adequate to the Settlement Class, and should therefore be approved; and (b) whether a judgment should be entered dismissing the Action with prejudice as against the Defendants; and

WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and proceedings held herein in connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction** – The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the Settlement Class Members.

2. **Incorporation of Settlement Documents** – This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on March 24, 2017; and (b) the Notice and the Summary Notice, both of which were filed with the Court on June 19, 2017.

3. **Class Certification for Settlement Purposes** – The Court hereby affirms its determinations in the Preliminary Approval Order certifying, for the purposes of the Settlement only, the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil

Procedure on behalf of the Settlement Class consisting of all persons or entities who purchased or otherwise acquired publicly traded Salix common stock or publicly traded call options on Salix common stock, or sold publicly traded put options on Salix common stock, during the period from November 8, 2013 through November 6, 2014, inclusive (the “Class Period”), and were damaged thereby. Excluded from the Settlement Class are Defendants; Salix’s parents, affiliates and subsidiaries (including Valeant Pharmaceuticals International, Inc.); the Officers and directors of Salix and its parents, subsidiaries and affiliates currently or during the Class Period; members of the Immediate Family of any excluded person; any entity in which any excluded person has a controlling interest or had a controlling interest during the Class Period; and the heirs, successors, and assigns of any excluded person or entity. Also excluded from the Settlement Class are the persons and entities listed on Exhibit 1 hereto who or which are excluded from the Settlement Class pursuant to request.

4. **Adequacy of Representation** – Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of the Settlement only, the Court hereby affirms its determinations in the Preliminary Approval Order certifying Lead Plaintiff and additional named plaintiff City of Fort Lauderdale General Employees’ Retirement System (collectively, “Plaintiffs”) as Class Representatives for the Settlement Class and appointing Lead Counsel as Class Counsel for the Settlement Class. Plaintiffs and Lead Counsel have fairly and adequately represented the Settlement Class both in terms of litigating the Action and for purposes of entering into and implementing the Settlement and have satisfied the requirements of Federal Rules of Civil Procedure 23(a)(4) and 23(g), respectively.

5. **Notice** – The Court finds that the dissemination of the Notice and the publication of the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order;

(b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be provided thereunder); (iii) Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses; (iv) their right to object to any aspect of the Settlement, the Plan of Allocation and/or Lead Counsel's motion for attorneys' fees and reimbursement of Litigation Expenses; (v) their right to exclude themselves from the Settlement Class; and (vi) their right to appear at the Settlement Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable law and rules.

6. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the amount of the Settlement; the Releases provided for therein; and the dismissal with prejudice of the claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Settlement Class. The Parties are directed to implement, perform and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

7. The Action and all of the claims asserted against Defendants in the Action by Lead Plaintiff and the other Settlement Class Members are hereby dismissed with prejudice. The Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

8. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding on Defendants, Lead Plaintiff and all other Settlement Class Members (regardless of whether or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a distribution from the Net Settlement Fund), as well as their respective successors and assigns. The persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to request and are not bound by the terms of the Stipulation or this Judgment.

9. **Releases** – The Releases set forth in paragraphs 5 and 6 of the Stipulation, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to paragraph 10 below, upon the Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each and every Released Plaintiffs' Claim against the Defendants and the other Defendants' Releasees, and shall forever be enjoined from prosecuting any or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees.

(b) Without further action by anyone, and subject to paragraph 10 below, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such, shall be deemed to have, and by operation of law and of this Judgment shall have, fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged each

and every Released Defendants' Claim against Lead Plaintiff and the other Plaintiffs' Releasees, and shall forever be enjoined from prosecuting any or all of the Released Defendants' Claims against any of the Plaintiffs' Releasees. This Release shall not apply to any person or entity listed on Exhibit 1 hereto.

10. Notwithstanding paragraphs 9(a) – (b) above, nothing in this Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

11. **Rule 11 Findings** – The Court finds and concludes that the Parties and their respective counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil Procedure in connection with the institution, prosecution, defense, and settlement of the Action.

