

**SUPREME COURT FOR THE STATE OF NEW YORK  
NEW YORK COUNTY**

JOHN SOLAK, derivatively on behalf of  
INTRA-CELLULAR THERAPIES, INC.,

Index No.: 652377/2022

Plaintiff,

-v-

SHARON MATES, Ph.D., JOEL S. MARCUS,  
SIR MICHAEL RAWLINS, M.D., RORY B.  
RIGGS, E. RENE SALAS, and ROBERT L.  
VAN NOSTRAND,

Defendants,

-and-

INTRA-CELLULAR THERAPIES, INC., a  
Delaware corporation,

Nominal Defendant.

**AMENDED NOTICE OF PENDENCY OF SETTLEMENT OF DERIVATIVE ACTION**

**TO: ALL CURRENT STOCKHOLDERS OF INTRA-CELLULAR THERAPIES, INC.  
(TRADING SYMBOL: ITCI)**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS  
WILL BE AFFECTED BY THE LEGAL PROCEEDINGS IN THIS LITIGATION. IF  
THE COURT APPROVES THE PROPOSED SETTLEMENT, YOU WILL BE FOREVER  
BARRED FROM CONTESTING THE FAIRNESS, REASONABLENESS, AND  
ADEQUACY OF THE PROPOSED SETTLEMENT, OR PURSUING THE CLAIMS  
DEFINED HEREIN.**

**IF YOU HOLD INTRA-CELLULAR THERAPIES, INC. COMMON STOCK FOR THE  
BENEFIT OF ANOTHER, PLEASE PROMPTLY TRANSMIT THIS DOCUMENT TO  
SUCH BENEFICIAL OWNER.**

**IF YOU DO NOT OBJECT TO THE PROPOSED SETTLEMENT, OR THE AGREED-TO  
ATTORNEYS' FEE AND EXPENSE AMOUNT DESCRIBED IN THIS NOTICE, YOU  
ARE NOT OBLIGATED TO TAKE ANY ACTION.**

**I. WHY ARE YOU RECEIVING THIS NOTICE?**

The purpose of this Notice is to tell you about (i) a lawsuit (the “Action”) in the Supreme Court for the State of New York, New York County (the “Court”) brought on behalf of Intra-Cellular Therapies, Inc. (“Intra-Cellular” or the “Company”) by Plaintiff John Solak derivatively; (ii) a proposal to settle the Action as provided in a Stipulation of Compromise and Settlement (the “Stipulation”) that sets forth the terms and conditions of the proposed settlement of this Action (“Settlement”); and (iii) your right, among other things, to attend and participate in a hearing to be held on \_\_\_\_\_, 2023 at \_\_\_\_\_ a.m. / p.m., in the Supreme Court for the State of New York, New York County Courthouse, 60 Centre St, New York, New York 10007 (the “Settlement Hearing”).<sup>1</sup>

This Notice describes the rights you may have under the Stipulation and what steps you may, but are not required to, take concerning the proposed Settlement. If the Court approves the Stipulation, the Parties will ask the Court to approve an Order and Final Judgment that would end the Action.

## II. BACKGROUND: WHAT IS THIS ACTION ABOUT?

**THE FOLLOWING DESCRIPTION DOES NOT CONSTITUTE FINDINGS OF ANY COURT. IT IS BASED ON STATEMENTS OF THE PARTIES AND SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF ANY COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.**

Plaintiff John Solak (“Plaintiff”) is a current Intra-Cellular stockholder. Nominal defendant Intra-Cellular is a Delaware corporation with its principal place of business in New York, New York. Intra-Cellular is a clinical-stage biopharmaceutical company that is engaged in the identification, development, and commercialization of novel therapeutics for treating diseases of the central nervous system. Defendants Sharon Mates, Ph.D., Joel S. Marcus, Rory B. Riggs, E. Rene Salas, and Robert L. Van Nostrand (collectively, the “Individual Defendants,” and together with nominal defendant Intra-Cellular, “Defendants”) comprised the members of the Board of Directors of Intra-Cellular at the time of the filing of the Complaint. Plaintiff, nominal defendant Intra-Cellular, and the Individual Defendants are collectively referred to herein as the “Settling Parties.”

