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CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO

5 ALABAMA DOE 1, ALABAMA DOE 2,
6 INDIANA DOE, MISSOURI DOE, and
7 FLORIDA DOE, Individually, and on Behalf of
8 All Others Similarly Situated,

Plaintiffs,

9 vs.

10 GILEAD SCIENCES, INC.,

11 Defendant.

Case No.: 20-CIV-03699

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND
QUALIFIED PROTECTIVE ORDER**

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**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND QUALIFIED PROTECTIVE ORDER**

1 Plaintiffs Alabama Doe 1, Alabama Doe 2, Indiana Doe, Missouri Doe, and Florida Doe
2 (“Plaintiffs”), individually and on behalf of all others similarly situated, and Defendant Gilead
3 Sciences, Inc. (“Gilead”), have entered into a Settlement Agreement (the “Settlement Agreement”),
4 providing for the settlement of this case.

5 Plaintiffs have moved for, and Gilead has indicated that it does not oppose, entry of this
6 Order which, *inter alia*, (a) preliminarily approves the Parties’ proposed Settlement Agreement;
7 (b) conditionally certifies the Settlement Class (defined below) for settlement purposes only;
8 (c) appoints the Settlement Administrator; (d) provides for Notice of the Settlement to affected
9 persons in accordance with the terms of the Settlement Agreement; (e) establishes procedures for
10 objections to, and exclusions from, the proposed Settlement Agreement; (f) appoints Plaintiffs as
11 Class Representatives and Plaintiffs’ counsel as Class Counsel; and (g) sets a date for the Fairness
12 Hearing.

13 Having considered the terms of the Settlement Agreement in light of the issues presented by
14 the pleadings, the record in this case, the complexity of the proceedings, the absence of any evidence
15 of collusion between the Parties, and the experience of Class Counsel in this matter, and being
16 preliminarily satisfied that the Settlement Agreement is fair, reasonable and adequate, and being
17 satisfied that the proposed Notice of Settlement Class Members and the plan for the distribution of
18 that Notice is adequate and sufficiently informative as to the terms and effect of the proposed
19 Settlement Agreement and the conditional certification of the Settlement Class,

20 IT IS ORDERED THAT:

21 1. This Court has jurisdiction over the subject matter of this Action pursuant to Cal.
22 Code Civ. Proc. § 410.10. This Court also has jurisdiction over all parties to this Action, including
23 all members of the Settlement Class, as defined in paragraph 3, below.

24 2. This Order incorporates by reference the definitions in the Settlement Agreement,
25 and all capitalized terms used in this Order will have the same meanings as set forth in the Settlement
26 Agreement, unless otherwise defined in this Order.

1 3. The Parties have agreed to and the Court provisionally certifies the following class
2 for the purposes of settlement (the “Settlement Class”):

3 All persons to whom a Mailer was sent by Gilead and that was not returned as
4 undeliverable.

5 4. Based on the Court’s review of the Settlement Agreement, the Motion for Preliminary
6 Approval, the supporting brief and exhibits, argument of counsel and the entire record, the Court
7 finds that certification of the Settlement Class under Cal. Code of Civ. Proc. § 382 is appropriate
8 because there is a well-defined community of interest in the litigation, the Settlement Class is so
9 numerous that joinder would be impracticable, this Action presents common issues of law and fact
10 that predominate over any individual questions, the named Plaintiffs and their counsel are adequate
11 representatives of the Settlement Class, and Plaintiffs’ claims are typical of the claims of the
12 members of the Settlement Class. The following counsel are hereby appointed to represent the
13 Settlement Class as Co-Lead Class Counsel: Shanon J. Carson, Sophia Rios, and John Albanese of
14 Berger Montague PC, Ronda Goldfein, Yolanda Lollis, and Adrian Lowe of the AIDS Law Project
15 of Pennsylvania, and John Grogan and Kevin Trainor of Langer Grogan & Diver.

16 5. Based on the Court’s review of the Settlement Agreement, the Motion for Preliminary
17 Approval, the supporting brief, declarations, argument of counsel and the entire record, the Court
18 finds that the Settlement Agreement is fair, reasonable, and adequate. The Plaintiffs’ Motion to
19 preliminarily approve the settlement and certify the Settlement Class is granted.

20 6. Kroll Settlement Administration LLC is appointed as Settlement Administrator. By
21 accepting this appointment, the Settlement Administrator has agreed to be subject to this Court’s
22 jurisdiction solely for the purposes of enforcement of the Settlement Administrator’s obligations
23 under the Settlement Agreement and this Order.

24 7. The Court finds that there is good cause and a compelling need for the disclosure of
25 the Class List (*i.e.*, the names and mailing and email addresses of the Settlement Class Members
26 only) to the Settlement Administrator for purposes of providing notice of the Settlement and
27 administering the Settlement, and for the adjudication of this case, and that there is not an alternative
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1 to implementing the Settlement that would involve the disclosure of more limited information to the
2 Settlement Administrator. Therefore, within three (3) business after this is Order is entered, the
3 Settlement Administrator shall execute the agreement attached hereto as Exhibit A agreeing that it
4 and each of its employees, agents and/or others accessing information through the Settlement
5 Administrator in this case are bound by this Order.

