

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

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IN RE KALOBIOS PHARMACEUTICALS,  
INC. SECURITIES LITIGATION

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THIS DOCUMENT RELATES TO ALL  
ACTIONS

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Case No. 5:15-cv-05841-EJD

**NOTICE OF PROPOSED PARTIAL  
SETTLEMENT OF CLASS ACTION,  
MOTION FOR ATTORNEYS’ FEES  
AND EXPENSES, AND  
SETTLEMENT FAIRNESS  
HEARING**

**IF YOU PURCHASED OR OTHERWISE ACQUIRED SHARES OF KALOBIOS PHARMACEUTICALS, INC. (“KALOBIOS”) COMMON STOCK BETWEEN NOVEMBER 18, 2015, AND DECEMBER 16, 2015, INCLUSIVE, YOU COULD RECEIVE A PAYMENT FROM A PARTIAL CLASS ACTION SETTLEMENT.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

**SUMMARY OF KEY PROVISIONS AND REASONS FOR SETTLEMENT**

- The Partial Settlement will provide one million five hundred thousand dollars (\$1,500,000.00) and three hundred thousand (300,000) shares in KaloBios (the “Settlement Fund”). If approved by the Court, the Partial Settlement will settle certain claims, as against the Settling Defendants, from investors who bought or otherwise acquired KaloBios shares between November 18, 2015, and December 16, 2015 (the “Settlement Class Period”).
- The Partial Settlement resolves a securities fraud class action lawsuit (the “Action”) over allegations that KaloBios and certain of its officers and directors misled its shareholders during the Settlement Class Period about KaloBios’s operations and business prospects, as well as prior misconduct by Defendant Martin Shkreli (“Shkreli”), who assumed control of KaloBios at the outset of the Settlement Class Period and was arrested the day after it ended.
- The Settling Defendants are KaloBios, Ronald Martell (“Martell”) (its former Executive Chairman), and Herb Cross (“Cross”) (its former Chief Financial Officer).
- Defendant Shkreli is not part of the Partial Settlement. The litigation of the Action against him remains ongoing. Per the terms of the Partial Settlement, KaloBios, its current Director David Moradi (“Moradi”), Martell, and Cross have agreed to produce documents and give testimony at the appropriate juncture.
- The Court did not decide in favor of the Plaintiffs or the Settling Defendants. Instead, both sides agreed to a Partial Settlement. This permits these settling parties to avoid the cost, delay, and uncertainty of a trial, as well as the risks posed by KaloBios’s bankruptcy, and permits eligible Settlement Class Members who submit valid claims to receive some compensation rather than risk ultimately receiving nothing. Both the Plaintiffs and the Settling Defendants have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.

The Plaintiffs and their attorneys believe the Partial Settlement is best for all Settlement Class Members. The Settling Defendants, while denying the allegations and maintaining they did nothing wrong, have concluded that further defense of the Action would be protracted and expensive, and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in the Stipulation of Settlement (the “Stipulation”). The two sides disagree on how much money could have been won if the investors won at trial.

- Lead Counsel for the Class will ask the Court for up to 25% of the Settlement Fund (cash and stock) in attorneys’ fees, and reimbursement of up to fifty thousand dollars (\$50,000.00) for litigation costs. Lead Counsel will also ask the Court to pay Lead Plaintiffs Kaniz Fatema, Zeke Ingram, Bhaskar R. Gudlavenkatasiva and Abuhena M. Saifulislam, and initial Plaintiff Austin Isensee (altogether “Plaintiffs”) up to five hundred dollars (\$500.00) each for their contributions to this lawsuit.
- The Court in charge of this case still has to decide whether to approve the Partial Settlement. The Court has set a Settlement Hearing for May 11, 2017 at 9:00 a.m. to consider whether to approve the Partial Settlement. Payments will be made if the Court approves the Partial Settlement, orders distribution of such monies, and all appeals are resolved. Please be patient.
- If the proposed Partial Settlement is approved after the Settlement Hearing, the Court will enter a Judgment and Order of Final Approval (the “Judgment”). The Judgment will dismiss with prejudice, release, and forever discharge both the Settlement Class Claims against the Settling Defendants and the Released Parties and the Defendant Claims against the Plaintiffs, Lead Counsel and other Plaintiffs’ counsel, and any Settlement Class Members. The terms of the releases, including the meaning of the terms “Settlement Class Claims” and “Defendant Claims” are set forth in the Proof of Claim and Release form that is enclosed.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS PARTIAL SETTLEMENT		
ACTION	DEADLINE	SIGNIFICANCE
SUBMIT A CLAIM FORM	Postmarked no later than April 6, 2017	The only way to get a payment.
EXCLUDE YOURSELF	Postmarked no later than April 20, 2017	Get no Payment. This is the only option that allows you to ever be part of any other lawsuit against KaloBios, Martell, Cross and other Released Parties about the legal claims that were at issue in this case.
OBJECT	Filed and served no later than April 20, 2017	Write to the Court about why you do not like the Partial Settlement.
GO TO A HEARING	May 11, 2017	Ask to speak in Court about the fairness of the Partial Settlement.
DO NOTHING		Get no payment. Give up your rights to bring an individual action.

