

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

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IN RE THERAGENICS CORP.)	Civil Action No.
SECURITIES LITIGATION)	1:99-CV-0141 (TWT)
)	

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (the “Stipulation”), submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure, is made and entered into by and among Lead Plaintiffs MCV Sales Inc. Profit Sharing Plan & Trust Dtd. 6/16/75, Peter Corey, Herbert Garbutt, Robert Hudson, James J. Holten, Daniel Kursman, W. H. Thead, Jr., and Robert L. Thomas (“Lead Plaintiffs”) (on behalf of themselves and the Class as hereinafter defined), on the one hand, and Defendants Theragenics Corporation (“Theragenics”), M. Christine Jacobs (“Jacobs”), and Bruce W. Smith (“Smith”), on the other hand, by and through their respective counsel. Jacobs and Smith are referred to collectively as the “Individual Defendants.” Theragenics and the Individual Defendants are referred to collectively as the “Defendants.” Lead Plaintiffs and Defendants are referred to collectively as the “Parties.” This Stipulation is intended fully, finally, and forever to resolve, discharge and settle the Settled Claims (as defined below) against the Released Parties (as defined below) and the Settled Defendants’ Claims

(as defined below) with prejudice and without costs, upon and subject to the terms hereof, and subject to the approval of the United States District Court for the Northern District of Georgia (the “Court”).

WHEREAS, the Parties state the following:

A. Beginning on January 15, 1999, the following eleven actions were filed in the Court as proposed class actions alleging violations of the federal securities laws on behalf of certain persons who purchased the common stock of Theragenics:

MCV Sales Inc. Profit Sharing Plan & Trust Dtd. 6/16/75 v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0141 (TWT);

Sidney Fielden v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0175 (TWT);

Daniel Kursman v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0201 (TWT);

Bruce B. Bernstein v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0205 (TWT);

Geraldine Byers v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0253 (TWT);

Howard B. Marks v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0271 (TWT);

Alexander T. Kowalski v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0354 (TWT);

Sara Cheeseman v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0407 (TWT);

Jerry L. Jensen v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0425 (TWT);

Joseph S. Butler v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0443 (TWT); and

Robert L. Thomas, Jr. v. Theragenics Corp., et al., Civil Action No. 1:99-CV-0488 (TWT).

B. On April 20, 1999 the Court ordered the above actions consolidated for all purposes under the caption In re Theragenics Corp. Securities Litigation, Civil Action No. 1:99-CV-141 (TWT). The consolidated action is hereinafter referred to as the “Action.” The Court further appointed MCV Sales Inc. Profit Sharing Plan & Trust Dtd. 6/16/75, Peter Corey, Herbert Garbutt, Robert Hudson, James J. Holten, Daniel Kursman, W. H. Thead, Jr., and Robert L. Thomas, Jr. as Lead Plaintiffs and approved Lead Plaintiffs’ selection of Chitwood & Harley, LLP, Milberg Weiss Bershad Hynes & Lerach LLP (now known as Milberg Weiss Bershad & Schulman LLP), and Barrack Rodos & Bacine as Co-Lead Counsel.

C. The Consolidated Amended Complaint (the “CAC”) was filed on June 18, 1999. Defendants moved to dismiss the CAC on September 3, 1999. On July 19, 2000, the Court granted Defendants’ motion to dismiss but gave Plaintiffs leave to replead.

D. Lead Plaintiffs filed their Second Amended Complaint (“SAC”) on August 21, 2000. The SAC asserted violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 promulgated thereunder. The SAC named Theragenics, Jacobs, and Smith as defendants and alleged that material facts concerning Theragenics’ financial condition were misrepresented in or omitted from various public statements made during the Class Period (as defined below). The SAC claimed that the alleged misrepresentations and omissions caused the price of Theragenics stock to be artificially inflated during the Class Period to the alleged injury of Lead Plaintiffs and the Class.

E. On October 6, 2000, Defendants moved to dismiss the SAC. By Order dated March 30, 2001, the Court denied Defendants’ motion to dismiss. On July 17, 2001, Defendants filed their Answer denying liability.