On July 8, 2022, Plaintiff commenced this Action against Defendants styled *Solak v. Mates et al.*, Index No. 652377/2022 (N.Y. Sup.) in the Supreme Court for the State of New York, New York County, by filing a Verified Shareholder Derivative Complaint (the “Complaint”) The Complaint includes claims for breach of fiduciary duty and unjust enrichment against the Individual Defendants based upon allegations that since fiscal year 2021 the Board has approved and awarded excessive and improper compensation to the non-employee directors of Intra-Cellular as compared to the compensation paid to directors of peer companies during the same time period. Defendants have denied, and continue to deny, the allegations in the Complaint, including that they awarded excessive or improper compensation to non-employee directors of Intra-Cellular.

---

<sup>1</sup> All capitalized terms are defined in the Stipulation unless otherwise noted.

Following the commencement of the Action, counsel for the parties agreed to extend Defendants' deadline for responding to the Complaint while the Settling Parties discussed a potential resolution of the Action.

After multiple rounds of arm's length negotiations between the Settling Parties, the Settling Parties reached an agreement in principle providing for the settlement of Plaintiff's claims that were or could have been asserted against the Individual Defendants in the Action upon the terms and subject to the conditions set forth in this Stipulation (the "Settlement"), subject to Plaintiff's receipt of confirmatory discovery, and on December 8, 2022, executed a term sheet memorializing such agreement. Following receipt and review of the Confirmatory Discovery, Plaintiff and Plaintiff's Counsel confirmed that in their view the settlement agreement in principle as negotiated was fair and adequate to the Company and its stockholders, and that it was appropriate and reasonable to pursue Court approval of a settlement. Plaintiff's Counsel filed a joint motion for preliminary approval of settlement on March 6, 2023. On March 13, 2023, Individual Defendants' Counsel learned of the passing of Sir Michael Rawlins, M.D., one of the Individual Defendants named in Plaintiff's Complaint. On March 17, 2023, Plaintiff's Counsel filed a Notice of Voluntary Discontinuance pursuant to CPLR 3217(a)(1) as to Mr. Rawlins. On March 21, 2023, Plaintiff's Counsel filed an Amended Stipulation of Settlement (the "Settlement"). Plaintiff's Counsel finds it appropriate and reasonable to pursue Court approval of the Settlement as against the five remaining Individual Defendants based on the terms and subject to the conditions set forth in the Stipulation.

**THE COURT HAS NOT FINALLY DETERMINED THE MERITS OF PLAINTIFF'S CLAIMS OR THE DEFENSES THERETO. THIS NOTICE DOES NOT IMPLY THAT THERE HAS BEEN OR WOULD BE ANY FINDING OF VIOLATION OF THE LAW OR THAT RECOVERY COULD BE HAD IF THE ACTION WAS NOT SETTLED.**

### **III. WHAT ARE THE TERMS OF THE SETTLEMENT?**

As a result of the filing, prosecution, and settlement of the Action, Intra-Cellular has agreed to amend certain corporate governance practices, as described in the Stipulation and set forth herein:

- 1) Within sixty (60) business days of the Effective Date, the Board shall amend its current compensation practices and policies in place for its non-employee directors and the Board shall adopt an amended compensation plan effective for 2023 (the "2023 Plan").
- 2) The 2023 Plan adopted by the Board will remain in effect for no fewer than four (4) years.
- 3) Under the 2023 Plan:
  - a) Base cash compensation provided to each non-employee director will be set at no more than \$50,000 per year, with additional compensation available for service on committees or in leadership roles, consistent with the current compensation plan. Equity compensation provided to each non-employee directors will not exceed the 75<sup>th</sup> percentile annual equity grant for Intra-Cellular's then-applicable peer group ("Peer