- You may submit a claim or object, or do both, or do nothing.
- You may also exclude yourself. However, if you timely exclude yourself that is the **only** thing you can do: you cannot then also object in writing, appear at the Settlement Hearing to state any objections, or submit a claim.
- If you object rather than request exclusion, you will remain a Settlement Class Member, and if the Court approves the Partial Settlement, you will be bound by the terms of the Partial Settlement in the same way as Settlement Class Members who do not object.

- Unless you timely request exclusion from the Settlement Class, or unless the Court rejects the proposed Partial Settlement, you are bound by the Stipulation, whether or not you submit a claim or object.
- These rights and options are explained in this Notice. ***Please take careful note of the deadlines to exercise them, set forth above.***

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## BASIC INFORMATION

### 1. Why Did I Receive This Notice Package?

You or someone in your family may have purchased or otherwise acquired KaloBios Pharmaceuticals, Inc. (“KaloBios”) common stock between November 18, 2015, and December 16, 2015, inclusive, and incurred damages.

This Notice was sent because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the Partial Settlement. If the Court approves the Partial Settlement, after any objections or appeals are resolved, the Settlement Administrator appointed by the Court will make the payments to those persons who timely submit claims in the manner described below.

This package explains the lawsuit, the Partial Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the Northern District of California, U.S. District Judge Edward J. Davila presiding, and the case is known as *In re KaloBios Pharmaceuticals, Inc. Securities Litigation*, Case No. 5:15-cv-05841. Kaniz Fatema, Zeke Ingram, Bhaskar R. Gudlavenkatasiva and Abuhena M. Saifulislam are called the Lead Plaintiffs, and they along with original Plaintiff Austin Isensee oversaw the litigation to this point. The Settling Defendants are KaloBios, its former Executive Chairman Ronald Martell, and its former Chief Financial Officer Herb Cross. The Lead Plaintiffs, Plaintiff Isensee, and the Settling Defendants are referred to together as the “Settling Parties.”

Defendant Martin Shkreli, KaloBios’s former Chief Executive Officer, has not settled, so the Plaintiffs will continue to litigate the case against him. The claims against him are not encompassed within the Partial Settlement that is the subject of this Notice.

### 2. What Is This Lawsuit About?

This Action alleges violations of the Federal Securities Laws (specifically Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §78j(b) and 78(t)(a)) and Rule 10b-5 promulgated thereunder (17 C.F.R. §240.10b-5) against the Settling Defendants and Defendant Shkreli.

KaloBios is a publicly-traded pharmaceuticals company which, during the Settlement Class Period, traded on the NASDAQ under the ticker symbol “KBIO.” In mid-November 2015, an investor group led by Defendant Shkreli purchased 70% of KaloBios’s outstanding shares. Shortly thereafter, KaloBios received Defendant Shkreli’s proposal to assume operational control.

Plaintiffs allege that Defendants made material misrepresentations and omissions, knowingly and recklessly, concerning KaloBios business operations and prospects and prior alleged misconduct by Defendant Shkreli at other companies. On November 18, 2015, KaloBios issued a press release listing Defendant Cross as the company contact stating that KaloBios was “in discussions with Mr. Shkreli regarding possible direction for the company to continue in operation.” It also quoted Defendant Martell as saying, “We received communications from Mr. Shkreli informing us of his group’s ownership position, and a proposal to continue the company’s operations. Our board of directors is prepared to entertain any constructive proposal, which we will act upon promptly.” Plaintiffs allege that these statements were knowingly or recklessly false or misleading by misrepresenting that KaloBios and its Board were vetting Defendant Shkreli’s leadership proposals and making an informed decision about whether to hand him operational control.