F. On March 26, 2002, the Court granted Lead Plaintiffs’ Motion for Class Certification and certified the Action to proceed as a class action. The Court named Herbert Garbutt, Robert Thomas, Melvin Van Dyke on behalf of MCV Sales Inc. Profit Sharing Plan & Trust Dtd. 6/16/75, and Peter Corey as class representatives of a class defined as follows:

All persons who purchased the common stock of Theragenics during the period between January 29, 1998 and January 11, 1999, inclusive (the “Class Period”), and who were damaged thereby. Excluded are Defendants,

the officers and directors of Theragenics at all relevant times, members of the immediate families and the legal representatives, heirs, successors or assigns of Defendants and the officers and directors of Theragenics and any entity in which Defendants have or had a controlling interest

(the “Class”).

G. Between July 17, 2001 and August 1, 2003, the Parties conducted merits and expert discovery. Following the close of discovery, on September 30, 2003, Defendants moved for summary judgment.

H. While Defendants’ motion for summary judgment was pending, the Parties, through their respective counsel, conducted arms’ length settlement discussions and negotiations that resulted in an agreement in principle to settle the Action on terms set forth fully herein.

I. For their part, Lead Plaintiffs, through their counsel, conducted settlement discussions with a view to achieving the best relief possible consistent with the interests of the Class. Having had the opportunity to analyze the evidence adduced during pretrial discovery and research the applicable law with respect to the claims asserted against Defendants and the potential defenses thereto, Plaintiffs’ Co-Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable, and adequate to Lead Plaintiffs and the Class, and in their best interests. Lead Plaintiffs and their counsel have taken into

consideration (a) the substantial benefits that Lead Plaintiffs and the members of the Class will receive from settlement of the Action, (b) the attendant risks of litigation, including the difficulty of proving damages, and (c) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation. This Stipulation shall not be construed or deemed to be a concession by any Lead Plaintiff of any infirmity in the claims asserted in the Action.

J. Defendants continue to deny any and all wrongdoing whatsoever. However, Defendants want the Action fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation in order to limit further expense and to permit the operation of Theragenics' business without further diversion related to the Action. Defendants have taken into account the uncertainty and risks of litigation, especially in a complex action such as this, as well as the difficulties and delays inherent in such litigation. Thus, Defendants have concluded that it is desirable and beneficial to them that the Litigation be settled in the manner and upon the terms and conditions set forth in this Stipulation. The Stipulation shall not be construed or deemed to be evidence of or an admission or concession on the part of any Defendant with respect to any claim or of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that Defendants have asserted.

NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and among the parties to this Stipulation, through their respective attorneys, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the parties hereto from the Settlement, that all Settled Claims (as defined below) as against the Released Parties (as defined below) and all Settled Defendants' Claims (as defined below) shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms and conditions.

CERTAIN DEFINITIONS

1. As used in this Stipulation, the following terms shall have the following meanings:

(a) "Authorized Claimant" means a Class Member who submits a timely and valid Proof of Claim form to the Claims Administrator.

(b) "Claims Administrator" means the firm of Hefler, Radetich & Saitta L.L.P. which shall administer the Settlement.

(c) "Class Member" means a member of the Class, as defined above.

(d) "Defendants' Counsel" means the law firm of King & Spalding LLP.

(e) “Effective Date of Settlement” or “Effective Date” means the date upon which the Settlement contemplated by this Stipulation shall become effective, as set forth in ¶ 22 below.

(f) “Final” means the latest of the following: (i) if no appeal is filed, the expiration of the time for the filing or noticing of any appeal from the Judgment as defined below, (i.e., thirty (30) days); or (ii) if an appeal is filed, (a) the date of final affirmance of an appeal and the expiration of the time for seeking a petition for a writ of certiorari, or, if certiorari is sought, the date of denial of the petition for certiorari, or, if certiorari is granted, the date of final affirmance following review pursuant to that grant; or (b) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari.

(g) “Notice” means the Notice of Pendency of Class Action and Proposed Settlement, Motion for Attorneys’ Fees and Settlement Fairness Hearing, which is to be sent to members of the Class substantially in the form attached hereto as Exhibit 1 to Exhibit A.

(h) “Order and Final Judgment” means the proposed order to be entered approving the Settlement substantially in the form attached hereto as Exhibit B.

(i) “Order for Notice and Hearing” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Class substantially in the form attached hereto as Exhibit A.

(j) “Plaintiffs” means collectively Lead Plaintiffs and any of the named plaintiffs who filed the lawsuits which were consolidated as part of the Action.

(k) “Plaintiffs’ Counsel” means Plaintiffs’ Co-Lead Counsel and all other counsel representing Plaintiffs in the Action.

