

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

DAVID CAREW and HUGH ROBERT
HOLMES, *individually and on behalf
of all others similarly situated,*

Case No. 24-cv-3028 (LMP/JFD)

Plaintiffs,

v.

PRELIMINARY APPROVAL ORDER

LIFECORE BIOMEDICAL, INC.,
ALBERT D. BOLLES, JAMES G.
HALL, BRIAN McLAUGHLIN, and
JOHN MORBERG,

Defendants.

On January 15, 2026, lead Plaintiffs David Carew and Hugh Robert Holmes filed an unopposed Motion for Preliminary Approval of a Class Settlement between themselves (on behalf of the purported class) and Defendants Lifecore Biomedical, Inc., Albert D. Bolles, James G. Hall, Brian McLaughlin, and John Morberg (collectively “Lifecore”). ECF No. 69. The motion is accompanied by a copy of the executed Settlement Agreement, ECF No. 72-1, sample notice forms, ECF Nos. 72-3 and 72-5, and claim submission forms, ECF No. 72-4.

Having fully considered the issues presented by Plaintiffs’ motion, the Court hereby **GRANTS** the motion, enters a Preliminary Approval Order, and **ORDERS** as follows:

1. Jurisdiction. The Court has subject-matter jurisdiction and personal jurisdiction over the parties before it. Additionally, venue is proper in this District pursuant to 29 U.S.C. § 1132(e)(2).

2. Class Certification for Settlement Purposes Only. The following Settlement Class is provisionally certified for purposes of settlement only:

All persons and entities that purchased or otherwise acquired Lifecore securities between October 7, 2020, and March 19, 2024, and were damaged thereby.

Excluded from the Settlement Class are Defendants, the officers and directors of Lifecore at all relevant times, members of their immediate families and their legal representatives, heirs, successors, or assigns, any entity in which Defendants have or had a controlling interest, Legion Partners Asset Management, LLC, Wynnefield Capital, Inc., and 22NW, LP. Also excluded are any persons or entities who properly exclude themselves by filing a valid and timely request for exclusion in accordance with the requirements set by the Court.

ECF No. 71 at 1 n.2.

The Court finds that it will likely be able to certify the Settlement Class for purposes of judgment on the settlement because it meets all of the requirements of Rule 23(a). Specifically, the Court finds for settlement purposes only that: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. The Court further finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and

that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

3. Settlement Class Representatives and Settlement Class Counsel. The Court granted Plaintiffs' Unopposed Motion for Appointment of Class Counsel, and appointed Plaintiffs as Class Representatives, on November 15, 2024. ECF No. 31.

4. Preliminary Settlement Approval. Upon preliminary review, the Court finds the Settlement is fair, reasonable, and adequate to warrant providing notice of the Settlement to the Settlement Class and, accordingly, is preliminarily approved. In making this determination, the Court has considered the relative merits of the parties' positions; the costs, risks, and delay associated with continued litigation; the good-faith, arm's-length negotiations between experienced counsel; the effectiveness of providing relief to the class; the equitable treatment of the Settlement Class members under the Settlement Agreement; and all other factors required by statute, rule, and case law.

5. Final Approval Hearing. A Final Approval Hearing shall be held on July 28, 2026, at 10:30 a.m. CDT in Courtroom 3A, Warren E. Burger Federal Building and U.S. Courthouse, 316 Robert Street N., St. Paul, MN 55101, where the Court will determine, among other things, whether: (1) the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Settlement Class, and should be finally approved by the Court; (2) a Judgment should be entered dismissing the Action with prejudice against Defendants; (3) the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved; (4) the motion by Co-Lead Counsel for an award of attorneys' fees, reimbursement of

expenses, and awards to Lead Plaintiffs should be approved; and (5) to consider any other matters that may properly be brought before the Court in connection with the Settlement.

Co-Lead Counsel shall file and serve the opening papers in support of the proposed Settlement, the proposed Plan of Allocation, and Co-Lead Counsel's motion for an award of attorneys' fees, reimbursement of expenses, and awards to Lead Plaintiffs no later than June 23, 2026; and reply papers, if any, shall be filed and served no later than July 21, 2026.

6. Settlement Administrator. Co-Lead Counsel are hereby authorized to retain Strategic Claims Services (the "Claims Administrator") to supervise and administer the notice procedure in connection with the proposed Settlement as well as the processing of claims.

