

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DAVID N. ZIMMERMAN,  
Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

vs.

DIPLOMAT PHARMACY, INC., et al.,

Defendants.

) Civ. No. 2:16-cv-14005-AC-SDD

) **CLASS ACTION**

) Hon. District Judge Avern Cohn

) Hon. Magistrate Judge

) Stephanie Dawkins Davis

) **DECLARATION OF DAVID N.  
ZIMMERMAN IN SUPPORT OF:  
(A) LEAD PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT,  
CLASS CERTIFICATION, AND  
THE PLAN OF ALLOCATION;  
AND (B) LEAD COUNSEL'S  
MOTION FOR AN AWARD OF  
ATTORNEYS' FEES AND  
REIMBURSEMENT OF  
LITIGATION EXPENSES**

I, DAVID N. ZIMMERMAN, hereby declare as follows:

1. I am one of the Court-appointed Lead Plaintiffs in the above-captioned securities class action (the “Action”).<sup>1</sup> I submit this declaration in support of: (a) Lead Plaintiffs’ motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (b) Lead Counsel’s motion for an award of attorneys’ fees and reimbursement of litigation expenses, including approval of my request to recover the reasonable costs and expenses I incurred in connection with my representation of the Class in the prosecution of this Action.

2. I am aware of and understand the requirements and responsibilities of a representative plaintiff in a securities class action, including those set forth in the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(4), and I have discharged those duties to the best of my ability. I have personal knowledge of the matters set forth in this Declaration, as I have been directly involved in monitoring and overseeing the prosecution of the Action, as

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<sup>1</sup> Unless otherwise noted, capitalized terms have the meanings ascribed to them in the Stipulation of Settlement dated April 22, 2019 (the “Settlement”) (ECF No. 60).

well as the negotiations leading to the Settlement, and I could and would testify competently to these matters.

**I. MY OVERSIGHT OF THE LITIGATION**

3. I have been actively involved in the prosecution of this case since its inception on November 10, 2016. I filed the initial complaint in the Action, and moved to serve as Lead Plaintiff in the Action on January 9, 2017. On February 10, 2017, the Court appointed me to serve as one of the Lead Plaintiffs.

4. Long before filing the initial complaint, I closely researched and followed Diplomat Pharmacy, Inc. (“Diplomat” or the “Company”) and its stock performance. I have been a substantial investor in Diplomat since the IPO. I have been a licensed pharmacist for 44 years. My experience includes being a consulting pharmacist at nursing homes, serving as an expert on pharmacology, and have been an adjunct faculty member at Lake Erie College of Osteopathic Medicine (LECOM), Midwestern University, and Wayne State University.

5. In fulfillment of my responsibilities as Lead Plaintiff on behalf of all Class Members in this Action, I have worked closely with Lead Counsel Glancy Prongay & Murray LLP (“GPM”) regarding all aspects of the litigation and the resolution of this case.

6. Throughout the Action, I have been in regular contact with GPM attorneys – primarily the lead partner on the case, Joshua Crowell – to monitor and

contribute to the successful prosecution of this Action. I received regular status reports from Mr. Crowell on case developments, and participated in regular discussions and provided input regarding litigation strategy, the facts underlying our allegations, the strength of the allegations and the claims, settlement strategy, and the settlement itself. I always made myself available to Mr. Crowell and other GPM attorneys to perform my Lead Plaintiff functions. Other attorneys I spoke to regularly included Lesley Portnoy and Vahe Mesropyan, both of GPM.

7. I have done my best to vigorously promote the interests of the Class and to obtain the largest recovery possible under the circumstances. I estimate that I have spent well in excess of 60 hours executing my duties and responsibilities as a Lead Plaintiff in this Action. The various tasks I have performed include, but are not limited to:

- a. researching Diplomat's stock;
- b. researching the facts underlying the case;
- c. working directly with GPM to prepare and file the initial complaint, including providing input based on my experience as a pharmacist;
- d. researching, reviewing, and commenting on the allegations in the initial complaint and advising counsel with respect to the same;
- e. providing information, including documents, to Lead Counsel;

f. participating in the preparation of the motion and supporting documents requesting my appointment as Lead Plaintiff;

g. regularly communicating with Lead Counsel by email and telephone regarding the posture, progress, and status of the case;

h. consulting with Lead Counsel regarding legal and factual matters relating to litigation strategy in the research and drafting of the Amended Complaint;

