

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

IN RE BAXTER INTERNATIONAL INC.
SECURITIES LITIGATION

Case No. 1:19-cv-07786

District Judge Sara L. Ellis

Magistrate Judge Jeffrey I. Cummings

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF
(A) LEAD PLAINTIFFS' MOTION FOR FINAL APPROVAL OF
SETTLEMENT AND PLAN OF ALLOCATION AND (B) LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

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Lead Plaintiffs Louisiana Municipal Police Employees' Retirement System and Varma Mutual Pension Insurance Company, on behalf of themselves and the Settlement Class, and Lead Counsel respectfully submit this reply memorandum of law in further support of (i) Lead Plaintiffs' Motion for Final Approval of Settlement and Plan of Allocation (ECF No. 60), and (ii) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses (ECF No. 63) (together, the "Motions").¹

INTRODUCTION

The proposed Settlement resolves this litigation in exchange for a cash payment of \$16,000,000. As detailed in Lead Plaintiffs' and Lead Counsel's opening papers (ECF Nos. 60-66), the proposed Settlement is the product of a mediator's recommendation following hard-fought settlement negotiations by the Parties. Lead Plaintiffs and Lead Counsel believe that the Settlement is an excellent result for the Settlement Class in light of the significant risks posed by ongoing litigation, including the substantial risks that their attempt to amend the Complaint in order to address the issues raised by the Court's MTD Order might be unsuccessful or—assuming Lead Plaintiffs overcame that hurdle—in proving that Defendants acted with scienter, and in establishing loss causation and damages. In addition, the Settlement proceeds will be distributed fairly to Settlement Class Members under the proposed Plan of Allocation. Finally, Lead Counsel's request for attorneys' fees of 22% of the Settlement Fund is fair and reasonable in light of the recovery obtained for the Settlement Class, the substantial risks that Lead Counsel faced in litigating the Action, the time and resources that Lead Counsel devoted to the litigation, and fees awarded in comparable cases.

¹ Unless otherwise defined, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement, dated April 1, 2021 (ECF No. 57-1) (the "Stipulation").

Pursuant to the Court’s Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 59) (“Preliminary Approval Order”), the Claims Administrator, under the supervision of Lead Counsel, has conducted an extensive notice program, including mailing notice of the Settlement to over 184,000 potential Settlement Class Members and nominees. In response to this notice program, *not a single* Settlement Class Member has objected to the Settlement, the Plan of Allocation, or Lead Counsel’s motion for attorneys’ fees and expenses. In addition, just nineteen (19) requests for exclusion were received, all from individual investors, and those requests represent *only approximately 0.007%* of the total number of affected shares of Baxter common stock purchased during the Class Period.

As explained below, this reaction of the Settlement Class further demonstrates that the proposed Settlement, the proposed Plan of Allocation, and the request for attorneys’ fees and expenses are fair and reasonable.

ARGUMENT

Lead Plaintiffs and Lead Counsel respectfully submit that their opening papers demonstrate that the Motions should be granted. The reaction of the Settlement Class, including the lack of any objections by Settlement Class Members, provides additional support for approval of the Motions.

I. The Robust Notice Program

Pursuant to the Preliminary Approval Order, the Claims Administrator Epiq Class Action & Claims Solutions, Inc. (“Epiq”) conducted an extensive notice program under Lead Counsel’s supervision, which included mailing the Notice and Claim Form (together, the “Notice Packet”) to potential Settlement Class Members and nominees, publishing the Summary Notice in *The Wall Street Journal* and transmitting the same over the *PR Newswire*, and establishing a settlement

website, www.BaxterSecuritiesLitigation.com, that provides copies of the Notice, Claim Form, and other information and documents related to the Settlement.

