

1 COOLEY LLP
2 JOHN C. DWYER (136533)
(dwyerjc@cooley.com)
3 JESSICA VALENZUELA SANTAMARIA (220934)
(jvs@cooley.com)
4 BRETT DE JARNETTE (292919)
(bdejarnette@cooley.com)
5 JOSHUA WALDEN (327794)
(jwalden@cooley.com)
6 3175 Hanover Street
Palo Alto, California 94304-1130
7 Telephone: +1 650 843 5000
Facsimile: +1 650 849 7400

8 Attorneys for Defendants
9 BioMarin Pharmaceutical Inc., Jean-Jacques Bienaimé,
Brian R. Mueller, Daniel Spiegelman, and Henry J.
Fuchs

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

14 DAVID F. BERLINGER, Individually and on
15 Behalf of All Others Similarly Situated,

16 Plaintiff,

17 v.
18 BIOMARIN PHARMACEUTICAL INC.,
JEAN-JACQUES BIENAIMÉ, BRIAN R.
19 MUELLER, DANIEL SPIEGELMAN, and
HENRY J. FUCHS,

20 Defendants.

21 Case No. 3:21-cv-08254-MMC

22 **STIPULATION AND [PROPOSED]
SCHEDULING ORDER**

23 **JURY TRIAL DEMANDED**

24 Judge: Hon. Maxine M. Chesney
Courtroom: 7

1 Plaintiffs Local 282 Pension Trust Fund and Local 282 Annuity Trust Fund (the “Local 282
 2 Trust Funds” or “Lead Plaintiffs”), by and through their undersigned counsel, and Defendants
 3 BioMarin Pharmaceutical, Inc., Jean-Jacques Bienaimé, Brian R. Mueller, Daniel Spiegelman, and
 4 Henry J. Fuchs (collectively, “Defendants”), by and through their undersigned counsel, hereby
 5 stipulate and agree as follows:

6 WHEREAS, on October 22, 2021, putative BioMarin shareholder David F. Berlinger,
 7 individually and on behalf of all others similarly situated, filed a putative class action complaint
 8 (the “Complaint”) in the action captioned *Berlinger v. BioMarin Pharmaceutical Inc., et al.*, 5:21-
 9 cv-08254-LHK (N.D. Cal.) against Defendants alleging violations of Sections 10(b) and 20(a) of
 10 the Securities Exchange Act of 1934 (the “Exchange Act”), U.S.C. §§ 78j(b) and 78t(a), and Rule
 11 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5 (ECF No. 1);

12 WHEREAS, on December 8, 2021, the parties filed a Stipulation and Proposed Order to
 13 Vacate Initial Case Management Conference and Reset All Related Deadlines and Extend
 14 Defendants’ Time to Answer or Otherwise Respond to the Complaint (ECF No. 11);

15 WHEREAS, on December 22, 2021, Lead Plaintiffs and other putative BioMarin
 16 shareholders filed several competing motions for appointment as lead plaintiff and approval of lead
 17 counsel;

18 WHEREAS, on January 7, 2022, Chief District Judge Richard Seeborg reassigned this case
 19 to Judge Maxine M. Chesney, following the confirmation by the United States Senate of Judge
 20 Lucy H. Koh’s nomination to the Ninth Circuit Court of Appeals (ECF No. 38);

21 WHEREAS, on January 10, 2022, the Court entered an order granting the December 8,
 22 2021 Stipulation and Proposed Order (ECF No. 39), providing that Defendants shall not be required
 23 to answer, move to dismiss, or otherwise respond to the operative complaint and that within twenty
 24 days following the appointment of a lead plaintiff and lead counsel, Defendants shall meet and
 25 confer with the court-appointed lead plaintiff to set a schedule for the filing of an amended
 26 complaint and Defendants’ response thereto;

27
 28

WHEREAS, on January 10, 2022, the Court entered an order appointing as lead plaintiff the Local 282 Trust Funds and approving the Local 282 Trust Funds' selection of Robbins Geller Rudman & Dowd LLP as lead counsel (ECF No. 41);

WHEREAS, pursuant to the January 10, 2022 Order, Lead Plaintiff and Defendants (together, the “Parties”) have met and conferred and, subject to this Court’s approval, have agreed to a proposed schedule as set forth below;

NOW THEREFORE, the Parties hereby stipulate and agree as follows, through their undersigned counsel:

1. Lead Plaintiffs shall file and serve an amended complaint (the “Amended Complaint”) on or before March 25, 2022.

2. Defendants shall answer, move to dismiss, or otherwise respond to the Amended Complaint on or before May 25, 2022.

3. If Defendants move to dismiss the Amended Complaint, Lead Plaintiffs shall file and serve any opposition to such motion on or before July 25, 2022.

4. Defendants shall file and serve their reply to any such opposition on or before September 1, 2022.

IT IS SO STIPULATED.

Respectfully submitted,

Dated: January 31, 2022

COOLEY LLP

By: /s/ Jessica Valenzuela Santamaria
Jessica Valenzuela Santamaria

Attorneys for Defendants
BioMarin Pharmaceutical Inc., Jean-
Jacques Bienaimé, Brian R. Mueller,
Daniel Spiegelman, and Henry J. Fuchs

1 Dated: January 31, 2022

ROBBINS GELLER RUDMAN
& DOWD LLP
DAVID MITCHELL
BRIAN O'MARA
STEVE JODLOWSKI

5 By: /s/ David Mitchell
6 David Mitchell

7 655 West Broadway, Suite 1900
8 San Diego, CA 92101
Telephone: (619) 231-1058
Fax: (619) 231-7423

9 ROBBINS GELLER RUDMAN
10 & DOWD LLP
11 SHAWN A. WILLIAMS
Post Montgomery Center
One Montgomery Street, Suite 1800
12 San Francisco, CA 94104
Telephone: (415) 288-4545
Fax: (415) 288-4534

13
14 *Attorneys for Plaintiff*

15
16 **ATTESTATION PURSUANT TO CIV. L.R. 5-1(i)(3)**

17 Pursuant to Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document
18 has been obtained from the other signatory.

19 Dated: January 31, 2022

/s/ Jessica Valenzuela Santamaria
20 Jessica Valenzuela Santamaria

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: January 31, 2022

Maxine M. Chesney
Hon. Maxine M. Chesney
United States District Court Judge