- Group”), as such Peer Group is approved by the Compensation Committee of the Board (“Compensation Committee”), based on the total grant date fair value of equity awards.
- b) The Company will assess its peer group annually and will select peers using the criteria already in place, as described in the Company’s shareholder disclosures. That is, the Company will select publicly traded, national and regional companies in the biopharmaceutical industries: (a) whose number of employees, stage of development, and relative complexity of clinical trials are similar to the Company’s; (b) that are pre-revenue or had a recent commercial product launch; (c) with market values of approximately 0.25 times to four times the Company’s market capitalization at the time; (d) against which the Company believes it competes for executive talent; and (e) whose compensation and financial data are available in proxy statements or through widely available compensation surveys. The Compensation Committee will retain an independent compensation consultant each year and make a determination as to its independence. The independent compensation consultant will assist in the identification of the Company’s peer group and will provide an annual update on recent developments and best practices concerning non-employee director and executive compensation matters to the Compensation Committee.
  - c) For their first year of service, newly appointed directors may receive up to one and three quarters times (1.75x) the compensation provided to incumbent directors.
  - d) Equity grants will be issued in terms of value rather than a fixed-share amount, using the grant-date fair value calculated in accordance with the Black-Scholes option valuation methodology or such other methodology as the Board reasonably selects.
  - e) Within four years, the Company will convert the entire equity portion of its non-employee director compensation from option grants to RSU grants.
- 4) The details of the 2023 Plan will be disclosed to shareholders, consistent with the Company’s current extensive disclosure practices.
  - 5) The Company will maintain its current non-employee director stock ownership guidelines, which require directors to achieve and maintain ownership of shares valued at three times their annual cash retainer within five years of the adoption of the policy (which was in 2021) or election to the Board, whichever is later.
  - 6) The Company will continue to grant annual equity awards to non-employee directors on a different date than annual equity awards to executive officers. Further, any final deliberations or voting on the compensation of non-employee directors (including any changes to the annual compensation package) shall be made at a different Board (or committee) meeting than any final deliberations or voting on the compensation of executive officers (including any changes to the annual compensation package).

#### **IV. CORPORATE BENEFIT ONLY**

Because the Action was brought for the benefit of Intra-Cellular, any monetary benefit or recovery in the litigation (whether from this or any settlement or through a judgment in favor of

the Plaintiff) would go to Intra-Cellular. Intra-Cellular stockholders will not receive any direct payment as a result of the Stipulation and will not need to fill out any kind of claims form as a result of the Settlement.

## V. COURT APPROVAL

The Stipulation is contingent on receiving approval from the Court.

## VI. WHAT CLAIMS WILL THE SETTLEMENT RELEASE?

*Under the Stipulation, the following releases will occur upon the Effective Date, except as noted below:*

The Releasing Persons (defined below) shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled, released, discharged, extinguished, and dismissed with prejudice the Released Claims (defined below) against the Released Persons (defined below); provided, however, that such release shall not affect any claims to enforce the terms of the Stipulation.

The Released Persons and Intra-Cellular shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled, released, discharged, extinguished, and dismissed with prejudice all claims (including Unknown Claims, defined below), arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Action against Plaintiff and Plaintiff's Counsel; provided, however, that such release shall not affect any claims to enforce the terms of the Stipulation.

"Releasing Persons" means Plaintiff (both individually and derivatively on behalf of Intra-Cellular), any other Intra-Cellular stockholder acting or purporting to act on behalf of Intra-Cellular, and Intra-Cellular. "Releasing Person" means, individually, any of the Releasing Persons.

"Released Persons" shall mean each of Individual Defendants and Intra-Cellular and their parents, subsidiaries, affiliates, predecessors, successors, and controlling persons, and each of their respective past or present officers, directors, employees, stockholders, family members, spouses, heirs, trusts, trustees, executors, beneficiaries, agents, representatives, partners, members, advisors, consultants, representatives, accountants, attorneys, insurers, and associates.

"Released Claims" means and includes any and all manner of claims, causes of action, demands, rights, liabilities, losses, obligations, duties, damages, costs, debts, penalties, or sanctions of any kind, nature, or description whatsoever, whether known or unknown, disclosed or undisclosed, accrued or unaccrued, apparent or not apparent, foreseen or unforeseen, matured or not matured, suspected or unsuspected, liquidated or not liquidated, fixed or contingent, including Unknown Claims (as defined in the Stipulation), whether based on state, local, foreign, federal, statutory, regulatory, common, or other law or rule, that have been or could have been asserted by Plaintiff, or any other Intra-Cellular stockholder or any other Person acting or purporting to act on behalf of Intra-Cellular against the Released Persons in the Action or in any other court, tribunal, or proceeding arising out of, based upon, or relating in any way to the allegations, actions, transactions, occurrences, statements, omissions, disclosures, facts, practices, events, or claims alleged or referred to in the Complaint, including without limitation, (i) any

compensation paid by Intra-Cellular to its non-employee directors from January 1, 2021 through the Effective Date; (ii) any non-employee director compensation plan, policies or guidelines in effect at Intra-Cellular from January 1, 2021 through the Effective Date; and (iii) any decision of the Company's officers or directors related to the foregoing; provided, however, that it is understood that "Released Claims" and any release provided by this Settlement shall not include: (a) any claims to enforce the Settlement, and (b) any claims by Defendants or any insured to enforce their rights under any contract or insurance policy.