(l) “Plaintiffs’ Co-Lead Counsel” means the law firms of Milberg Weiss Bershad & Schulman LLP, Chitwood & Harley, LLP, and Barrack, Rodos & Bacine. Plaintiffs’ Co-Lead Counsel are acting on behalf of Lead Plaintiffs and all Class Members in the Action.

(m) “Publication Notice” means the summary notice of proposed Settlement and hearing for publication substantially in the form attached as Exhibit 3 to Exhibit A.

(n) “Released Parties” means any and all of the Defendants, their employees, partners, members, principals, agents, insurers, co-insurers, reinsurers, controlling shareholders, attorneys, accountants or auditors, banks or investment banks, underwriters, associates (as defined by SEC Rule 12b-2), personal or legal

representatives, predecessors, successors, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, related or affiliated entities, any entity in which a Defendant has a controlling interest, any member of their immediate families, or any trust of which any Defendant is the settlor or which is for the benefit of any Defendant and/or member(s) of his family; and shall include any individual, group, or entity who directly or indirectly participated in the dissemination of information about Theragenics or who directly or indirectly is responsible for any of the damages alleged in the SAC, CAC or in any of the complaints filed in the Action.

(o) “Settled Claims” means collectively any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys’ fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, including both known claims and Unknown Claims (as defined below), (i) that have been asserted in the Action by the Class Members or any of them against any of the Released Parties, or (ii) that could have been asserted in any forum by the Class Members or any of them against any of the Released Parties and that arise

out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Complaint and relate to the purchase of shares of the common stock of Theragenics during the Class Period.

(p) “Settled Defendants’ Claims” means any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and Unknown Claims, that have been or could have been asserted in the Action or any forum by the Defendants or any of them or the successors and assigns of any of them against any of the Lead Plaintiffs, Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the Settlement).

(q) “Settlement” means the settlement of the Action as set forth in this Stipulation.

(r) “Unknown Claims” means any and all Settled Claims which any Lead Plaintiff or Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled Defendants’ Claims which any Defendant does not know or suspect to exist in his, her or its favor, which if known by him, her or it might have affected his, her or its

decision(s) with respect to the Settlement. With respect to any and all Settled Claims and Settled Defendants' Claims, the parties stipulate and agree that upon the Effective Date, the Lead Plaintiffs and the Defendants shall expressly waive, and each Class Member shall be deemed to have waived, and by operation of the Judgment shall have expressly waived, any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Lead Plaintiffs and Defendants acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Settled Claims and Settled Defendants' Claims was separately bargained for and was a key element of the Settlement.

SCOPE AND EFFECT OF SETTLEMENT

2. The obligations incurred pursuant to this Stipulation shall be in full and final disposition of the Action and any and all Settled Claims as against all Released Parties and any and all Settled Defendants' Claims.

3. (a) Upon the Effective Date of this Settlement, Lead Plaintiffs and each Class Member on behalf of themselves, their heirs, executors, administrators, successors, and assigns, shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged, and shall forever be enjoined from prosecuting, all Settled Claims against any of the Released Parties.

(b) Upon the Effective Date of this Settlement, each of the Defendants shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged, and shall forever be enjoined from prosecuting, all Settled Defendants' Claims.

THE SETTLEMENT CONSIDERATION

4. By August 5, 2004, Defendants shall pay or cause to be paid \$10,000,000 (the "Cash Settlement Amount") into escrow for the benefit of Plaintiffs and the Class. The Cash Settlement Amount and any interest earned thereon shall be the "Settlement Fund."

5. (a) The Settlement Fund, net of any Taxes (as defined below) on the income thereof, shall be used to pay (i) the Notice and Administration Costs referred to in ¶ 7 hereof, (ii) the attorneys' fee and expense award referred to in ¶ 8

hereof, and (iii) the remaining administration expenses referred to in ¶ 9 hereof. The balance of the Settlement Fund after the above payments shall be the “Net Settlement Fund,” which shall be distributed to the Authorized Claimants as provided in ¶¶ 10-12 hereof. Any sums required to be held in escrow hereunder prior to the Effective Date shall be held by Plaintiffs’ Co-Lead Counsel as Escrow Agents for the Settlement Fund. All funds held by the Escrow Agents shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned to the persons paying the same pursuant to this Stipulation and/or further order of the Court. In the event that the Order and Final Judgment or the Settlement does not become Final or the Effective Date does not occur for any reason, the Settlement Fund, including all interest earned thereon, shall be returned immediately to the payor(s) of same in accordance with ¶ 24. The Escrow Agents shall invest any funds in excess of \$100,000 in short term United States Agency or Treasury Securities (or a mutual fund invested solely in such instruments), and shall collect and reinvest all interest accrued thereon. Any funds held in escrow in an amount of less than \$100,000 may be held in an interest bearing bank account insured by the FDIC. The parties hereto agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation

§ 1.468B-1 and that the Escrow Agents, as administrator of the Settlement Fund within the meaning of Treasury Regulation §1.468B-2(k)(3), shall be responsible for filing tax returns for the Settlement Fund and paying from the Settlement Fund any Taxes owed with respect to the Settlement Fund. Counsel for Defendants agree to provide promptly to the Escrow Agents the statement described in Treasury Regulation § 1.468B-3(e).

(b) All (i) taxes on the income of the Settlement Fund and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants) (collectively “Taxes”) shall be paid out of the Settlement Fund, shall be considered to be a cost of administration of the settlement, and shall be timely paid by the Escrow Agents without further order of the Court.

(c) Defendants and any other payor(s) of the Cash Settlement Amount shall have no liability or responsibility for any Taxes (including any estimated Taxes, interest or penalties) with respect to the Settlement Fund, including any Taxes or tax detriments with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund qualifies as a “qualified settlement fund” for federal or state income tax purposes. In the event the Settlement Fund does not qualify as a “qualified settlement fund,” any tax on

income of the Settlement Fund that may be reportable by Defendants or their insurers shall be paid out of the Settlement Fund. The Escrow Agents shall withhold from distribution to Authorized Claimants any funds necessary to pay such amounts including the establishment of adequate reserves for any Taxes (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); neither Defendants and their counsel nor their insurers are responsible nor shall they have any liability therefor.

ADMINISTRATION

6. The Claims Administrator, under Plaintiffs' Co-Lead Counsel's supervision, acting on behalf of the Class Members, and subject to the jurisdiction, supervision, direction, and approval of the Court, shall administer the Settlement. Except as stated in ¶ 14 hereof, Defendants shall have no responsibility for the administration of the Settlement and shall have no liability to the Class in connection with such administration. Defendants' Counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms, including providing without charge all information from Theragenics' transfer records concerning the identity of Class Members and their transactions.

7. Plaintiffs' Co-Lead Counsel may pay from the Cash Settlement Amount, without further approval from the Defendants or the Court, the reasonable

costs and expenses associated with identifying members of the Class and effecting mail Notice and Publication Notice to the Class, and the administration of the Settlement, including without limitation, the actual costs of publication, printing and mailing the Notice, reimbursements to nominee owners for forwarding notice to their beneficial owners, and the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice and processing the submitted claims.

ATTORNEYS' FEES AND EXPENSES

8. Plaintiffs' Counsel will apply to the Court for an award from the Settlement Fund of attorneys' fees not to exceed one-third (33 1/3%) of the Settlement Fund and reimbursement of expenses, plus interest. Such attorneys' fees, expenses, and interest as are awarded by the Court shall be paid from the Settlement Fund to Plaintiffs' Counsel immediately upon award, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the settlement or any part thereof, subject to Plaintiffs' Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund plus accrued interest at the same net rate as is earned by the Settlement Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or cost award is reduced or

reversed, or if and when the Order and Final Judgment or Settlement does not become Final or the Effective Date does not occur for any reason. The procedures for any allowance or disallowance by the Court of any applications by Plaintiffs' Counsel for attorneys' fees, expenses, and interest to be paid out of the Settlement Fund are not part of the Settlement set forth in this Stipulation and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Stipulation. Any order or proceedings related to any fee and expense application, or any appeal from any order relating thereto or reversal or modification thereof, shall not modify, terminate, or cancel this Stipulation, or affect or delay the finality of the Order and Final Judgment approving the Stipulation and the Settlement of the Action. The Released Parties shall have no responsibility for, and no liability whatsoever with respect to, any payment to Plaintiffs' Counsel or any other counsel or person who received payment from the Settlement Fund. The Released Parties further shall have no responsibility for, and no liability whatsoever with respect to, the allocation among Plaintiffs' Counsel and/or any other person who may assert some claim thereto, of any fee and expense award that the Court may make in this Action, and the Released Parties take no position with respect to such matters.