12. **No Admissions** – Neither this Judgment, the Term Sheet, the Stipulation (whether or not it becomes effective), including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Term Sheet and the Stipulation, nor any proceedings taken pursuant to or in connection with the Term Sheet, the Stipulation and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Defendants and the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants and the Defendants' Releasees with respect to the truth of any fact alleged by Lead Plaintiff or the merit of any claim, act, matter or proposition that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other

wrongdoing of any kind of any of the Defendants and the Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants and the Defendants' Releasees, in any current or future civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to enforce the provisions of the Stipulation;

(b) shall be offered against any of the Plaintiffs and the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by any of the Plaintiffs and the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Plaintiffs and the Plaintiffs' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or

(c) shall be construed against any of the Parties or Releasees as an admission, concession, or presumption that the consideration to be given under the Settlement represents the amount which could be or would have been recovered after trial;

provided, however, that the Parties and the Releasees and their respective counsel may refer to this Judgment and the Stipulation to effectuate the protections from liability granted hereunder and thereunder or otherwise to enforce the terms of the Settlement.

13. **Retention of Jurisdiction** – Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the administration, interpretation, implementation and enforcement of the Settlement; (b) the disposition of the Settlement Fund; (c) any motion for an award of attorneys' fees and/or Litigation

Expenses by Lead Counsel in the Action that will be paid from the Settlement Fund; (d) any motion to approve the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the Settlement Class Members for all matters relating to the Action.

14. Separate orders shall be entered regarding approval of a plan of allocation and the motion of Lead Counsel for an award of attorneys' fees and reimbursement of Litigation Expenses. Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay the Effective Date of the Settlement.

15. **Modification of the Agreement of Settlement** – Without further approval from the Court, Lead Plaintiff and Defendants are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further order of the Court, Lead Plaintiff and Defendants may agree to reasonable extensions of time to carry out any provisions of the Settlement.

16. **Termination of Settlement** – If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void *nun pro tunc* and be of no further force and effect, except as otherwise provided by the Stipulation, and this Judgment shall be without prejudice to the rights of Lead Plaintiff, the other Settlement Class Members and Defendants, and the Parties shall revert to their respective positions in the Action as of February 8, 2017, as provided in the Stipulation.

17. **Entry of Final Judgment** – There is no just reason to delay the entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final judgment in this Action.

SO ORDERED this _____ day of _____, 2017.

The Honorable Kimba M. Wood
United States District Judge

Exhibit 1

List of Persons and Entities Excluded from the Settlement Class Pursuant to Request

1. Hoplite Partners, L.P.
Hoplite Offshore Master Fund, Ltd.
New York, NY
2. Incline Global Master LP
Incline Global ELS LP
New York, NY
3. Edgar A. Pelfrey
Fort Wayne, IN

Exhibit 2

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
IN RE SALIX PHARMACEUTICALS, LTD.)	Case No. 14 Civ. 8925 (KMW)
)	CLASS ACTION
)	

ORDER APPROVING PLAN OF ALLOCATION OF NET SETTLEMENT FUND

This matter came on for hearing on July 24, 2017 (the “Settlement Hearing”) on Lead Plaintiff’s motion to determine whether the proposed plan of allocation of the Net Settlement Fund (“Plan of Allocation”) created by the Settlement achieved in the above-captioned class action (the “Action”) should be approved. The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *The Wall Street Journal* and was transmitted over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the proposed Plan of Allocation,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order approving the proposed Plan of Allocation incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated March 24, 2014 (ECF No. 216-1) (the “Stipulation”) and all terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.
2. The Court has jurisdiction to enter this Order approving the proposed Plan of Allocation, and over the subject matter of the Action and all parties to the Action, including all Settlement Class Members.

3. Notice of Lead Plaintiff's motion for approval of the proposed Plan of Allocation was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the motion for approval of the proposed Plan of Allocation satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)), due process, and all other applicable law and rules, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Copies of the Notice, which included the Plan of Allocation, were mailed to over 73,000 potential Settlement Class Members and nominees and no objections to the Plan of Allocation have been received.