By November 19, 2015, Defendant Shkreli had been appointed CEO of KaloBios and elected as Chairman of its Board of Directors, after which Mr. Cross and Mr. Martell were no longer associated with the Company. Plaintiffs allege that over the ensuing weeks, KaloBios and Defendant Shkreli issued a series of public statements touting Defendant Shkreli’s qualifications and those of his business associates

to lead KaloBios, the financing options he was lining up, and the “permanent access to capital and M&A deal flow” that his leadership would provide. Plaintiffs allege that these statements were knowingly or recklessly false and misleading by misrepresenting these facts and simultaneously failing to disclose Defendant Shkreli’s alleged significant misconduct at his prior companies and business ventures.

The Settlement Class Period ends on December 16, 2015. The next day, Defendant Shkreli was arrested and charged in a federal indictment and a Securities and Exchange Commission complaint alleging misconduct at his prior companies and business ventures. Trading in KaloBios’s stock was immediately halted, its stock was delisted, and when trading resumed over-the-counter, it did so at steeply reduced prices. As a result, Plaintiffs allege that the Defendants’ conduct at issue in this litigation had inflated KaloBios’s stock price and that, when the truth was revealed, investors suffered injury. The Defendants deny all of these allegations.

### **3. Why Is This A Class Action?**

Classes are generally used in lawsuits that affect a large number of individuals. The class action consolidates into a single action all of the claims of individuals allegedly harmed by the same conduct or course of conduct in the same period of time, thus removing the need for members of the class to file their own individual lawsuits to separately seek to recover for the harm alleged. Once the class is certified, the Court is empowered to resolve all issues on behalf of members of the class, except for those members of the class, if any, who specifically choose to exclude themselves from the class.

As part of the preliminary approval process, Plaintiffs will ask the Court to certify a class for settlement purposes only. The proposed Settlement Class will consist of all persons or entities that purchased or otherwise acquired KaloBios common stock between November 18, 2015 and December 16, 2015 (both dates inclusive).

Excluded from the Settlement Class are Settling Defendants and their immediate family members; the other Released Parties, who, with the specific exception of Defendant Shkreli against whom this Action will continue to be litigated, are KaloBios’s past, present and future directors, officers, and employees, including, but not limited to, Ted W. Love, Denise Gilbert, Laurie Smaldone Alsup, Gary Lyons, Robert A. Baffi, Raymond M. Withy, Charles Democko, Don Joseph, and Geoffrey Yarranton; KaloBios’s subsidiaries and affiliates; KaloBios’s employees during the Settlement Class Period, including without limitation Judy Alaura, Priyanka Ankola, Deborah Brown, Mark Camarena, Blair Evans, Jennifer Fernando, Morgan Lam, Wendy Lin, Tom Selph, Ted Shih, and Mirella Villa del Toro; Defendant Shkreli, and his immediate family members; Shkreli’s affiliates and the other members of his investor group who acquired roughly 70% of KaloBios stock as announced by KaloBios: Moradi, Anthion Partners II LLC, and Marek Biestek; and those individuals who otherwise acquired KaloBios stock and/or were appointed as KaloBios officers and directors in conjunction with Shkreli’s takeover of the company, including Tony Chase, Tom Fernandez, and Michael Harrison. Per the terms of the Stipulation, the Settling Defendants shall assist in identifying the persons and entities to be excluded from the Settlement Class.

### **4. Why Is There A Partial Settlement?**

The Court has not decided in favor of Plaintiffs or the Settling Defendants. Rather, Plaintiffs and the Settling Defendants have chosen to enter into the Partial Settlement.