ADMINISTRATION EXPENSES

9. Plaintiffs' Counsel will apply to the Court, on notice to Defendants' Counsel, for an order (the "Class Distribution Order") approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the claims submitted herein and approving any fees and expenses not previously applied for, including the fees and expenses of the Claims Administrator, and, if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants.

DISTRIBUTION TO AUTHORIZED CLAIMANTS

10. The Claims Administrator shall determine each Authorized Claimant's pro rata share of the Net Settlement Fund based upon each Authorized Claimant's Recognized Claim (as defined in the Plan of Allocation described in the Notice annexed hereto as Exhibit 1 to Exhibit A, or in such other Plan of Allocation as the Court approves).

11. The Plan of Allocation proposed in the Notice is not a necessary term of this Stipulation, and it is not a condition of this Stipulation that any particular Plan of Allocation be approved.

12. Each Authorized Claimant shall be allocated a pro rata share of the Net Settlement Fund based on his or her Recognized Claim compared to the total Recognized Claims of all accepted claimants. This is not a claims-made

settlement. Defendants shall not be entitled to get back any of the settlement monies once the Settlement becomes final. Defendants shall have no involvement in reviewing or challenging claims.

ADMINISTRATION OF THE SETTLEMENT

13. Any Class Member who does not submit a valid Proof of Claim will not be entitled to receive any of the proceeds from the Net Settlement Fund but will otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Settled Claims.

14. The Claims Administrator shall process the Proofs of Claim and, after entry of the Class Distribution Order, distribute the Net Settlement Fund to the Authorized Claimants. Except for their obligation to pay the Cash Settlement Amount, and to cooperate in the production of information with respect to the identification of Class Members from Theragenics' shareholder transfer records, as provided herein, Defendants shall have no liability, obligation, or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund. Plaintiffs' Co-Lead Counsel shall have the right, but not the obligation, to advise the Claims Administrator to waive what Plaintiffs' Co-Lead Counsel deem to be

formal or technical defects in any Proofs of Claim submitted in the interests of achieving substantial justice.

15. For purposes of determining the extent, if any, to which a Class Member shall be entitled to be treated as an “Authorized Claimant”, the following conditions shall apply:

(a) Each Class Member shall be required to submit a Proof of Claim (see attached Exhibit 2 to Exhibit A), supported by such documents as are designated therein, including proof of the transactions claimed and the losses incurred thereon, or such other documents or proof as the Claims Administrator, in its discretion, may deem acceptable;

(b) All Proofs of Claim must be submitted by the date specified in the Notice unless such period is extended by order of the Court. Any Class Member who fails to submit a Proof of Claim by such date shall be forever barred from receiving any payment pursuant to this Stipulation (unless, by order of the Court, a later-submitted Proof of Claim by such Class Member is approved), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement including the terms of the Order and Final Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Settled Claims. Provided

that it is received before the motion for the Class Distribution Order is filed, a Proof of Claim shall be deemed to have been submitted when posted, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator;

(c) Each Proof of Claim shall be submitted to and reviewed by the Claims Administrator, who shall determine in accordance with this Stipulation and the approved Plan of Allocation the extent, if any, to which each claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below;

(d) Proofs of Claim that do not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim, the Claims Administrator shall communicate with the Claimant in order to remedy the curable deficiencies in the Proofs of Claim submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Proofs of Claim it proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of subparagraph (e) below;

(e) If any Claimant whose claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a claim cannot be otherwise resolved, Plaintiffs' Co-Lead Counsel shall thereafter present the request for review to the Court; and

(f) The administrative determinations of the Claims Administrator accepting and rejecting claims shall be presented to the Court, with notice to Defendants' Counsel, for approval by the Court in the Class Distribution Order.

16. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's claim, and the claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that Claimant's status as a Class Member and the validity and amount of the Claimant's claim. No discovery shall be allowed on the merits of the Action or of the Settlement in connection with processing of the Proofs of Claim.

17. Payment pursuant to this Stipulation shall be deemed final and conclusive against all Class Members. All Class Members whose claims are not approved by the Court shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Settled Claims.

18. All proceedings with respect to the administration, processing, and determination of claims described by ¶ 15 of this Stipulation and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court.