6 8. Gilead, within five (5) business days after this is Order is entered, provided that the
7 Settlement Administrator has executed the agreement attached hereto as Exhibit A, shall cause the
8 Class List to be delivered to the Settlement Administrator, pursuant to this Order.

9 9. The Settlement Administrator is: (a) prohibited from using or disclosing any
10 Settlement Class Member identifying information, including, but not limited to, the Class List or
11 any portion thereof and any copies, notes, or other records that may be made regarding such
12 information, for any purpose other than to carry out its duties set forth in the Settlement Agreement;
13 and (b) required to return to Gilead or destroy any Settlement Class Member identifying information
14 upon the conclusion of carrying out its duties as set forth in the Settlement Agreement.

15 10. The Court finds that the forms of notice to the Settlement Class regarding the
16 pendency of the action and of this settlement, and the methods of giving notice to members of the
17 Settlement Class are reasonable. These forms and methods constitute the best notice practicable
18 under the circumstances and constitute valid, due, and sufficient notice of the Settlement Class. They
19 comply fully with the requirements of Cal. Code Civil Procedure § 382, California Rules of Court
20 3.766 and 3.769, the California and United States Constitution, and other applicable law.

21 11. The Settlement Administrator shall send the Notice of the proposed settlement in the
22 manner described in Section 3 of the Settlement Agreement. Such Notice shall be substantially in
23 the form of Exhibit C to the Settlement Agreement. Non-substantive changes may be made to the
24 Notice by agreement of Parties without further order of this Court.

25 12. The Court finds and determines that the method of providing notice to Settlement
26 Class Members specified in the Settlement Agreement and the manner of providing for opt-outs
27 specified in the Settlement Agreement are reasonable and appropriate, and satisfy the requirements
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1 of due process and the applicable California rules. Thereby the Court hereby explicitly adopts and
2 incorporates those processes as if fully set forth herein.

3 13. If the Court does not enter the Final Judgment of the Settlement or if the Final
4 Judgment is reversed in whole or in part on appeal, certification of the Settlement Class will be
5 vacated and the Parties will be returned to their positions *status quo ante* with respect to the Action
6 as if the Settlement Agreement had not been entered into. In the event that Final Approval is not
7 granted, (a) any Court order preliminarily or finally approving the certification of any class
8 contemplated by the Settlement Agreement and any other orders entered pursuant to the Settlement
9 Agreement shall be null, void, and vacated, except with regard to the provisions herein governing
10 the Settlement Administrator’s obligations with regard to Settlement Class Member identifying
11 information, and shall not be used or cited thereafter by any person or entity in support of claims or
12 defenses or in support or in opposition to a class certification motion or for any other purpose, and
13 (b) the Settlement Agreement will become null and void and the fact of the settlement, that Gilead
14 did not oppose the certification of any class under the Settlement Agreement, or that the Court
15 preliminarily approved the certification of a Settlement Class, or any information disclosed or
16 exchanged as part of the settlement negotiations, Settlement Agreement, or the settlement approval
17 process shall not be used or cited thereafter by any person or entity for any purpose, including in any
18 contested proceeding relating to the certification of any class. In addition, if the Final Judgment is
19 reversed in whole or in part on appeal, the release of claims set forth in the Settlement Agreement
20 shall be rescinded.

21 14. A hearing (“Fairness Hearing”) shall be held before this Court on the date established
22 in paragraph 23 hereof to hear objections and determine (a) whether the proposed Settlement
23 Agreement and compromise of this Action as set forth in the Settlement Agreement is fair,
24 reasonable, and adequate to the Settlement Class Members and should be approved by the Court; (b)
25 whether a Final Judgment should be entered approving the settlement; (c) whether a Final Judgment
26 should be entered, dismissing the Action, on the merits and with prejudice, and to determine whether
27 the release of claims, as set forth in the Settlement Agreement, should be approved; (d) the amount
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1 of attorneys' fees and expenses reasonably incurred in prosecution of the litigation to be paid to
2 Class Counsel; (e) the amount of the Service Awards to be paid to the Class Representatives; and
3 (f) such other matters as the Court may deem appropriate.

4 15. Objections may be raised through appearing at the Fairness Hearing or by submitting
5 a written objection. As set forth in Section 5.5 of the Settlement Agreement, any interested person
6 who has not opted out of the Settlement Class may submit a written objection and any supporting
7 papers or brief to the Court before the date established in paragraph 23 hereof. The names of any
8 objectors who affirmatively state in writing that they wish to use a pseudonym shall be held in strict
9 confidence by the Settlement Administrator, Co-Lead Class Counsel, and Counsel for Gilead and
10 shall not be disclosed on the public record without the objector's written permission. Copies of such
11 written objections must also be served, so that they are postmarked no later than the last date for
12 filing established in paragraph 23 hereof, on counsel for Gilead and Co-Lead Class Counsel. All
13 properly submitted objections shall be considered by the Court. Any Settlement Class Member who
14 does not submit an objection in the manner provided above shall be deemed to have waived any
15 objection to the Settlement Agreement and shall forever be foreclosed from making any objection
16 to class certification, to the fairness, adequacy or reasonableness of the settlement, and to any
17 attorneys' fees and reimbursements approved by the Court.