## VII. WHAT ARE THE REASONS FOR SETTLING THE ACTION?

Plaintiff's entry into the Stipulation and Settlement is not intended to be and shall not be construed as an admission or concession concerning the relative strength or merit of the claims alleged in the Action. However, Plaintiff and Plaintiff's Counsel also recognize and acknowledge the significant risk, expense, and length of continued proceedings necessary to prosecute the Action against Defendants through trial and through possible appeals. Plaintiff's Counsel also have taken into account the uncertain outcome and the risk of any litigation, especially in complex cases such as the Action, as well as the difficulties and delays inherent in such litigation. Plaintiff's Counsel also are mindful of the inherent problems of proof and possible defenses to the claims alleged in such actions.

Based upon Plaintiff's Counsel thorough review and analysis of the relevant facts, allegations, defenses, and controlling legal principles, Plaintiff and Plaintiff's counsel have determined that in their view the Settlement set forth in the Stipulation is fair, reasonable, and adequate, and in the best interests of Intra-Cellular and its stockholders and have agreed to settle the Action on the terms and subject to the conditions set forth herein.

The Defendants have denied, and continue to deny, the allegations in the Complaint, including that they have committed any breach of fiduciary duty or any other duty owed to Intra-Cellular or its stockholders, that they were unjustly enriched as a result of any breach of fiduciary duty or any other act, omission or conduct, or that they committed any violations of law or wrongdoing whatsoever or that Intra-Cellular or Intra-Cellular's stockholders suffered any damage or harm as a result of any act, omission or conduct alleged in the Action or otherwise. The Defendants have further asserted, and continue to assert, that at all relevant times, they have acted in good faith and in a manner that they believed to be in the best interests of Intra-Cellular and its stockholders, and that they are entering into the Stipulation and the Settlement solely to eliminate the uncertainty, distraction, disruption, burden, expense, and risk inherent in further litigation.

## VIII. HOW WILL THE ATTORNEYS GET PAID?

The Settling Parties did not discuss the appropriateness or amount of attorneys' fees and expenses to be paid to Plaintiff's Counsel until after reaching agreement on the terms of the Settlement, and the Settling Parties understood at all times that the Settlement was not contingent upon agreement or payment of any attorneys' fees and expenses to Plaintiff's Counsel. After agreeing to the terms of the Settlement and the completion of Confirmatory Discovery, Plaintiff's Counsel and Intra-Cellular separately began negotiating the amount of the award of attorneys' fees and expenses to be paid to Plaintiff's Counsel.

Defendants acknowledge that Plaintiff's Counsel are entitled to apply for a fee award. In recognition of the terms of the Settlement and the prosecution and settlement of the Action, and subject to Court approval, Intra-Cellular and/or its insurance carriers have agreed to pay an award of attorneys' fees and expenses to Plaintiff's Counsel not to exceed \$375,000 (the "Fee and Expense Amount"). The Fee and Expense Amount will be paid by the Defendants and/or their insurers. The Fee and Expense Amount includes the fees and expenses incurred by Plaintiff's Counsel in connection with the prosecution and settlement of the Action. Plaintiff's Counsel will not seek fees or expenses from the Court in excess of the agreed-to amount and Plaintiffs' Counsel will not make an application for attorneys' fees or expenses in any other jurisdiction. Except as otherwise provided herein, each of the Parties shall bear his, her, or its own fees and costs.

#### **IX. WHEN WILL THE SETTLEMENT HEARING TAKE PLACE?**

The Court has scheduled a Settlement Hearing to be held on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ a.m. / p.m., in the Supreme Court for the State of New York, New York County Courthouse, 60 Centre St., New York, New York 10007.

At the Settlement Hearing, the Court will consider (a) whether the Settlement, on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate and in the best interests of Intra-Cellular and its current stockholders, and thus should be finally approved, (b) whether the fees and expenses sought by Plaintiff's Counsel should be approved, and (c) whether the Action should be dismissed with prejudice by entry of the Judgment pursuant to the Stipulation. The Court will also hear and determine objections, if any, to the Settlement, the Fee and Expense Award sought by Plaintiff's Counsel, and rule on such other matters as the Court may deem appropriate.