19. The Net Settlement Fund shall be distributed to Authorized Claimants by the Claims Administrator only after the Effective Date and after: (i) all claims have been processed, and all Claimants whose claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to be heard concerning such rejection or disallowance; (ii) all objections with respect to all rejected or disallowed claims have been resolved by the Court, and all appeals therefrom have been resolved or the time therefor has expired; (iii) all

matters with respect to attorneys' fees, costs, and disbursements have been resolved by the Court, all appeals therefrom have been resolved or the time therefor has expired; and (iv) all costs of administration have been paid.

TERMS OF ORDER FOR NOTICE AND HEARING

20. Promptly after this Stipulation has been fully executed, Plaintiffs' Counsel and Defendants' Counsel jointly shall apply to the Court for entry of an Order for Notice and Hearing, substantially in the form annexed hereto as Exhibit A.

TERMS OF ORDER AND FINAL JUDGMENT

21. If the Settlement contemplated by this Stipulation is approved by the Court, counsel for the parties shall request that the Court enter an Order and Final Judgment substantially in the form annexed hereto as Exhibit B.

EFFECTIVE DATE OF SETTLEMENT, WAIVER, OR TERMINATION

22. The Effective Date of the Settlement shall not occur unless and until all of the following events shall have first occurred:

(a) The Court has approved the Settlement, following notice to the Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure;

(b) The Court has entered an Order and Final Judgment, substantially in the form set forth in Exhibit B annexed hereto;

(c) Neither Theragenics nor its insurer has exercised its option under ¶ 26; and

(d) The Order and Final Judgment has become Final.

23. Defendants, their insurer, Defendants' Counsel, or Plaintiffs' Co-Lead Counsel shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so to all other parties hereto within thirty (30) days of: (a) the Court's declining to enter the Order for Notice and Hearing in any material respect; (b) the Court's refusal to approve this Stipulation or any material part of it; (c) the Court's declining to enter the Order and Final Judgment in any material respect; (d) the date upon which the Order and Final Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; or (e) the date upon which an Alternative Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court. Theragenics or its insurer shall further have the right to terminate the Settlement and this Stipulation as set forth in ¶ 26.

24. Except as otherwise provided herein, in the event the Settlement is terminated or fails to become effective for any reason, then the parties to this

Stipulation shall be deemed to have reverted to their respective status in the Action immediately prior to the execution of this Stipulation and, except as otherwise expressly provided, the parties shall proceed in all respects as if this Stipulation and any related orders had not been entered, and any portion of the Cash Settlement Amount previously paid on behalf of Defendants, together with any interest earned thereon, less any Taxes due with respect to such income, and less costs of administration and notice actually incurred and paid or payable from the Cash Settlement Amount, shall be returned to the persons paying the same.

NO ADMISSION OF WRONGDOING

25. This Stipulation, whether or not consummated, and any proceedings taken pursuant to it:

(a) shall not be offered or received against the Defendants as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by any of the Defendants with respect to the truth of any fact alleged by any of the Plaintiffs or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of Defendants;

(b) shall not be offered or received against 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 any Defendant;

(c) shall not be offered or received against Defendants as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the Defendants, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved by the Court, Defendants may refer to it to effectuate the liability protection granted them hereunder;

(d) shall not be construed against Defendants as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and

(e) shall not be construed as or received in evidence as an admission, concession or presumption against Lead Plaintiffs or any of the Class Members that any of their claims are without merit, or that any defenses asserted by the Defendants have any merit, or that damages recoverable under the SAC,

CAC or in any of the complaints filed in the Action would not have exceeded the Settlement Fund.

SUPPLEMENTAL AGREEMENT

26. Simultaneously herewith, Plaintiffs' Co-Lead Counsel and Defendants' Counsel are executing a "Supplemental Agreement" setting forth certain conditions under which this Stipulation may be withdrawn or terminated by Theragenics, on behalf of Defendants, or by Theragenics' insurer if potential Class Members who purchased in excess of a certain number of shares of Theragenics common stock purchased during the Class Period exclude themselves from the Class. The Supplemental Agreement shall not be filed prior to the Settlement Fairness Hearing unless a dispute arises as to its terms. In the event of a withdrawal from this Stipulation pursuant to the Supplemental Agreement, this Stipulation shall become null and void and of no further force and effect and the provisions of ¶ 24 shall apply. Notwithstanding the foregoing, the Stipulation shall not become null and void as a result of the election by Theragenics, on behalf of the Defendants, or by Theragenics' insurer, to exercise their option to withdraw from the Stipulation pursuant to the Supplemental Agreement until the conditions set forth in the Supplemental Agreement have been satisfied.