7. Notice Deadlines. The proposed notice program set forth in the Settlement Agreement is hereby approved. Not later than March 23, 2026, Lifecore shall provide Co-Lead Counsel or the Claims Administrator in electronic format its security lists containing names, mailing addresses and, if available, email addresses of the purchasers and other acquirers of Lifecore securities during the Class Period. Not later than March 27, 2026 the Claims Administrator shall mail or email a copy of the Notice and the Claim Form (ECF Nos. 72-3 and 72-4) (together the "Notice Packet"), to potential Settlement Class Members at the addresses provided by Lifecore or in the records which Lifecore provides, or who otherwise may be identified through further reasonable effort. On the same day, the Claims Administrator shall post the Notice Packet in a downloadable form on a website to be developed for the Settlement. Not later than April 10, 2026, the Claims Administrator shall publish the Summary Notice (ECF No. 72-5) once in the *Investor's Business Daily* and

shall transmit the Summary Notice once over the *PR Newswire* or *GlobeNewswire*. By July 21, 2026, Co-Lead Counsel shall serve on Defendants' Counsel and file with the Court proof, by affidavit or declaration, of such mailing and publication. The date and time of the Settlement Hearing shall be included in the Notice and Summary Notice before they are mailed and published, respectively.

8. Findings Concerning Notice. The Court finds that the proposed form, content, and method of giving notice to the Settlement Class as described in the Settlement Agreement and the Notice: (1) constitute the best practicable notice to the Settlement Class; (2) are reasonably calculated, under the circumstances, to apprise Settlement Class members of the pendency of this action, the terms of the proposed Settlement Agreement, and their rights under the proposed Settlement Agreement; (3) are reasonable and constitute due, adequate, and sufficient notice to all class members and other persons entitled to receive notice; (4) meet all applicable requirements of law, including Federal Rule of Civil Procedure 23, the United States Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable law and rules.

9. Nominee Notice. Co-Lead Counsel, through the Claims Administrator, shall make all reasonable efforts to give notice to brokers and other nominees who purchased or otherwise acquired Lifecore securities during the Class Period for the benefit of another person or entity. Such brokers and other nominees shall either:

- (a) provide a list of the names and mailing addresses of all such beneficial owners to the Claims Administrator within seven days of receiving notice

and the Claims Administrator is ordered to send the Notice Packet promptly to such identified beneficial owners;

- (b) request additional copies of the Notice Packet from the Claims Administrator, which will be provided to brokers and nominees free of charge, and within seven calendar days of receipt, mail the Notice Packet directly to all the beneficial owners of those securities; or
- (c) request the link to the electronic Notice Packet hosted on the Settlement website, and within seven calendar days of receipt, email the link to the electronic Notice Packet directly to all the beneficial owners of the securities for whom valid email addresses are available.¹

If nominees choose to follow procedures (b) or (c), nominees must send a statement to the Claims Administrator confirming that the mailing or emailing was made as directed and keep a record of the names, mailing addresses, and email addresses used.

Upon full compliance with these directions, such nominees may seek reimbursement of their reasonable expenses actually incurred, in an amount not to exceed \$0.03 plus postage at the current pre-sort rate used by the Claims Administrator per Notice Packet actually mailed; or \$0.03 per link to the electronic Notice Packet transmitted by email; or \$0.03 per name, mailing address, and email address (to the extent available)

¹ To the extent available, brokers and other nominees shall also, within seven calendar days of receipt of the Notice, provide the Claims Administrator with the email addresses of beneficial owners who have agreed to receive communications regarding investments in Lifecore securities by email.

provided to the Claims Administrator, by providing the Claims Administrator with proper documentation supporting the expenses for which reimbursement is sought. Such properly documented expenses incurred by nominees in compliance with the terms of this Order shall be paid from the Settlement Fund, with any disputes as to the reasonableness or documentation of expenses incurred subject to review by the Court.

10. Settlement Participation. Settlement Class Members that wish to be eligible to receive a distribution from the Net Settlement Fund must complete and submit a Claim Form in accordance with the instructions contained therein. All Claim Forms must be postmarked or submitted online to the Claims Administrator no later than July 7, 2026. Co-Lead Counsel may, at their discretion, accept late claims provided such acceptance does not delay the distribution of the Net Settlement Fund to the Settlement Class. By submitting a claim, a person or entity shall be deemed to have submitted to the jurisdiction of the Court with respect to his, her, or its claim and the subject matter of the Settlement.

