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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

INCHEN HUANG, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

ASSERTIO THERAPEUTICS, INC.,
ARTHUR JOSEPH HIGGINS, JAMES
A. SCHOENECK, and AUGUST J.
MORETTI,

Defendants.

Case No. 4:17-cv-04830-JST

CLASS ACTION

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

1 Plaintiffs Aurelio Scarpatetti, Manuele Scarpatetti, and Mark Madrack (collectively,
2 “Plaintiffs”), through their counsel, moved this Court for an order approving the Distribution Plan
3 in the above-captioned class action (the “Action”) and for payment to the Claims Administrator to
4 satisfy all administration fees and expenses through the initial distribution. Having reviewed and
5 considered all the materials and arguments submitted in support of the motion, including the
6 Declaration of Kari L. Schmidt Concerning the Results of the Claims Administration Process (the
7 “Schmidt Distribution Declaration”) and Supplemental Declaration of Kari L. Schmidt;
8

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

10 1. This Order incorporates by reference the definitions in the Stipulation and
11 Agreement of Settlement dated July 30, 2021 (ECF No. 117-3) (the “Stipulation”) and the Schmidt
12 Distribution Declaration, and all terms used herein shall have the same meanings as set forth in the
13 Stipulation and the Schmidt Distribution Declaration.
14

15 2. This Court has jurisdiction over the subject matter of the Action and over all parties
16 to the Action, including all Settlement Class Members.

17 3. The proposed plan for distributing the Net Settlement Fund (the “Distribution Plan”)
18 as set forth in the Schmidt Distribution Declaration to Authorized Claimants is **APPROVED**.

19 Accordingly:

20 (a) The administrative recommendations of the Court-approved Claims Administrator,
21 Analytics Consulting, LLC (“Analytics” or “Claims Administrator”) to accept the Timely Eligible
22 Claims set forth in Updated Exhibit D to the Supplemental Declaration and the Late But Otherwise
23 Eligible Claim set forth in Exhibit E to the Schmidt Distribution Declaration, are adopted;
24

25 (b) The Claims Administrator’s administrative recommendations to reject the
26 inadequately documented claims that have not been successfully cured and wholly ineligible Claims
27 as set forth in Exhibits F to the Schmidt Distribution Declaration are adopted;
28

1 (c) Analytics is directed to distribute 100% of the Net Settlement Fund, after deducting
2 all payments previously allowed and the payments approved by the Court in this Order, and after
3 deducting payment of any estimated taxes, the costs of preparing appropriate tax returns, and any
4 escrow fees, to Authorized Claimants who would receive at least \$10.00 based on their *pro rata*
5 share of the Net Settlement Fund, which is based on each Authorized Claimant’s Recognized Claim
6 as compared to the Total Recognized Claims of all Authorized Claimants as set forth in paragraph
7 42(a) of the Schmidt Distribution Declaration (the “Distribution”) and the Court-approved Plan of
8 Allocation;
9

10 (d) In order to encourage Authorized Claimants to promptly cash their checks, all
11 Distribution checks shall bear the following notation: “CASH PROMPTLY, VOID AND SUBJECT
12 TO RE-DISTRIBUTION BY [90 DAYS AFTER ISSUE DATE]”;
13

14 (e) Authorized Claimants who do not cash their Distribution checks within the time
15 allotted shall irrevocably forfeit all recovery from the Settlement unless good cause is shown, and
16 the funds allocated to all such stale-dated checks shall be available to be re-distributed to other
17 Authorized Claimants, if Lead Counsel, in consultation with Analytics, determine that it is cost-
18 effective to conduct a second distribution. Similarly, Authorized Claimants who do not cash their
19 second or subsequent distributions (should such distributions occur) within the time allotted shall
20 irrevocably forfeit any further recovery from the Net Settlement Fund unless good cause is shown;
21

22 (f) After Analytics has made reasonable and diligent efforts to have Authorized
23 Claimants cash their Distribution checks, but no earlier than six (6) months after the Distribution,
24 Analytics shall, if Lead Counsel, in consultation with Analytics, determine that it is cost effective
25 to do so, conduct a second distribution of the Net Settlement Fund (the “Second Distribution”), in
26 which any amounts remaining in the Net Settlement Fund after the Distribution, after deducting
27 Analytics fees and expenses incurred in connection with administering the Settlement for which it
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1 has not yet been paid (including the estimated costs of such Second Distribution), and after the
2 payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees,
3 shall be distributed to all Authorized Claimants in the Distribution who cashed their Distribution
4 check and who would receive at least \$10.00 from such re-distribution based on their *pro rata* share
5 of the remaining funds. Additional re-distributions, after deduction of costs and expenses as
6 described above and subject to the same conditions, may occur until Lead Counsel, in consultation
7 with Analytics, determine that further re-distribution is not cost effective;

9 (g) No new Claims shall be accepted after April 14, 2023, and no further adjustments to
10 Claims received on or before April 14, 2023, that would result in an increased recognized claim
11 amount shall be made for any reason after May 14, 2023, subject to the following exception. If
12 Proofs of Claim are received or modified after April 14, 2023 that would have been eligible for
13 payment or additional payment under the Plan of Allocation if timely received then, at the time that
14 Lead Counsel, in consultation with Analytics determines that a re-distribution is not cost effective
15 as provided in subparagraph (f) above, after the payment of any unpaid fees or expenses incurred in
16 connection with administering the Net Settlement Fund and after the payment of any estimated
17 taxes, the costs of preparing appropriate tax returns, and any escrow fees, such claimants, at the
18 discretion of Lead Counsel, may be paid their distribution amounts or additional distribution
19 amounts on a *pro rata* basis that would bring them into parity with other Authorized Claimants who
20 have cashed all their prior distribution checks to the extent possible. No responses to deficiency
21 and/or rejection notices received after May 14, 2023 shall be accepted;

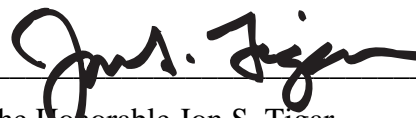
24 (h) All persons involved in the review, verification, calculation, tabulation, or any other
25 aspect of the processing of the Proofs of Claim Forms submitted in this Action, or who are otherwise
26 involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, are
27 hereby released and discharged from any and all claims arising out of such involvement, and all
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1 Settlement Class Members, whether or not they receive payment from the Net Settlement Fund, are
2 hereby barred from making any further Claims against the Net Settlement Fund, Plaintiff, Lead
3 Counsel, Additional Counsel, Plaintiff's damages expert, the Claims Administrator, the Escrow
4 Agent or any other agent retained by Plaintiff or Lead Counsel in connection with the administration
5 or taxation of the Settlement Fund or the Net Settlement Fund, or any other person released pursuant
6 to the Settlement beyond the amounts allocated to Authorized Claimants;
7

8 4. Analytics shall be paid up to \$92,988.65 in satisfaction of all administration fees and
9 expenses through the initial distribution. Additionally, (i) in no less than one (1) year after the
10 distribution of the Net Settlement Fund, Analytics may destroy the paper copies of the Claim Forms
11 and all supporting documentation; and (ii) in no less than one (1) year after all funds have been
12 distributed, Analytics may destroy the electronic copies of the Claim Forms and all supporting
13 documentation.
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15 5. This Court retains jurisdiction to consider any further applications concerning the
16 administration of the Settlement, and such other and further relief as this Court deems appropriate.
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18 SO ORDERED this 19th day of May, 2023

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21 The Honorable Jon S. Tigar
22 United States District Judge
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