18 16. Class Counsel's request for approval of attorneys' fees, costs and reimbursement of
19 expenses shall be filed on or before the date established in paragraph 23 hereof.

20 17. All memoranda, declarations and other evidence in support of the request for Final
21 Approval shall be filed on or before the date established in paragraph 23 hereof.

22 18. All proceedings in this Action other than such as may be necessary to carry out the
23 terms and conditions of this Order or the responsibilities incidental thereto are stayed and suspended
24 as between the Plaintiffs and Gilead until further order of the Court.

25 19. The Parties have advised the Court that there are, to their knowledge, no lawsuits
26 pending in any state or federal court or in any arbitral forum asserting claims that would be
27 foreclosed by Final Approval of this Settlement.

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1 20. This Order is intended to immediately stop all litigation involving the claims released
2 by the Settlement Agreement in all courts and other judicial and arbitral tribunals throughout the
3 United States. Any individual who wishes to object to, or comment on, the Settlement Agreement
4 or certification will have the opportunity to be heard at the Fairness Hearing scheduled by this Court.

5 21. The Court expressly reserves its right to adjourn the Fairness Hearing from time to
6 time without further notice other than to counsel of record and to approve the proposed Settlement
7 Agreement and request for approval of attorneys' fees and expenses at or after the originally
8 scheduled Fairness Hearing.

9 22. The Court retains exclusive jurisdiction over the Action and all matters arising out of
10 or connected with the proposed settlement.

11 23. Pursuant to this Order, the schedule for dissemination of Notice, requesting exclusion
12 from or objecting to the proposed settlement, briefing, and the Fairness Hearing, is as follows:

13 Deadline for Settlement Administrator to 14 execute the agreement attached hereto as 15 Exhibit A (3 business days after 16 Preliminary Approval Order is entered)	
17 Deadline for Gilead to Provide Class List 18 to Settlement Administrator (5 business 19 days after Preliminary Approval Order is 20 entered, provided Settlement 21 Administrator has executed Exhibit A 22 attached hereto)	
23 Deadline for Settlement Administrator to 24 establish Settlement Website and 25 automated telephone system (10 days after 26 Preliminary Approval Order is entered)	
27 Deadline for Settlement Administrator to 28 send out Notice (35 days after Preliminary 29 Approval Order is entered)	
30 Deadline for filing Class Counsel's 31 Motion for Attorneys' Fees and Class 32 Representative Service Awards (81 days 33 after Preliminary Approval Order is 34 entered)	

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Deadline for objections to proposed Settlement or to Opt Out (95 days after Preliminary Approval Order is entered)	
Deadline for Claims to be submitted (95 days after Preliminary Approval Order is entered)	
Deadline for to file notice of intent to appear at Fairness Hearing (21 days prior to Fairness Hearing)	
Deadline for filing Motion for Final Approval and for filing responses to objections (14 days prior to Fairness Hearing)	
Fairness Hearing (approximately 120 days after Preliminary Approval Order is entered)	

IT IS SO ORDERED.

Dated: _____

HONORABLE DANNY Y. CHOU
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

I, _____, on behalf of _____ (“Settlement Administrator”), hereby declare under penalty of perjury pursuant to the laws of California that the following is true and correct:

- A. I am a duly authorized representative of the Settlement Administrator and have the authority to bind the Settlement Administrator to this Agreement.
- B. I have been given a copy of the Parties’ Settlement Agreement and Exhibits, and I have read the Court’s foregoing Order Granting Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and Qualified Protective Order (“Preliminary Approval Order”) and understand that the Settlement Class Member’s identifying information is highly sensitive and maintaining the confidentiality of that information is of the utmost importance.
- C. The Settlement Administrator, including its employees, agents, and any other persons accessing information through the Settlement Administrator in connection with this case, agree to be bound by the terms set forth in the Settlement Agreement and the Court’s Preliminary Approval Order, including, but not limited to, the prohibition on using or disclosing any Settlement Class Member identifying information for any purpose other than to carry out its duties set forth in the Settlement Agreement, as well as the requirement to return to Gilead or destroy any Settlement Class Member identifying information upon the conclusion of carrying out its duties as set forth in the Settlement Agreement.
- D. The Settlement Administrator further commits to hold any Settlement Class Member identifying information in a secure manner and shall exercise the same care with regard to the storage, custody, or use of such information as it would apply to its own material of the highest sensitivity.
- E. If the Settlement Administrator fails to abide by the terms of the Settlement Agreement and the Preliminary Approval Order, I understand that the Settlement Administrator may be subject to sanctions imposed by the Court.

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DATED: _____

BY: _____
Signature

Title