BAR ORDER

27. It is an important element to Defendants' participation in this Settlement that they and the Released Parties obtain the fullest possible release from further liability to anyone relating to the Settled Claims of all Class Members, and it is the intention of the Parties to this Stipulation that the Settlement documented herein eliminate all further risk and liability of the Released Parties relating to the Settled Claims of all Class Members. Accordingly, the Parties agree:

(a) In accordance with ¶ 3, Lead Plaintiffs and the Class Members will release and be deemed to release the Released Parties from all Settled Claims;

(b) The Order and Final Judgment shall provide for the dismissal of the Settled Claims of all Class Members with prejudice as to the Released Parties, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, by Lead Plaintiffs and the Class Members; and

(c) In accordance with Section 4(f) of the Private Securities Litigation Reform Act, 15 U.S.C. § 78u-4(f)(7)(A), the Order and Final Judgment shall bar all claims for contribution against the Released Parties, which claims shall be discharged as a matter of law thereunder.

MISCELLANEOUS PROVISIONS

28. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

29. Each Defendant warrants as to himself, herself or itself that, as to the payments made by or on behalf of him, her, or it, at the time of such payment that the Defendant made or caused to be made pursuant to ¶ 4 above, he, she, or it was not insolvent nor did nor will the payment required to be made by or on behalf of him, her or it render such Defendant insolvent within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof. This warranty is made by each such Defendant and not by Defendants' Counsel.

30. If a case is commenced in respect of any Defendant (or any insurer contributing funds to the Cash Settlement Amount on behalf of any Defendant) under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of such Defendant to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited to the Settlement Fund by other Defendants, then, at the election of Plaintiffs' Co-Lead Counsel, the parties shall jointly move the Court to vacate and

set aside the releases given and Judgment entered in favor of the Defendants pursuant to this Stipulation, which releases and Judgment shall be null and void, and the parties shall be restored to their respective positions in the litigation immediately prior to the execution of this Stipulation and any cash amounts in the Settlement Fund shall be returned as provided in ¶ 24 above.

31. Lead Plaintiffs and Plaintiffs' Co-Lead Counsel agree, and shall represent to the Court, that the Settlement is fair, reasonable, and adequate to the Class Members, and that it is reasonable and in the best interest of all the Class Members to enter into and be bound by the Stipulation in full and final settlement of the Action. Lead Plaintiffs shall not object to any portion of the Stipulation or Settlement and shall not opt out of the Class.

32. The parties to this Stipulation intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by the Class Members against the Released Parties with respect to the Settled Claims. The Parties agree that the amount paid and the other terms of the Settlement were negotiated at arms' length in good faith by the Parties and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

33. While retaining their right to deny that the claims advanced in the Litigation were meritorious, Defendants, in any statement made to any media

(whether or not for attribution), will not deny that, to the best of their knowledge, the Action was filed in good faith and is being settled voluntarily after consultation with competent legal counsel. The Order and Final Judgment will contain a statement that during the course of the Litigation, the Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

34. This Stipulation may not be modified or amended, nor may any of its provisions be waived except by a writing signed by all parties hereto or their successors-in-interest.

35. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

36. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and expenses to Plaintiffs' Counsel and enforcing the terms of this Stipulation.

37. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

38. This Stipulation and its exhibits and the Supplemental Agreement constitute the entire agreement among the parties hereto concerning the Settlement of the Action, and no representations, warranties, or inducements have been made by any party hereto concerning this Stipulation and its exhibits and the Supplemental Agreement other than those contained and memorialized in such documents.

39. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the parties to this Stipulation shall exchange among themselves original signed counterparts.

40. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

41. The construction, interpretation, operation, effect and validity of this Stipulation, and all documents necessary to effectuate it, shall be governed by the internal laws of the State of Georgia without regard to conflicts of laws, except to the extent that federal law requires that federal law governs.

42. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of

arms'-length negotiations between the parties and all parties have contributed substantially and materially to the preparation of this Stipulation.

43. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

44. Plaintiffs' Co-Lead Counsel and Defendants' Counsel agree to cooperate fully with one another in seeking Court approval of the Order for Notice and Hearing, the Stipulation and the Settlement, and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

DATED: July 27, 2004

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