Each Claim Form submitted must satisfy the following conditions:

- (a) It must be properly completed, signed and submitted by July 7, 2026;
- (b) It must be accompanied by adequate supporting documentation for the transactions and holdings reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional and holding information found in a broker confirmation slip or account statement, or such other documentation as is deemed adequate by Co-Lead Counsel or the Claims Administrator;

- (c) If the person executing the Claim Form is acting in a representative capacity, a certification of his, her, or its current authority to act on behalf of the Settlement Class Member must be included in the Claim Form to the satisfaction of Co-Lead Counsel or the Claims Administrator; and
- (d) The Claim Form must be complete and contain no material deletions or modifications of any of the printed matter contained therein and must be signed under penalty of perjury.

Any Settlement Class Member that does not timely and validly submit a Claim Form or whose Claim is not otherwise approved by the Court:

- (a) shall be deemed to have waived his, her, or its right to share in the Net Settlement Fund;
- (b) shall be forever barred from participating in any distributions therefrom;
- (c) shall be bound by the provisions of the Stipulation and the Settlement and all proceedings, determinations, orders, and judgments in the Action relating thereto, including, without limitation, the Judgment and the releases provided for therein, whether favorable or unfavorable to the Class; and
- (d) will be barred from commencing, maintaining, or prosecuting any of the Released Plaintiffs' Claims against each and all of the Released Defendant Parties.

Any member of the Settlement Class who wishes to exclude himself, herself, or itself from the Settlement Class must request exclusion in writing within the time and in the manner set forth in the Notice. A request for exclusion must be mailed so that it is

received no later than July 7, 2026. Any person or entity who or which timely and validly requests exclusion and is excluded from the Settlement Class shall not be a Settlement Class Member, shall not be bound by the terms of the Settlement or any orders or judgments in the Action, and shall not receive any payment out of the Net Settlement Fund. To validly retract or withdraw a prior request for exclusion, a Settlement Class member must serve on Lead Counsel and counsel for Defendants by July 27, 2026, a signed written notice retracting such request for exclusion.

11. Objections. Any Settlement Class Member that does not request exclusion from the Settlement Class may file a written objection to the proposed Settlement, the proposed Plan of Allocation and/or Co-Lead Counsel's motion for an award of attorneys' fees, reimbursement of expenses, and awards to Lead Plaintiffs. An objector must enter an appearance by filing with the Clerk of Court and delivering a notice of appearance to both Co-Lead Counsel and Defendants' Counsel, at:

Co-Lead Counsel
POMERANTZ LLP
Brenda Szydlo, Esq.
600 Third Avenue, 20th Floor
New York, NY 10016
bszydlo@pomlaw.com

THE ROSEN LAW FIRM, P.A.
Phillip Kim, Esq.
275 Madison Avenue, 40th Floor
New York, New York 10016
philkim@rosenlegal.com

Defendants' Counsel
LATHAM & WATKINS LLP
Andrew R. Gray
650 Town Center Drive, 20th Floor

Costa Mesa, CA 92626
andrew.gray@lw.com

such that it is received no later than July 7, 2026. An objector must also file an objection with the Court and serve copies of such objection on Co-Lead Counsel and Defendants' Counsel at the addresses above, as well as email copies of the objection to bszydlo@pomlaw.com, philkim@rosenlegal.com, and andrew.gray@lw.com. Objections must be received by the Court no later than July 7, 2026.

Any objections, filings, and other submissions by the objecting Settlement Class Member must identify the case name and civil action number, *Carew et al. v. Lifecore Biomedical, Inc. et al.*, No. 0:24-cv-03028-LMP-EMB, and must:

- (a) state the name, address, telephone number, and email address of the person or entity objecting and must be signed by the objector;
- (b) state with specificity the grounds for the Settlement Class Member's objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court's attention and whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class; and
- (c) include documents sufficient to prove membership in the Settlement Class, including documents showing the number of shares of Lifecore securities that the objecting Settlement Class Member purchased, otherwise acquired and sold during the period from the opening of trading on October 7, 2020, through and including the close of trading on June 17, 2024 (the end of the

90-day look back period), as well as the dates and prices of each such purchase/acquisition and sale. Documentation establishing membership in the Settlement Class must consist of copies of brokerage confirmation slips or monthly brokerage account statements, or an authorized statement from the objector's broker containing the transactional and holding information found in a broker confirmation slip or account statement.