The Court may adjourn the Settlement Hearing from time to time without further notice to anyone other than the Settling Parties and any Objectors (as defined below). The Court reserves the right to approve the Stipulation at or after the Settlement Hearing with such modifications as may be consented to by the Settling Parties to the Stipulation and without further notice.

#### **X. DO I HAVE A RIGHT TO APPEAR AND OBJECT?**

Any record or beneficial stockholder of Intra-Cellular who objects to the Settlement, the proposed Judgment to be entered, the Fee and Expense Award, or who otherwise wishes to be heard (an "Objector"), may appear in person or by his, her, or its attorney at the Settlement Hearing and present any evidence or argument that may be proper and relevant; provided, however, that no Objector shall be heard or entitled to contest the approval of the terms and conditions of the Settlement, or, if approved, the Judgment to be entered thereon, unless he, she, or it has, no later than ten (10) calendar days before the Settlement Hearing (unless the Court in its discretion shall thereafter otherwise direct, upon application of such person and for good cause shown), filed with the Clerk of the Supreme Court for the State of New York, New York County, and served (electronically, by hand, or by overnight mail) on Plaintiff's Counsel and Defendants' Counsel, at the addresses below, the following: (i) proof of current ownership of Intra-Cellular stock; (ii) a written notice of the Objector's intention to appear, including identifying, if represented, the Objector's counsel; (iii) a detailed statement of the objections to any matter before the Court; and (iv) a detailed statement of all of the grounds thereon and the reasons for the Objector's desire to

appear and to be heard, as well as all documents or writings which the Objector desires the Court to consider. In addition to the aforementioned Court address, the addresses to which such information should be sent (electronically, by hand, or by overnight mail) are as follows:

NEWMAN FERRARA LLP  
Jeffrey M. Norton  
1250 Broadway, 27<sup>th</sup> Floor  
New York, NY 10001  
(212) 619-5400  
*Attorneys for Plaintiff*

PAUL, WEISS, RIFKIND,  
WHARTON & GARRISON LLP  
Richard A. Rosen  
Geoffrey Chepiga  
1285 Avenue of the Americas  
New York, NY 10019  
(212) 373-3000  
*Attorneys for Individual Defendants*

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY, AND POPEO, P.C  
John F. Sylvia  
One Financial Center  
Boston, Massachusetts 02111  
(617) 348-1820  
*Attorneys for Intra-Cellular*

Any person or entity who fails to object in the manner prescribed above shall be deemed to have waived such objection (including the right to appeal), unless the Court in its discretion allows such objection to be heard at the Settlement Hearing, and shall forever be barred from raising such objection in the Action or any other action or proceeding or otherwise contesting the Stipulation or the Fee and Expense Amount, and will otherwise be bound by the Judgment to be entered and the releases to be given. You are not required to appear in person at the Settlement Hearing in order to have your timely and properly filed objection considered.

#### **XI. HOW DO I GET ADDITIONAL INFORMATION ABOUT THE SETTLEMENT?**

This Notice summarizes the Stipulation. It is not a complete statement of the events of the Action or the Stipulation. For additional information about the claims asserted in the Action and the terms of the Settlement, please refer to the documents filed with the Court and the Stipulation available on Plaintiff's Counsel's website at [www.nflp.com](http://www.nflp.com). You may examine the Court files during regular business hours of each business day at the office of the Clerk for the Supreme Court for the State of New York, New York County Courthouse, 60 Centre St., New York, New York 10007. However, you must appear in person to inspect these documents. The Clerk's office will not mail copies to you.



For more information concerning the Settlement, you may also call or write to: Newman Ferrara LLP, c/o Jeffrey M. Norton, 1250 Broadway, 27<sup>th</sup> Floor, New York, NY 10001, Telephone: (212) 619-5400.

***PLEASE DO NOT WRITE OR CALL THE COURT OR THE OFFICE OF THE CLERK FOR THE SUPREME COURT OF THE STATE OF NEW YORK, NEW YORK COUNTY REGARDING THIS NOTICE.***

BY ORDER OF THE COURT

Dated: \_\_\_\_\_

\_\_\_\_\_  
J.S.C