



**GRANTED WITH MODIFICATIONS**

EFiled: Nov 28 2016 04:33PM EST  
Transaction ID: 59880873  
Case No. 10742-CB



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

MICHAEL DEPINTO, On Behalf of )  
Himself and All Others Similarly )  
Situating, )  
 )  
Plaintiff, )

Consol. C.A. No. 10742-CB

v. )

JOHN S. STAFFORD, III, BASSIL I. )  
DAHIYAT, JONATHAN FLEMING, )  
ATUL SARAN, HAROLD R. WERNER, )  
BRUCE L.A. CARTER, CHARLES )  
STEWART, and DONALD C. FOSTER, )  
 )  
Defendants. )

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IN RE XENCOR, INC. )  
SHAREHOLDERS LITIGATION )

**[PROPOSED] SCHEDULING ORDER**

WHEREAS, the parties to the above-captioned actions and Xencor, Inc. (collectively, the “Parties” and individually a “Party”), having applied pursuant to Court of Chancery Rule 23(e) for an order approving the proposed settlement of the Action in accordance with the Stipulation and Agreement of Compromise, Settlement, and Release entered into by the Parties on November 21, 2016 (the “Stipulation”), and for dismissal of the Action on the merits with prejudice upon the terms and conditions set forth in the Stipulation (the “Settlement”);

NOW, upon consent of the Parties, after review and consideration of the Stipulation filed with the Court and the Exhibits annexed thereto, and after due deliberation,

**IT IS HEREBY ORDERED** this \_\_\_\_ day of November 2016, that:

1. Except for terms defined herein, the Court adopts and incorporates the definitions in the Stipulation for purposes of this Order.

2. A hearing (the “Settlement Hearing”) shall be held on \_\_\_\_\_, 2017 at \_\_\_\_\_ .m., in the Court of Chancery, 500 North King Street, Wilmington, DE 19801, to:

- a. Determine whether Plaintiff and Class Counsel have adequately represented the Class;
- b. Determine whether the proposed Settlement should be approved as fair, reasonable and adequate;
- c. Determine whether all Released Claims (as defined in the Stipulation) should be dismissed with prejudice as against the Released Parties;
- d. Determine whether a Final Order and Judgment approving the Settlement should be entered;
- e. Determine whether and in what amount any attorney’s fees and/or expenses should be paid to Plaintiff out of the Settlement Fund;

- f. Determine whether any incentive fee should be awarded to Plaintiff payable out of any attorney's fee awarded;
- g. Hear and determine any objections to the Settlement or Plaintiff's application for attorneys' fees and/or expenses; and
- h. Determine any other matters the Court of Chancery deems appropriate.

3. The Court may adjourn and reconvene the Settlement Hearing or any adjournment thereof, including the consideration of an application for attorneys' fees and/or expenses, without further notice of any kind other than oral announcement at the Settlement Hearing or any adjournment thereof, or a notation on the docket in the Action.

4. The Court may approve the Settlement at or after the Settlement Hearing with such modification(s) as may be consented to by the Parties and without further notice to the Class. Further, the Court may render its Judgment, and order the payment of attorneys' fees and/or expenses, all without further notice to the Class.

5. The Court approves, in form and substance, the Notice of Proposed Settlement of Class Action, Settlement Hearing, and Right to Appear (the "Notice") and the Claim Form substantially in the forms attached as Exhibits B and D to the Stipulation.

6. The Court finds that the mailing and publication of the Notice in substantially the manner set forth in paragraphs 7 and 8 of this Order constitute the best notice practicable under the circumstances to all persons entitled to such notice of the Settlement Hearing and the proposed Settlement, and meets the requirements of Court of Chancery Rule 23 and of due process.

7. The Court approves the firm of Strategic Claims Services as the Claims Administrator, with the responsibilities set forth in the Stipulation. Payment of the Claims Administrator's fees and expenses shall be made solely from the Settlement Fund.

8. As soon as practicable after the date of entry of this Order, and in any event at least sixty (60) calendar days prior to the Settlement Hearing, the Claims Administrator shall cause the Notice to be mailed by U.S. Mail, First Class, postage pre-paid to the Class Members at their respective last known addresses set forth in Xencor's stock records. All stockholders of record in the Class who received the Notice who were not also the beneficial owners of Xencor preferred stock held by them of record shall be requested to forward the Notice to such beneficial owners of those shares. The Claims Administrator shall use reasonable efforts to give notice to such beneficial owners by making additional copies of the Notice available to any record holder who, prior to the Settlement Hearing, requests the same for distribution to beneficial owners.

9. At least twenty (20) calendar days prior to the Settlement Hearing, the Plaintiff shall file with the Court an opening brief in support of the proposed Settlement, and Class Counsel shall file Plaintiff's application for attorneys' fees and/or expenses, including any supporting affidavits. Any brief in support of any objection(s) to the Settlement or to Plaintiff's application for attorneys' fees and/or expenses shall be filed at least ten (10) business days prior to the Settlement Hearing.

10. At least ten (10) business days prior to the date of the Settlement Hearing, Class Counsel shall file with the Court proof of mailing of the Notice.

11. At least five (5) business days prior to the Settlement Hearing, the Parties may file with the Court a responsive brief to any objections made to the Settlement and Class Counsel shall file any reply in support of Plaintiff's application for attorneys' fees and/or expenses.

12. Any Class Member who objects to the Settlement, the Final Order and Judgment to be entered in the Action, Plaintiff's application for attorneys' fees and/or expenses and/or any incentive fee award to Plaintiff or who otherwise wishes to be heard, may appear in person or by such member's attorney at the Settlement Hearing and present evidence or argument that may be proper and relevant; provided, however, that, except for good cause shown, no person shall be heard and no papers, briefs, pleadings or other documents submitted by any person

shall be considered by the Court unless not later than ten (10) business days prior to the Settlement Hearing such person files with the Court and, on or before such filing, serves (by hand, e-mail or overnight mail) upon counsel listed below: (a) a written notice of intention to appear; (b) proof of membership in the Class; (c) a statement of such person's objections to any matters before the Court; and (d) the grounds for such objections and the reasons that such person desires to appear and be heard, as well as all documents or writings such person desires the Court to consider. Such filings shall be served, on or before such filing with the Court, by hand, e-mail or overnight mail upon the following counsel:

Elizabeth M. McGeever, Esq.  
Kevin H. Davenport, Esq.  
Prickett, Jones & Elliott, P.A.  
1310 N. King Street  
Wilmington, DE 19801  
(302) 888-6500

William M. Lafferty, Esq.  
D. McKinley Measley, Esq.  
Richard Li, Esq.  
Morris, Nichols, Arsht & Tunnell, LLP  
1201 N. Market Street  
Wilmington, DE 19801  
(302) 658-9200

13. Any person who fails to object in the manner described above shall be deemed to have waived the right to object (including any right of appeal) and shall be forever barred from raising such objection in the Action or any other action or proceeding. Class Members who do not object need not appear at the Settlement Hearing or take any other action to indicate their approval.

14. All proceedings in the Action, other than proceedings as may be necessary to carry out the terms and conditions of the Stipulation, are hereby stayed and suspended until further order of this Court.

15. If the Settlement provided for in the Stipulation is approved by the Court at or following the Settlement Hearing, the Court shall enter a Final Order and Judgment substantially in the form attached as Exhibit C to the Stipulation.

16. The effectiveness of the Final Order and Judgment shall not be conditioned upon the approval of attorneys' fees and/or litigation expenses, either at all or in any particular amount, by the Court.

17. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Class Members, and the Court retains jurisdiction to consider all further applications arising out of or connected with the Settlement.

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Chancellor Andre G. Bouchard

This document constitutes a ruling of the court and should be treated as such.

**Court:** DE Court of Chancery Civil Action

**Judge:** Andre G Bouchard

**File & Serve**

**Transaction ID:** 59860299

**Current Date:** Nov 28, 2016

**Case Number:** 10742-CB

**Case Name:** CONF ORDER CONS W/ 11128-CB DePinto, Michael vs John S Stafford III et al, IN RE XENCOR INC.

**Court Authorizer:** Bouchard, Andre G

**Court Authorizer**

**Comments:**

The Settlement Hearing shall be held on Tuesday, April 4, 2017 at 10:00 a.m. in Wilmington, Delaware.

/s/ **Judge Bouchard, Andre G**