Plaintiffs and Lead Counsel believe that the Partial Settlement is in the Settlement Class Members’ best interest and provides the Settlement Class Members with a substantial benefit now, in lieu of engaging in years of further litigation against the Settling Defendants – including a motion to dismiss, summary judgment motions, a contested class certification motion, a contested trial and likely appeals, and attempts to enforce any judgment – all with the possibility of no recovery at all. Moreover, by settling with KaloBios now, Plaintiffs and the Settlement Class avoid the risk of securing no recovery at all from

KaloBios, due to potential subordination of their claims as part of KaloBios's bankruptcy proceeding. By settling the Action with the Settling Defendants at this point, Plaintiffs are not admitting that the Action lacked merit, or that the Settlement Class's ultimate recovery would not have been greater than the Settlement Consideration, or that the Action as it will continue to be litigated against Defendant Shkreli lacks merit. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by the Plaintiffs or the Settlement Class Members that any of their claims are without merit; that any defenses asserted by Defendant Shkreli, the Settling Defendants, or any former defendants in the Action have any merit; or that damages recoverable in the Action would not have exceeded the Settlement Fund or will not yet exceed it as the Action continues to be litigated against Shkreli.

The Settling Defendants deny all charges of wrongdoing or liability arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, by Plaintiffs. Nonetheless, the Settling Defendants have concluded that further conduct of the Action could be protracted and expensive, and that it is desirable that the Action, to the extent brought against them, be fully and finally settled in the manner and upon the terms and conditions set forth in the parties' Stipulation in order to limit further expense, inconvenience and distraction; to dispose of the burden of protracted litigation; and to permit the operation of KaloBios's business without the Action causing distraction and diversion of its executive personnel. The Settling Defendants have also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like this Action. The Settling Defendants have, therefore, determined that it is desirable and beneficial that the Action be settled, as regards claims against them, in the manner and upon the terms and conditions set forth in the Stipulation. The Settling Defendants entered into the Stipulation without in any way admitting to or acknowledging any fault, liability, or wrongdoing of any kind, nor have they admitted that the Action has merit or that Settlement Class Members ultimately would have recovered any damages. There has been no adverse determination by any court against the Settling Defendants or anyone else on the merits of the claims asserted in the Action. Neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by the Settling Defendants of the merit or truth of any of the allegations or wrongdoing of any kind on their part, nor shall they be offered as evidence in the Action or in any pending or future civil, criminal, or administrative action against the Settling Defendants, except as expressly set forth in the Stipulation.

The Partial Settlement must be compared to the risk of no recovery after contested dispositive motions, trial, and likely appeals. A trial is a risky proposition. The claims in the Action involve numerous complex legal and factual issues, many of which would require expert testimony. The Settling Parties disagree on both liability and damages, and do not agree on the average amount of damages per share, if any, that would be recoverable if Plaintiffs were to have prevailed on each claim alleged against the Settling Defendants. Among their many other disagreements are: (1) whether the Settling Defendants violated the securities laws or otherwise engaged in wrongdoing; (2) whether the misrepresentations and omissions alleged by the Plaintiffs were material, false, misleading or otherwise actionable; (3) the extent (if any) that the alleged misrepresentations and omissions influenced KaloBios's common stock price during the Settlement Class Period; and (4) the method for determining whether, and the extent to which, purchasers of KaloBios stock suffered injury and damages that could be recovered at trial.

The Partial Settlement does not include Defendant Shkreli and therefore does not in any way compromise the Plaintiffs' or the Settlement Class Members' claims against him. Plaintiffs and Lead Counsel will continue to litigate the Action against him.

## **WHO IS IN THE PARTIAL SETTLEMENT**

To see if you will receive money and stock from this Partial Settlement, you first have to determine if you are a possible Settlement Class Member.

## **5. How Do I Know if I Am Part of the Partial Settlement?**

The potential Settlement Class includes all persons or entities that purchased or otherwise acquired KaloBios common stock between November 18, 2015, and December 16, 2015, inclusive.

## **6. What Are the Exceptions to Being Included?**

You are not a member of the Settlement Class if you did not purchase KaloBios common stock on or between the dates listed above. If you purchased KaloBios stock some other time, or did not purchase it at all, you are not included within the Settlement Class.

You are also not a member of the Settlement Class if you are one of the list of persons and entities that are specifically excluded from it, per question 3 above.