Objectors that enter an appearance and desire to present evidence at the Settlement Hearing in support of their objection must include in their written objection or notice of appearance the identity of any witnesses they may call to testify and any exhibits they intend to introduce into evidence at the hearing. Objectors that intend to appear at the Settlement Hearing through counsel must also identify that counsel by name, address, and telephone number.

Any Settlement Class Member who or which does not make his, her, or its objection in the manner provided herein shall be deemed to have waived the right to object to any aspect of the proposed Settlement, the proposed Plan of Allocation, and Co-Lead Counsel's motion for an award of attorneys' fees, reimbursement of expenses, and awards to Lead Plaintiffs.

12. Termination of Settlement. If the Settlement is terminated, not approved, or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated and shall be of no further force and effect, except as otherwise provided by the Stipulation. This Order shall be without prejudice to the rights of Plaintiffs, the other Settlement Class Members, and Defendants. Then Plaintiffs and Defendants shall revert to their respective

positions in the Action as of immediately prior to the execution of the Memorandum of Understanding on November 4, 2025, as provided in the Stipulation.

13. Use of Preliminary Approval Order. This Preliminary Approval Order and the Settlement Agreement and any proceedings taken pursuant to the Settlement Agreement are for settlement purposes only. Neither this Order, the Memorandum of Understanding, the Stipulation, the negotiations leading to the execution of the Memorandum of Understanding and the Stipulation, nor any proceedings taken pursuant to the Memorandum of Understanding, the Stipulation and/or approval of the Settlement:

- (a) shall be offered against any of the Released Defendant Parties as evidence of concession, or admission by any of the Released Defendant Parties with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim or the deficiency of any defense, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Released Defendant Parties in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation;
- (b) shall be offered against any of the Released Plaintiff Parties, as evidence of any presumption, concession, or admission that any of their claims are without merit, that any of the Released Defendant Parties had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount, or in any way referred to for any other reason as against any of the Released Plaintiff Parties, in any arbitration

proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; or

- (c) shall be construed against any of the Released Parties as an admission, concession, or presumption that the consideration to be given under the Settlement represents the amount which could be or would have been recovered after trial; provided, however, that if the Stipulation is approved by the Court, the Parties and the other Released Parties and their respective counsel may refer to it to effectuate the protections from liability granted thereunder or otherwise to enforce the terms of the Settlement.

14. Continuance or Adjournment of Hearing. The Court reserves the right to adjourn or continue the Final Approval Hearing and related deadlines without further notice to class members. The Court may approve the Settlement, with such modifications as may be agreed upon by the parties, if appropriate, without further notice to class members.

15. Stay of Proceedings and Injunction. The Court stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination of whether the Settlement should be approved, the Court bars and enjoins Plaintiffs, and all other members of the Settlement Class, from commencing or prosecuting any and all of the Released Plaintiffs' Claims against each and all of the Released Defendant Parties.

16. For clarity, the Court orders the following schedule of dates for further proceedings:

<u>Event</u>	<u>Deadline</u>
Defendants Provide Data to Claims Administrator	March 23, 2026
Claims Administrator Provides Notice to Class Members (By Mailing and Posting to Webpage)	March 27, 2026
Claims Administrator Publicizes Notice	April 10, 2026
Deadline for Co-lead Counsel To File Motion for Final Approval and for Attorney’s Fees	June 23, 2026
Deadline for Class Members To File Objections	July 7, 2026
Deadline for Class Members To Submit Claims or Opt Out	July 7, 2026
Deadline for Objecting Class Members To Ask Court for Permission To Speak at Final Approval Hearing	July 14, 2026
Co-lead Counsel Provides Notice to Court and Defendants’ Counsel Attesting to Compliance with Notice Requirements	July 21, 2026
Deadline for Defendants To Respond to Motion for Final Approval of Attorneys’ Fees, Costs, Expenses, and Service Awards	July 21, 2026
Final Approval Hearing	July 28, 2026, at 10:30 a.m. CDT

Dated: March 13, 2026

s/Laura M. Provinzino

Laura M. Provinzino
 United States District Judge