i. reviewing and discussing Defendants' Motion to Dismiss the Amended Complaint, Plaintiffs' Opposition to the Motion to Dismiss, and Defendants' Reply in Support of the Motion to Dismiss;

j. reviewing and discussing Defendants' Motion for Reconsideration of the Order denying Defendants' Motion to Dismiss, and Plaintiffs' Response to the Motion for Reconsideration;

k. researching and preparing for the two mediation sessions, including reviewing and discussing the Plaintiffs' and Defendants' mediation statements;

l. collecting and producing documents to GPM in response to Defendants' document production requests;

m. preparing and providing GPM with written responses to Defendants' written discovery requests;

n. evaluating and ultimately approving of the proposed settlement, and approving the memorandum of understanding that the Parties executed ;

o. reviewing the Court's Order preliminarily approving the settlement and discussing issues relevant to the final approval process, including counsel's request for attorneys' fees and expenses, with counsel from GPM.

**II. APPROVAL OF THE SETTLEMENT**

8. As detailed in the paragraphs above, through my active participation, I was both well informed of the status and progress of the litigation, and actively participated in the settlement negotiations. Before and during the mediation process, I conferred with my attorneys from GPM regarding the parties' respective positions and the mediator's advice.

9. Based on my involvement throughout the prosecution and resolution of the claims asserted in the Action, I believe that the Settlement provides an excellent recovery for the Class, particularly in light of the risks of continued litigation, the available insurance, and Diplomat's financial condition. Thus, I believe that the proposed Settlement is fair, reasonable, and adequate to the Class and I strongly endorse final approval of the Settlement by the Court.

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**III. LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

**A. Attorneys' Fees**

10. While I understand that the ultimate determination of Lead Counsel's request for an award of attorneys' fees and litigation expenses rests with the Court, I believe that Lead Counsel's requested fee of 30% of the Settlement Fund on behalf of all Plaintiffs' Counsel is fair and reasonable in light of the work performed on behalf of the Class. I have evaluated Lead Counsel's fee request by considering the quality of the work performed by Lead Counsel, the amount of work performed by Lead Counsel, the recovery obtained for the Class, and the risks Lead Counsel bore in prosecuting this Action on behalf of myself and the Class on a fully contingent basis in which Lead Counsel was not paid during the pendency of this Action and fronted all expenses.

**B. Plaintiffs' Counsel's Litigation Related Expenses**

11. I further believe that the litigation expenses being requested for reimbursement to Plaintiffs' Counsel are reasonable, and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action. Based on the foregoing, and consistent with my obligation to the Class to obtain the best result at the most efficient cost, I fully supports Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses.

**C. My Litigation Related Costs and Expenses**

12. I understand that reimbursement of a class representative's reasonable costs and expenses is authorized under the PSLRA, including the reasonable costs of time expended in furtherance of the Action. For this reason, in connection with Lead Counsel's request for reimbursement of litigation expenses, I am also separately requesting reimbursement for the costs and expenses that I incurred directly relating to my representation of the Class in the Action. Specifically, I am seeking reimbursement in the amount of \$9,000 for the time that I devoted to the successful prosecution of this Action. I estimate that I have spent approximately 60 hours performing work in this Action for the direct benefit of the Class, as recounted in paragraph 7, above. If I had otherwise devoted that time to my professional activities, specifically if I devoted my time as an expert consultant in litigation, the value of my time would be approximately \$150/hour. Based on 60 hours of work at \$150/hour, \$9,000 represents the value of the time that I dedicated to this Action.

**IV. CONCLUSION**

13. As set forth herein, I was actively involved in the prosecution and settlement of the claims in this Action, I strongly endorse the Settlement as fair, reasonable, and adequate, and I believe that the Settlement represents a significant recovery for the Class. Accordingly, I respectfully requests that the Court approve:

(a) Lead Plaintiffs' motion for final approval of the proposed Settlement and Plan of Allocation; and (b) Lead Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses, including reimbursement to me for the reasonable costs and expenses I incurred in prosecuting the Action on behalf of the Class.

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 this <sup>12</sup> \_\_\_\_\_ day of July, 2019, in <sup>2019</sup> \_\_\_\_\_.

DocuSigned by:  
*David N. Zimmerman*  
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\_\_\_\_\_  
David N. Zimmerman

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on July 16, 2019, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ MATTHEW I. ALPERT  
\_\_\_\_\_  
MATTHEW I. ALPERT

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## Mailing Information for a Case 2:16-cv-14005-AC-SDD Zimmerman v. Diplomat Pharmacy, Inc. et al

### Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)