## **7. I Am Still Not Sure if I Am Included.**

If you are still not sure whether you are included, you can ask for free help. You can contact the Settlement Administrator at Strategic Claims Services, 600 North Jackson Street, Suite 3, Media, PA 19063, Tel: 866-274-4004, for more information. Or you can fill out and return the claim form described in question 10 to see if you qualify.

## **THE PARTIAL SETTLEMENT BENEFITS — WHAT YOU GET**

### **8. What Does the Partial Settlement Provide?**

The Partial Settlement will result in a gross fund of one million five hundred thousand dollars (\$1,500,000.00) in cash and three hundred thousand (300,000) shares in KaloBios as a reorganized company upon its exit from bankruptcy. The balance of this fund, after payment of Court-approved attorneys' fees and expenses; the costs of claims administration, including the costs of printing and mailing this Notice and the cost of publishing notice; and any compensatory award granted to the Plaintiffs (the "Net Settlement Fund"), will be divided among all eligible Settlement Class Members who send in valid claim forms according to the Plan of Allocation set forth herein.

### **9. How Much Will My Payment Be?**

Your share of the Net Settlement Fund will depend on the number of valid claim forms that Settlement Class Members send in, the number of shares of KaloBios common stock you purchased during the Settlement Class Period, and the timing of your purchases and sales. You will not receive a payment, however, if your proportionate share of the Net Settlement Fund is less than ten dollars (\$10.00).

You can calculate your Recognized Loss in accordance with the formula shown below in the Plan of Allocation. After all Settlement Class Members have sent in their Proof of Claim and Release forms, the payment you receive will reflect your Recognized Loss in relation to the Recognized Losses of all persons submitting valid Proof of Claim forms. The Recognized Loss is not the amount of the payment that you can expect, but is used to determine how the Net Settlement Fund is to be allocated among all persons submitting claims.

## **HOW YOU OBTAIN A PAYMENT — SUBMITTING A CLAIM FORM**

### **10. How Can I Obtain A Payment?**

To qualify for payment, you must be an eligible Settlement Class Member, send in a valid Proof of Claim and Release form by the deadline, and properly document your claim as requested in the Claim Form. A Proof of Claim and Release form is enclosed with this Notice. You may also get a Proof of Claim and Release form on the internet at [www.strategicclaims.net/kalobios](http://www.strategicclaims.net/kalobios). Read the instructions carefully, fill out the Proof of Claim and Release form, include the documents required by that form, sign it, and mail it so that it is postmarked no later than April 6, 2017.

## **11. When Will I Receive My Payment?**

The Court will hold a hearing on May 11, 2017, to decide whether to approve the Partial Settlement. If the Court approves the Partial Settlement, there may be an appeal of such approval. It is always uncertain whether there will be an appeal and when any appeal will be resolved, and resolving an appeal can take time, perhaps more than a year. Even if no appeals are filed, it will take several months for the Settlement Administrator to process all of the Proof of Claim and Release forms and determine the ultimate distribution amounts. Please be patient.

## **12. What Am I Giving Up to Receive A Payment?**

As a Settlement Class Member, you will be giving up certain rights that you currently have if the Court approves the Partial Settlement. Unless you timely exclude yourself from the Settlement Class by the April 20, 2017 deadline, you are a Settlement Class Member and will be bound by the Release of claims against the Settling Defendants and the Released Parties. That means that you cannot sue, continue to sue, or be part of any other lawsuit against the Released Parties about the Settlement Class Claims in this Action. It also means that all of the Court's orders will apply to you and legally bind you, and you will release your claims in this Action against the Settling Defendants and the Released Parties. The terms of the Release are included in the Proof of Claim and Release form that is enclosed.

### **EXCLUDING YOURSELF FROM THE PARTIAL SETTLEMENT**

If you do not want a payment from the Partial Settlement, but you want to keep the right to sue or continue to sue the Settling Defendant on your own for the Settlement Class Claims, then you must take steps to get out of the Settlement Class. This is called excluding yourself, or is sometimes referred to as "opting out" of the class.