5. The Court hereby finds and concludes that the formula for the calculation of the claims of Claimants as set forth in the Plan of Allocation mailed to Settlement Class Members provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund among Settlement Class Members with due consideration having been given to administrative convenience and necessity.

6. The Court hereby finds and concludes that the Plan of Allocation is, in all respects, fair and reasonable to the Settlement Class. Accordingly, the Court hereby approves the Plan of Allocation proposed by Lead Plaintiff.

7. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED this _____ day of _____, 2017.

The Honorable Kimba M. Wood
United States District Judge

#1095347

Exhibit 3

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

			Case No. 14 Civ. 8925 (KMW)
IN RE SALIX PHARMACEUTICALS, LTD.			CLASS ACTION

**[PROPOSED] ORDER AWARDING ATTORNEYS’ FEES
AND REIMBURSEMENT OF LITIGATION EXPENSES**

This matter came on for hearing on July 24, 2017 (the “Settlement Hearing”) on Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses. The Court having considered all matters submitted to it at the Settlement Hearing and otherwise; and it appearing that notice of the Settlement Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *The Wall Street Journal* and was transmitted over the *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys’ fees and Litigation Expenses requested,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated March 24, 2017 (ECF No. 216-1) (the “Stipulation”) and all capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.
2. The Court has jurisdiction to enter this Order and over the subject matter of the Action and all parties to the Action, including all Settlement Class Members.
3. Notice of Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of Litigation Expenses was given to all Settlement Class Members who could be identified with

reasonable effort. The form and method of notifying the Settlement Class of the motion for an award of attorneys' fees and expenses satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of 1995 (15 U.S.C. § 78u-4(a)(7)), due process, and all other applicable law and rules, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Plaintiffs' Counsel are hereby awarded attorneys' fees in the amount of \$_____, plus interest earned at the same rate as the Settlement Fund, and \$_____ in reimbursement of Plaintiffs' Counsel's litigation expenses (which fees and expenses shall be paid from the Settlement Fund), which sums the Court finds to be fair and reasonable. Lead Counsel shall allocate the attorneys' fees awarded amongst Plaintiffs' Counsel in a manner which it, in good faith, believes reflects the contributions of such counsel to the institution, prosecution and settlement of the Action.

5. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) The Settlement has created a fund of \$210,000,000 in cash that has been funded into escrow pursuant to the terms of the Stipulation, and that numerous Settlement Class Members who submit acceptable Claim Forms will benefit from the Settlement that occurred because of the efforts of Plaintiffs' Counsel;

(b) The fee sought is based on a retainer agreement entered into between Lead Plaintiff, a sophisticated institutional investor that actively supervised the Action, and Lead Counsel at the outset of the Action; and the requested fee has been reviewed and approved as reasonable by Lead Plaintiff;

(c) Copies of the Notice were mailed to over 73,000 potential Settlement Class Members and nominees stating that Lead Counsel would apply for attorneys' fees in an amount not exceed 22% of the Settlement Fund and reimbursement of Litigation Expenses in an amount not to exceed \$2.5 million, and no objections to the requested attorneys' fees and expenses were received;

(d) Lead Counsel conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(e) The Action raised a number of complex issues;

(f) Had Lead Counsel not achieved the Settlement there would remain a significant risk that Lead Plaintiff and the other members of the Settlement Class may have recovered less or nothing from Defendants;

(g) Plaintiffs' Counsel devoted over 34,400 hours, with a lodestar value of approximately \$14,185,000, to achieve the Settlement; and

(h) The amount of attorneys' fees awarded and expenses to be reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

6. Lead Plaintiff the Pentwater Funds is hereby awarded \$_____ from the Settlement Fund as reimbursement for its reasonable costs and expenses directly related to its representation of the Settlement Class.

7. Additional Plaintiff City of Fort Lauderdale General Employees' Retirement System is hereby awarded \$_____ from the Settlement Fund as reimbursement for its reasonable costs and expenses directly related to its representation of the Settlement Class.

8. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

9. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class Members for all matters relating to this Action, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order.

10. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Stipulation.

11. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

SO ORDERED this _____ day of _____, 2017.

The Honorable Kimba M. Wood
United States District Judge

#1095348