Epiq began mailing the Notice Packet to potential Settlement Class Members on May 19, 2021. *See* Sullivan Decl. (ECF No. 66-3), at ¶¶ 4-6. As of August 2, 2021, Epiq had mailed a total of 184,839 Notice Packets. *See* Supplemental Declaration of Owen F. Sullivan (“Supp. Sullivan Decl.”), attached hereto as Exhibit 1, 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 for Litigation Expenses not to exceed \$200,000. *See* Notice at ¶¶ 5, 48. The Notice also advised Settlement Class Members of their right to object to the proposed Settlement, to the proposed Plan of Allocation, and/or to the request for attorneys’ fees and expenses, as well as to request exclusion from the Settlement Class. *See id.* at p. 3 and ¶¶ 49-64.² After the opening papers in support of the Motions were filed on July 6, 2021, the papers were made available on the settlement website, as well as the public docket. *See* Supp. Sullivan Decl. ¶ 3.

As noted above, following this notice program, ***not a single Settlement Class Member has objected*** to the Settlement, the Plan of Allocation, or Lead Counsel’s application for fees and Litigation Expenses. Additionally, only nineteen (19) requests for exclusion were received, all submitted either by individuals or by individual or family trusts. *See* Supp. Sullivan Decl. ¶ 5 & Ex. A. Notably, no institutional investors have requested exclusion from the Settlement Class. Of the requests for exclusion received, ten (10) indicate that the persons submitting the requests did

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* on June 1, 2021. *See* Sullivan Decl. (ECF No. 66-3), at ¶ 10.

not purchase any shares of Baxter common stock during the Class Period (or believe that they did not do so) and, thus, these persons would not be Settlement Class Members. The investors that submitted requests for exclusion stating that they purchased Baxter common stock during the Class Period indicate that they collectively purchased approximately 3,632 shares of Baxter common stock during the Class Period, which represents only 0.007% of the total number of shares affected by Defendants' alleged conduct, as estimated by Lead Plaintiffs' damages consultant.³

II. The Reaction of the Settlement Class Supports Approval of the Settlement and Plan of Allocation and the Request for Attorneys' Fees and Expenses

The reaction of class members to a proposed settlement is a significant factor to be considered in judging the fairness and adequacy of a proposed settlement. "The Seventh Circuit has instructed district courts to evaluate the amount of opposition to a settlement among affected parties in deciding whether to approve a class-action settlement." *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 789 F. Supp. 2d 935, 964 (N.D. Ill. 2011).

The absence of any objections from Settlement Class Members supports a finding that the Settlement is fair, reasonable, and adequate. *See, e.g., Garcia v. J.C. Penney Corp., Inc.*, 2017 WL 3449077, at *1 (N.D. Ill. Aug. 9, 2017) ("The absence of any objections to the Settlement by the Class Members . . . supports approval of the Settlement."); *Sanchez v. Roka Akor Chicago LLC*, 2017 WL 1425837, at *2 (N.D. Ill. Apr. 20, 2017) (same); *Myszka v. Nat'l Collegiate Scouting Ass'n, Inc.*, 2014 WL 1364468, at *1 (N.D. Ill. Mar. 19, 2014) (same); *Young v. City of Chicago*, 2013 WL 9947387, at *2 (N.D. Ill. Dec. 16, 2013) (same); *Retsky Family Ltd. P'ship v.*

³ Certain of the requests for exclusion did not comply with all the requirements for requests for exclusion set forth in the Notice (¶¶ 49-50) and Preliminary Approval Order (¶ 14), because they did not provide details of their transactions in Baxter common stock during the Class Period. In addition, four of the requests for exclusion were received after the July 20, 2021 deadline. Nevertheless, Lead Plaintiffs respectfully request that the Court accept all the requests for exclusion received. Defendants consent to this request.

Price Waterhouse LLP, 2001 WL 1568856, at *3 (N.D. Ill. Dec. 10, 2001) (same); *Goldsmith v. Tech. Sols. Co.*, 1995 WL 17009594, at *5 (N.D. Ill. Oct. 10, 1995) (“Not a single objection to the proposed Settlement has been received from any class member. Such a positive response to the Settlement by the Class is strong evidence that the settlement is fair, reasonable, and adequate and should be approved.”) (citation omitted).

Moreover, it is significant that no institutional investors—which held a substantial portion of Baxter’s publicly traded common stock during the Class Period—have requested exclusion from the Settlement Class or objected to the Settlement. The absence of exclusions and objections from these institutional investors, which have ample means and incentive to request exclusion or object to the Settlement if they deemed it unsatisfactory, is further evidence of the Settlement’s fairness. *See, e.g., Kleen Prods. LLC v. Int’l Paper Co.*, 2017 WL 5247928, at *3 (N.D. Ill. Oct. 17, 2017) (“Out of 158,500 Class Members notified of the Settlement, only one Class Member responded by sending a letter regarding allocation of the Settlement Funds. This demonstrates that Class Members support the Settlement and attests to its fairness, particularly since the majority of Class Members are sophisticated businesses with the necessary resources and counsel to analyze the Settlement and make their own determination of its merits.”); *Hedberg v. Schanck*, 1985 WL 5825, at *1 (N.D. Ill. Feb. 21, 1985) (“The plaintiff class includes several large and sophisticated institutional investors. It is not without moment that none of them has objected to either the settlement or the fees and expenses requested.”); *see also In re Facebook, Inc. IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 410 (S.D.N.Y. 2018) (“That not one sophisticated institutional investor objected to the Proposed Settlement is indicia of its fairness.”); *In re AT&T Corp. Sec. Litig.*, 2005 WL 6716404, at *4 (D.N.J. Apr. 25, 2005) (the reaction of the class

“weigh[ed] heavily in favor of approval” where “no objections were filed by any institutional investors who had great financial incentive to object”).

The lack of any objections from Settlement 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, 241 (E.D.N.Y. 2013) (conclusion that the proposed plan of allocation was fair and reasonable was “buttressed by the . . . absence of objections from class members”); *In re Veeco Instruments Inc. Sec. Litig.*, 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 request for attorneys’ fees and Litigation Expenses, including Lead Plaintiffs’ request for reimbursement of the costs they incurred in connection with representing the Settlement Class. The lack of any objections to Lead Counsel’s fee and expense request provides further support for finding that that the requested fee award and expenses sought are fair and reasonable. *See Standard Iron Works v. ArcelorMittal*, 2014 WL 7781572, at *2 (N.D. Ill. Oct. 22, 2014) (absence of objections to fee request from a class that included sophisticated business entities “indicates that the fee is fair and reasonable and consistent with prevailing market rates”); *In re Lithotripsy Antitrust Litig.*, 2000 WL 765086, at *2 (N.D. Ill. June 12, 2000) (considering lack of objection to request for attorneys’ fees in approving request); *Vaccaro v. New Source Energy Partners L.P.*, 2017 WL 6398636, at *8 (S.D.N.Y. Dec. 14, 2017) (“The fact that no class members have explicitly objected to these attorneys’ fees supports their award.”).

Additionally, as with approval of the Settlement, Lead Counsel's request for attorneys' fees and Litigation Expenses is also supported, in particular, by the lack of any objections by institutional investors. *See Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 959 (7th Cir. 2013) (affirming fee award and noting that none of the "[i]nstitutional investors such as pension funds and university endowments hold[ing] claims to more than 70% of the settlement fund [and having] in-house counsel with fiduciary duties to protect the beneficiaries" objected to the fee request); *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).

CONCLUSION

Lead Plaintiffs and Lead Counsel respectfully request that the Court approve the Settlement and the Plan of Allocation, and approve the motion for attorneys' fees and Litigation Expenses. The proposed Judgment approving the Settlement and proposed Orders approving the Plan of Allocation and awarding attorneys' fees and expenses are attached hereto as Exhibits 2, 3, and 4, respectively.

Dated: August 3, 2021

Respectfully submitted,

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*Lead Counsel for Lead Plaintiffs
and the Settlement Class*

Exhibit 1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

IN RE BAXTER INTERNATIONAL INC.
SECURITIES LITIGATION

Case No. 1:19-cv-07786

District Judge Sara L. Ellis

Magistrate Judge Jeffrey I. Cummings

**SUPPLEMENTAL DECLARATION OF OWEN F. SULLIVAN REGARDING:
(A) MAILING OF THE NOTICE AND CLAIM FORM; AND (B) REPORT ON
REQUESTS FOR EXCLUSION RECEIVED**

I, Owen F. Sullivan, declare and state as follows:

1. I am a Project Manager employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”). Pursuant to the Court’s April 21, 2021 Minute Order approving Lead Plaintiffs’ motion for preliminary approval of Settlement (ECF No. 58) and its May 12, 2021 Order Preliminarily Approving Settlement and Providing for Notice (ECF No. 59) (collectively, the “Preliminary Approval Order”), Epiq was authorized to act as the Claims Administrator in connection with the Settlement of the above-captioned class action.¹ I submit this declaration as a supplement to my earlier declaration, the Declaration of Owen F. Sullivan Regarding: (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date, dated July 6, 2021 (the “Initial Mailing Declaration”) (ECF No. 66-3). The following statements are based on my personal knowledge and information provided by other Epiq

¹ Unless otherwise defined herein, all capitalized terms have the same meanings as set forth in the Stipulation and Agreement of Settlement dated as of April 1, 2021 (ECF No. 57-1) (the “Stipulation”).

employees working under my supervision and, if called on to do so, I could and would testify competently thereto.

CONTINUED DISSEMINATION OF THE NOTICE PACKET

2. Since the execution of the Initial Mailing Declaration, Epiq has continued to disseminate copies of the Notice and Claim Form (together, the “Notice Packet”) in response to requests from potential Settlement Class Members and nominees. Through August 2, 2021, Epiq has disseminated an aggregate of 184,839 Notice Packets to potential Settlement Class Members and nominees.

CALL CENTER SERVICES AND SETTLEMENT WEBSITE

3. Epiq continues to maintain the toll-free telephone number (1-855-654-0873) and Interactive Voice Recording to accommodate inquiries from potential Settlement Class Members. Epiq also continues to maintain the dedicated website (www.BaxterSecuritiesLitigation.com) to assist potential Settlement Class Members. On July 7, 2021, Epiq posted to the website copies of the papers filed in support of Lead Plaintiffs’ motion for final approval of the Settlement and Plan of Allocation and Lead Counsel’s motion for attorneys’ fees and Litigation Expenses. Epiq will continue maintaining and, as appropriate, updating the website and toll-free telephone number until the conclusion of the administration.

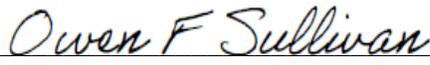
EXCLUSION REQUESTS RECEIVED

4. Pursuant to the Preliminary Approval Order and as set forth in the Notice, Settlement Class Members who wished to be excluded from the Settlement Class were required to request exclusion in writing so that the request was received by no later than July 20, 2021. This deadline has passed.

5. As reported in the Initial Mailing Declaration, as of July 2, 2021, Epiq had received seven (7) requests for exclusion. Since the execution of the Initial Mailing Declaration, Epiq has received twelve (12) additional requests for exclusion. Eight (8) of these requests for exclusion were received on or before the July 20, 2021 deadline and four (4) of the requests for exclusion were received after the July 20, 2021 deadline. Accordingly, Epiq has received a total of nineteen (19) requests for exclusions as of August 2, 2021. A table listing all requests for exclusion received is attached hereto as Exhibit A.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on August 3, 2021, at Beaverton, Oregon.



Owen F. Sullivan

Exhibit A

- | | | | |
|-----|--|-----|---|
| 1. | Paul H. Freedman and
Patricia A. Freedman Revocable Trust
Mesa, AZ | 11. | Geraldine L. Ross, Trustee
U/A DTD 02/05/07
Geraldine Ross Declaration Trust
Wadsworth, IL |
| 2. | Frank Pigozzo and
Dorothy Pigozzo
Palos Hills, IL | 12. | Peter Lahody
Vienna, Austria |
| 3. | Donna L. Hollins and
Mae Hollins
Las Vegas, NV | 13. | Roger J. Blood
Sherry J. Blood
Blood Family Living Trust
U/A 3/30/17
Virginia Beach, VA |
| 4. | Karen Stafford
Quakers Hill, NSW
Australia | 14. | Mary C. Sopkin
Tampa, FL |
| 5. | Morris E. Berton
Golden, CO | 15. | Melanie Cuschieri
Zurich, Switzerland |
| 6. | Nancy S. Rearick Revocable Trust
UAD 10/14/98
Nancy S. Rearick, Trustee
Glastonbury, CT | 16. | Joan E. Kirk
Warminster, PA |
| 7. | Anita Chocheo, Trustee
Anita Cocheo Revocable Trust
U/A 12/27/13
Mineola, NY | 17. | Herby R. Doerre and
Cynthia B. Doerre
Spring, TX |
| 8. | William E. Greenlee
Wappingers Falls, NY | 18. | Galli Igor
Cernusco sul Naviglio, Italy |
| 9. | Ronald M. Milne
Seminole, FL | 19. | Susan Prasse
Bethlehem, GA |
| 10. | Linda M. Khan
Tampa, FL | | |

Exhibit 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

IN RE BAXTER INTERNATIONAL INC.
SECURITIES LITIGATION

Case No. 1:19-cv-07786

District Judge Sara L. Ellis

Magistrate Judge Jeffrey I. Cummings

[PROPOSED] JUDGMENT APPROVING CLASS ACTION SETTLEMENT

WHEREAS, an action is pending in this Court entitled *In re Baxter International Inc. Securities Litigation*, Case No. 1:19-cv-07786 (the “Action”);

WHEREAS, (a) Louisiana Municipal Police Employees’ Retirement System and Varma Mutual Pension Insurance Company (together, “Lead Plaintiffs”), on behalf of themselves and the Settlement Class (defined below); and (b) Baxter International Inc. (“Baxter” or the “Company”), José E. Almeida, and James K. Saccaro (collectively, “Defendants”) have entered into a Stipulation and Agreement of Settlement dated April 1, 2021 (the “Stipulation”), that provides for a 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, the Court preliminarily approved the Settlement in its Minute Order dated April 20, 2021 and subsequently entered the Parties’ agreed-upon preliminary approval order on May 12, 2021 (ECF Nos. 58 & 59, together, the “Preliminary Approval Order”). By its Preliminary Approval Order, this Court: (a) found, pursuant to Rule 23(e)(1)(B), that it (i) would likely be able to approve the Settlement as fair, reasonable, and adequate under Rule 23(e)(2) and

(ii) would likely be able to certify the Settlement Class for purposes of the Settlement; (b) ordered that notice of the proposed Settlement be provided to potential Settlement Class Members; (c) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (d) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class;

WHEREAS, the Court conducted a hearing on August 10, 2021 (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 April 1, 2021; and (b) the Notice and the Summary Notice, both of which were filed with the Court on July 6, 2021.

3. **Class Certification for Settlement Purposes** – The Court hereby certifies 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 Baxter common stock during the Class Period and were damaged thereby. Excluded from the Settlement Class are Defendants, any person who was an executive officer or director of Baxter during the Class Period, their Immediate Family members, any affiliates of Baxter, and any persons or entities listed on Exhibit 1 hereto who or that 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 appoints Lead Plaintiffs as Class Representatives for the Settlement Class and appoints Lead Counsel as Class Counsel for the Settlement Class. Lead 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 attorneys’ fees and 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 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. §§ 77z-1, 78u-4, as amended, and all other applicable law and rules. No Settlement Class Member is relieved from the terms of the Settlement, including the Releases provided for therein, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice. A full opportunity has been offered to Settlement Class Members to object to the proposed Settlement and to participate in the hearing thereon. The Court further finds that the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully discharged and that the statutory waiting period has elapsed. Thus, it is hereby determined that all Settlement Class Members are bound by this Judgment, except those persons listed on Exhibit 1 to this Judgment.

6. **CAFA Notice** - The Court finds that the notice requirements set forth in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, to the extent applicable to the Action, have been satisfied.

7. **Final Settlement Approval and Dismissal of Claims** – Pursuant to, and in accordance with, Rule 23(e)(2) 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, and in the best interests of the Settlement Class. Specifically, the Court finds that (a) Lead Plaintiffs and Lead Counsel have adequately represented the Settlement Class; (b) the Settlement was negotiated by the Parties at arm's length; (c) the relief provided for the Settlement Class under the Settlement is adequate taking into account the costs,

risks, and delay of trial and appeal, the proposed means of distributing the Settlement Fund to the Settlement Class; and the proposed attorneys' fee award; and (d) the Settlement treats members of the Settlement Class equitably relative to each other. The Parties are directed to implement, perform, and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation.

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

9. **Binding Effect** – The terms of the Stipulation and of this Judgment shall be forever binding on Defendants, Lead Plaintiffs, 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.

10. **Releases** – The Releases set forth in paragraphs 10 and 11 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 11 below, upon the Effective Date of the Settlement, Lead Plaintiffs, each of the other Settlement Class Members, and Plaintiffs' Releasees 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 Defendants and the other Defendants' Releasees as set forth in the Stipulation and shall permanently and forever be barred and enjoined from prosecuting, attempting to prosecute, or assisting others in the prosecution of any or all of the Released Plaintiffs' Claims against any of the Defendants' Releasees.

(b) Without further action by anyone, and subject to paragraph 11 below, upon the Effective Date of the Settlement, Defendants and Defendants' Releasees 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 Plaintiffs and the other Plaintiffs' Releasees as set forth in the Stipulation, and shall permanently and forever be barred and enjoined from prosecuting, attempting to prosecute, or assisting others in the prosecution of 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.

11. Notwithstanding paragraphs 10 (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.

12. **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.

13. **No Admissions** – This Judgment, the Term Sheet, the Stipulation (whether or not consummated and whether or not approved by the Court), including the exhibits thereto and the

Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), and any discussion, communication, negotiation, proceeding, or agreement relating to the Stipulation, the Settlement, or any matter arising in connection with settlement discussions, negotiations, proceedings, or agreements, shall not be offered or received against or to the prejudice of the Parties or their respective counsel, for any purpose other than to enforce the terms of, the Stipulation, and in particular:

(a) do not constitute, and shall not be offered or received against or to the prejudice of any of the Defendants or Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by Defendants or Defendants' Releasees with respect to the truth of any fact alleged by Lead Plaintiffs, or the validity or infirmity of any claim that was or could have been asserted in this Action or in any other litigation, including but not limited to Released Plaintiffs' Claims, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendants or Defendants' Releasees or any other person or entity whatsoever; do not constitute, and shall not be offered or received against or to the prejudice of Defendants as evidence of a presumption, concession, or admission of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by Defendants, or against or to the prejudice of Lead Plaintiffs, or any other members of the Settlement Class as evidence of any infirmity in the Lead Plaintiffs' claims, or the other members of the Settlement Class;

(b) do not constitute, and shall not be offered or received against or to the prejudice of Defendants, Lead Plaintiffs, any other member of the Settlement Class, or their respective counsel, as evidence of a presumption, concession, or admission with respect to

any liability, damages, negligence, fault, infirmity, or wrongdoing, or in any way referred to for any other reason against or to the prejudice of any of the Defendants, Lead Plaintiffs, other members of the Settlement Class, or their respective counsel, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;

(c) do not constitute, and shall not be offered or received against or to the prejudice of any of the Lead Plaintiffs or Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants' Releasees 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' Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; and

(d) do not constitute, and shall not be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given under the Settlement represents the amount that 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.

14. **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.

15. 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.

16. **Modification of the Agreement of Settlement** – Without further approval from the Court, Lead Plaintiffs 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 Plaintiffs and Defendants may agree to reasonable extensions of time to carry out any provisions of the Settlement.

17. **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, 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 Plaintiffs, the other Settlement Class Members, and Defendants, and the Parties shall revert to their respective positions in the Action on February 17, 2021, as provided in the Stipulation.

18. **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 _____, 2021.

The Honorable Sara L. Ellis
United States District Judge

Exhibit 1

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

- | | | | |
|-----|--|-----|---|
| 1. | Paul H. Freedman and
Patricia A. Freedman Revocable Trust
Mesa, AZ | 11. | Geraldine L. Ross, Trustee
U/A DTD 02/05/07
Geraldine Ross Declaration Trust
Wadsworth, IL |
| 2. | Frank Pigozzo and
Dorothy Pigozzo
Palos Hills, IL | 12. | Peter Lahody
Vienna, Austria |
| 3. | Donna L. Hollins and
Mae Hollins
Las Vegas, NV | 13. | Roger J. Blood
Sherry J. Blood
Blood Family Living Trust
U/A 3/30/17
Virginia Beach, VA |
| 4. | Karen Stafford
Quakers Hill, NSW
Australia | 14. | Mary C. Sopkin
Tampa, FL |
| 5. | Morris E. Berton
Golden, CO | 15. | Melanie Cuschieri
Zurich, Switzerland |
| 6. | Nancy S. Rearick Revocable Trust
UAD 10/14/98
Nancy S. Rearick, Trustee
Glastonbury, CT | 16. | Joan E. Kirk
Warminster, PA |
| 7. | Anita Chocheo, Trustee
Anita Cocheo Revocable Trust
U/A 12/27/13
Mineola, NY | 17. | Herby R. Doerre and
Cynthia B. Doerre
Spring, TX |
| 8. | William E. Greenlee
Wappingers Falls, NY | 18. | Galli Igor
Cernusco sul Naviglio, Italy |
| 9. | Ronald M. Milne
Seminole, FL | 19. | Susan Prasse
Bethlehem, GA |
| 10. | Linda M. Khan
Tampa, FL | | |

Exhibit 3

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

IN RE BAXTER INTERNATIONAL INC.
SECURITIES LITIGATION

Case No. 1:19-cv-07786

District Judge Sara L. Ellis

Magistrate Judge Jeffrey I. Cummings

**[PROPOSED] ORDER APPROVING
PLAN OF ALLOCATION OF NET SETTLEMENT FUND**

This matter came on for hearing on August 10, 2021 (the “Settlement Hearing”) on Lead Plaintiffs’ 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 as of April 1, 2021 (ECF No. 57-1) (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 Plaintiffs' motion for approval of the proposed Plan of Allocation was given to all Settlement Class Members who or which 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 United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 77z-1, 78u-4, as amended, 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 184,800 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 Plaintiffs.

7. Any appeal or any challenge affecting this Court's approval of the Plan of Allocation shall in no way disturb or affect the finality of the Judgment.

8. 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 _____, 2021.

The Honorable Sara L. Ellis
United States District Judge

Exhibit 4

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

IN RE BAXTER INTERNATIONAL INC.
SECURITIES LITIGATION

Case No. 1:19-cv-07786

District Judge Sara L. Ellis

Magistrate Judge Jeffrey I. Cummings

**[PROPOSED] ORDER AWARDING
ATTORNEYS' FEES AND LITIGATION EXPENSES**

This matter came on for hearing on August 10, 2021 (the “Settlement Hearing”) on Lead Counsel’s motion for attorneys’ fees and 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 as of April 1, 2021 (ECF No. 57-1) (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 attorneys' fees and Litigation Expenses was given to all Settlement Class Members who or which could be identified with reasonable effort. The form and method of notifying the Settlement Class of the motion for attorneys' fees and Litigation Expenses 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. §§ 77z-1, 78u-4, as amended, 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. Lead Counsel are hereby awarded attorneys' fees in the amount of ____% of the Settlement Fund and \$_____ in payment of Lead 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 themselves.

5. In making this award of attorneys' fees and payment of litigation expenses from the Settlement Fund, the Court has considered and found that:

A. The Settlement has created a fund of \$16,000,000 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 Lead Counsel;

B. The fee sought is based on retainer agreements entered into between Lead Plaintiffs, sophisticated institutional investors 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 Plaintiffs;

C. Copies of the Notice were mailed to over 184,800 potential Settlement Class Members and nominees stating that Lead Counsel would apply for attorneys' fees in an amount not to exceed 22% of the Settlement Fund and for Litigation Expenses in an amount not to exceed \$200,000, and no objections to the requested attorneys' fees and Litigation 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 Plaintiffs and the other members of the Settlement Class may have recovered less or nothing from Defendants;

G. Lead Counsel devoted over 3,931 hours, with a lodestar value of over \$2,300,000, to achieve the Settlement; and

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

6. Lead Plaintiff Louisiana Municipal Police 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.

7. Lead Plaintiff Varma Mutual Pension Insurance Company 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 _____, 2021.

The Honorable Sara L. Ellis
United States District Judge