## **13. How Do I Get Out of the Settlement Class?**

You cannot exclude yourself on the phone or by e-mail. To exclude yourself from the Settlement Class, you must send a letter by mail stating that you want to be excluded from *In re KaloBios Pharmaceuticals, Inc. Securities Litigation*, Case No. 5:15-cv-05841 (EJD). You must include your name; address; telephone number; your signature; the number of shares of NASDAQ-listed KaloBios common stock you purchased or acquired between November 18, 2015 and December 16, 2015, inclusive; the number of shares of KaloBios common stock sold during this same time period, if any; the dates of such purchases and/or sales; and the price paid or received per share for each purchase or sale. You must mail your exclusion request postmarked no later than April 20, 2017 to:

*KaloBios Pharmaceuticals, Inc. Securities Litigation*  
c/o Strategic Claims Services  
600 North Jackson Street, Suite 3  
Media, PA 19063  
Tel: 866-274-4004

If you ask to be excluded, and your request is processed, you are not eligible to receive any settlement payment, and you cannot object to the Partial Settlement. You will not be legally bound by anything that happens in the Action.

## **14. If I Do Not Exclude Myself, Can I Sue the Settling Defendants or the Released Parties for the Same Thing Later?**

No. Unless you exclude yourself from the Settlement Class, you give up any right to sue the Settling Defendants or the Released Parties for the Settlement Class Claims in the Partial Settlement. If you have a pending lawsuit against the Settling Defendants, speak to your lawyer in that case immediately. Remember, the exclusion deadline is April 20, 2017.



**15. If I Exclude Myself, Can I Receive Money from the Net Settlement Fund?**

No. If you exclude yourself, do not send in a Proof of Claim and Release form.

**THE LAWYERS REPRESENTING YOU**

**16. Do I Have A Lawyer in This Case?**

The Court appointed the law firm Pomerantz LLP to represent you and other Settlement Class Members. These lawyers are called Lead Counsel. They can be reached by contacting Matthew L. Tuccillo, Pomerantz LLP, 600 Third Avenue, 20<sup>th</sup> Floor, New York, NY 10016, (212) 661-1100. You will not be personally liable for the fees and expenses incurred by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How Will the Lawyers Be Paid?**

Lead Counsel will ask the Court for attorneys' fees of up to 25% of the Settlement Fund (cash and stock) and for reimbursement of expenses up to \$50,000.00 which were advanced in connection with the Action up to the point of the Partial Settlement. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

Lead Counsel shall file a formal motion with the District Court for approval of the Partial Settlement, the Plan of Allocation, the request for attorneys' fees and reimbursement of expenses, and the request for compensatory awards to the Plaintiffs of up to \$500.00 per Plaintiff no later than April 13, 2017.

Lead Counsel believes that the requested attorney fees are warranted in light of its efforts, and those of other plaintiffs' counsel in support, on a wholly contingent basis, to investigate the underlying claims, to work with a private investigator and a damages analyst, to file initial and amended complaints, to reach the Partial Settlement, and to seek its approval by both the court overseeing KaloBios's bankruptcy and the court overseeing this class action, all amid its continued litigation of this class action against Defendant Shkreli. Lead Counsel's motion will argue that the requested fees are well within the range of fees awarded to class counsel under similar circumstances in other cases of this type. The Court determines what counsel should receive from the Settlement Fund for fees and expenses, and may award less than this amount.

**OBJECTING TO THE PARTIAL SETTLEMENT**

You can tell the Court that you do not agree with the Partial Settlement or some part of it.

**18. How Do I Tell the Court that I Do Not Like the Partial Settlement?**

If you are a Settlement Class Member, you can object to the Partial Settlement if you do not like any part of it, including the Plan of Allocation or the request for attorneys' fees. You can state the reasons why you think the Court should not approve it, and the Court will consider your views. To object, you must send a letter saying that you object to the Partial Settlement in *In re KaloBios Pharmaceuticals, Inc. Securities Litigation*, Case No. 5:15-cv-05841 (EJD). Be sure to include your name; address; telephone number; your signature; the number of shares of KaloBios common stock purchased between November 18, 2015 and December 16, 2015, inclusive; the precise dates and prices of any such transactions; and the reasons you object. If you object to either the Partial Settlement, requested attorneys' fees, or Plaintiffs' compensatory award, you subject yourself to the jurisdiction of the Court in this matter and Plaintiffs will have the right to take your deposition prior to the Settlement Hearing. If you refuse to have your deposition testimony taken upon Plaintiffs' request, your objection will be deemed invalid. The motions in support of the Partial Settlement and the request for attorneys' fees will be filed no later than April 13, 2017, and

they will be available from Lead Counsel, the Settlement Administrator or the Court. (The Settlement Administrator's contact information is listed in Section 23, below.) Any objection must be mailed or delivered such that it is received by *each* of the following no later than April 20, 2017:

*Court:*

Clerk of the Court  
United States District Court  
Northern District of California  
Robert F. Peckham Federal Building  
280 South 1<sup>st</sup> Street  
Room 2112  
San Jose, CA 95113

*Lead Counsel:*

Matthew L. Tuccillo, Esq.  
Pomerantz LLP  
600 Third Avenue, 20th Floor  
New York, NY 10016

*Counsel for Settling Defendant KaloBios:*

J. Christopher Mitchell  
HOGAN LOVELLS US LLP  
80 South Eighth Street, Suite 1225  
Minneapolis, Minnesota 55402

*Counsel for Settling Defendants Herb Cross and Ronald Martell*

Susan S. Muck  
FENWICK & WEST LLP  
555 California Street, 12th Floor  
San Francisco, California 94104

## **THE COURT'S SETTLEMENT HEARING**

The Court will hold a hearing to decide whether to approve the Partial Settlement. You may attend and you may ask to speak, but you do not have to do so.

### **19. When and Where Will the Court Decide Whether to Approve the Partial Settlement?**

The Court will hold a Settlement Hearing at 9:00 a.m. on May 11, 2017, at the courthouse for the United States District Court, Northern District of California, Courtroom 4, Robert F. Peckham Federal Building, 280 South 1<sup>st</sup> Street, San Jose, CA 95113. At this hearing, the Court will consider whether the Partial Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also consider how much money and stock from the Settlement Fund will be allocated to pay Lead Counsel and other plaintiffs' counsel for their work on the Action and to reimburse their expenses, up to the point of the Partial Settlement; whether to grant a compensatory award to Plaintiffs; and whether the Plan of Allocation is fair, reasonable and adequate. The Court may decide these issues at the hearing or take them under consideration for a later decision.

**20. Do I Have to Come to the Hearing?**

No. Lead Counsel will answer questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it, though you are welcome to do so. You may also pay your own lawyer to attend, but it is not necessary.

**21. May I Speak at the Hearing?**

You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must send a letter saying that it is your intention to appear in *In re KaloBios Pharmaceuticals, Inc. Securities Litigation*, Case No. 5:15-cv-05841 (EJD). Be sure to include your name, address, telephone number, your signature, and the number of NASDAQ-listed shares of KaloBios common stock you purchased between November 18, 2015 and December 16, 2015, inclusive, and the precise dates and prices of any such transactions. Your notice of intention to appear must be received no later than April 20, 2017, by the Clerk of the Court, Lead Counsel and the Settling Defendants' Counsel, at the addresses listed in question 18.

**IF YOU DO NOTHING**

**22. What Happens if I Do Nothing at All?**

If you do nothing, all of your claims against the Settling Defendants and the Released Parties will be released, but you will not receive any money from this Partial Settlement, because it is necessary to submit a Proof of Claim and Release form to share in the Settlement proceeds.

**GETTING MORE INFORMATION**

**23. Are There More Details About the Partial Settlement?**

This Notice summarizes the proposed Partial Settlement. More details are in the Stipulation dated as of July 1, 2016. You can obtain a copy of the Stipulation or more information about the Partial Settlement: by contacting the Claims Administrator:

*KaloBios Pharmaceuticals, Inc. Securities Litigation*  
c/o Strategic Claims Services  
600 North Jackson Street, Suite 3  
Media, PA 19063  
Tel: 866-274-4004

or by visiting [www.strategicclaims.net/kalobios](http://www.strategicclaims.net/kalobios).

**UNDERSTANDING YOUR PAYMENT**

The Net Settlement Fund shall be distributed to Class Members who submit acceptable Proofs of Claim and Release forms ("Authorized Claimants") in the following manner:

The Settlement Administrator shall determine each Authorized Claimant's share of the Net Settlement Fund based upon the recognized loss formula (the "Recognized Loss") described below. The Recognized Loss formula is intended to equitably apportion the Net Settlement Fund among Authorized Claimants. The Recognized Loss formula is not an estimate of what an Authorized Claimant would have recovered after trial; nor is it the amount that the Authorized Claimant will be paid pursuant to the Partial Settlement.

