

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CALVIN McCUTCHAN,

Plaintiff,

vs.

CORIAN OPERATIONS, INC.,  
INFINERA CORPORATION, CORIAN  
401(k) PLAN, and DOES 1-20,

Defendants.

Case No. 1:20-cv-00561 (CPK)

**PLAINTIFF’S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF  
SETTLEMENT, LEAVE TO AMEND FIRST AMENDED COMPLAINT, AND  
RELATED RELIEF**

Plaintiff Calvin McCutchan (“Plaintiff” or “Class Representative”) individually and on behalf of the Class and the Coriant 401(k) Plan (the “Plan”), respectfully move this Court for an Order: (1) preliminarily approving the Settlement Agreement (“Settlement” or “Settlement Agreement”)<sup>1</sup> between the Parties; (2) approving the form and method of Class Notice; (3) appointing a Settlement Administrator; (4) setting a date and time for a hearing (the “Final Approval Hearing”) for consideration of final approval of the Settlement, Plan of Allocation, Plaintiff’s Class Representative Case Contribution Award, and Attorney Fees and Expenses. Lastly, to effect the terms of the Settlement, Plaintiff hereby seeks leave to file a Second Amended Complaint (“SAC”) amending his Class claims as to the putative Class definition.<sup>2</sup>

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<sup>1</sup> A copy of the Settlement Agreement is attached as Exhibit A to the Joint Declaration of Berkson and Rosca. Capitalized terms not otherwise defined herein have the same meaning as in the Settlement Agreement.

<sup>2</sup> Defendant stipulated to the filing of Plaintiff’s SAC for settlement purposes only.

This motion will be based on the accompanying Memorandum in Support of Motion, Settlement Agreement, Declaration of Hugh D. Berkson and Alan L. Rosca and exhibits thereto, and on all of the files and records in this case.

DATED this 3rd day of November 2022.

**MCCARTHY, LEBIT, CRYSTAL  
& LIFFMAN CO., L.P.A.**

/s/ Hugh D. Berkson

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***Counsel for Plaintiff Calvin McCutchan***

**CERTIFICATE OF SERVICE**

I hereby certify that on the 3rd day of November 2022, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent to all parties registered for electronic service by operation of the Court's electronic filing system. The parties may access the filing through the Court's system.

Respectfully submitted,

/s/ Hugh D. Berkson  
Hugh D. Berkson (OH 0063997)