An Authorized Claimant's actual share of the Net Settlement Fund will be determined by the ratio of the Authorized Claimant's Recognized Loss to the aggregate of the Recognized Loss of all Authorized Claimants.

The Settlement Administrator will use its best efforts to administer and distribute the Net Settlement Fund to the extent that it is equitably and economically feasible. If there is any balance remaining in the Net Settlement Fund after the initial distribution of the Net Settlement Fund, such remaining balance shall then be donated to an appropriate non-profit organization selected by Lead Counsel, in which Lead Counsel shall not have any financial interest or other affiliation.

This Plan of Allocation is based on the following principles:

(1) If you purchased KaloBios stock during the Settlement Class Period, held it as of close of markets on December 16, 2015, and sold it on December 17, 2015, your Recognized Loss will be the difference between the price you paid for your stock and the price you received for it by selling it on December 17, 2015.

(2) If you purchased KaloBios stock during the Settlement Class Period, held it as of close of markets on December 16, 2015, and also held it until January 13, 2016, your Recognized Loss will be the difference between the price you paid for your stock and either (a) the price you received for it by selling it on January 13, 2016, or (b) if you did not sell your stock on January 13, 2016, the closing price on January 13, 2016.

### **INSTRUCTIONS APPLICABLE TO ALL CLAIMANTS**

1. The payment you receive will reflect your proportionate share of the Net Settlement Fund. Such payment will depend on the number of eligible shares of common stock that participate in the Partial Settlement, and when those securities were purchased and sold. The number of claimants who send in claims varies widely from case to case.

2. A purchase or sale of KaloBios common stock shall be deemed to have occurred on the “contract” or “trade” date as opposed to the “settlement” or “payment” date.

3. Acquisition by Gift, Inheritance, or Operation of Law: If a Class Member acquired KaloBios common stock during the Settlement Class Period by way of gift, inheritance or operation of law, such a claim will be computed by using the date and price of the original purchase and not the date and price of transfer. To the extent that KaloBios common stock was originally purchased prior to commencement of the Settlement Class Period, the Recognized Loss for that acquisition shall be deemed to be zero dollars (\$0.00).

4. Notwithstanding any of the above, receipt of KaloBios common stock during the Settlement Class Period in exchange for securities of any other corporation or entity shall not be deemed a purchase or sale of KaloBios common stock.

5. The first-in-first-out (“FIFO”) basis will be applied to purchases and sales. Sales will be matched in chronological order, by trade date, first against the common stock held as of the close of trading on November 17, 2015 (the last day before the Settlement Class Period begins) and then against the purchases during the Settlement Class Period.

6. The Recognized Loss with respect to a purchase or acquisition of KaloBios common stock is calculated by multiplying the number of shares by the appropriate Recognized Loss per share, as described above.

7. No Authorized Claimant whose proportionate share of cash distributions from the Net Settlement Fund is less than \$10.00 shall receive a distribution from the Settlement Fund.

8. Settlement Class Members who do not submit a timely request for exclusion and do not submit an acceptable Proof of Claim by the deadline for submitting claims will not share in the recovery, but nevertheless will be bound by the Partial Settlement and the Judgment of the Court dismissing this Action.

9. Distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Partial Settlement.

***DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE***

**SPECIAL NOTICE TO NOMINEES**

The Court has ordered that if you held any KaloBios common stock purchased or acquired between November 18, 2015, and December 16, 2015, inclusive, as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) send a copy of this Notice by first class mail to all such beneficial owners; or (2) provide a list of the names and addresses of such beneficial owners to the Settlement Administrator:

*KaloBios Pharmaceuticals, Inc. Securities Litigation*  
c/o Strategic Claims Services  
600 North Jackson Street, Suite 3  
Media, PA 19063  
Tel: 866-274-4004

If you choose to mail the Notice and Proof of Claim and Release form yourself, you may obtain from the Settlement Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for administrative costs actually incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Settlement Administrator.

DATED: January 20, 2017

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA