

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 KANG LI, Individually and on Behalf of All
4 Others Similarly Situated,

5 Plaintiff,

6 v.

7 KALOBIOUS PHARMACEUTICALS, INC.,
8 MARTIN SHKRELI, and HERB C. CROSS,

9 Defendants.

No. 15-cv-05841-EJD

**~~PROPOSED~~ ORDER CONSOLIDATING
RELATED ACTIONS, APPOINTING LEAD
PLAINTIFF, AND APPROVING SELECTION
OF COUNSEL**

DATE: August 4, 2016

TIME: 9:00 am

JUDGE: Hon. Edward J. Davila

CTRM: 4 – 5th Floor

11 MATTHEW SCIABACUCCHI, Individually
12 and on Behalf of All Others Similarly Situated,

13 Plaintiff,

14 v.

15 KALOBIOUS PHARMACEUTICALS, INC.
16 and MARTIN SHKRELI,

17 Defendants.

No. 15-cv-05992-CRB

19 AUSTIN ISENSEE, Individually and on Behalf
20 of All Others Similarly Situated,

21 Plaintiff,

22 v.

23 KALOBIOUS PHARMACEUTICALS, INC.,
24 MARTIN SHKRELI, and CHRIS THORN,

25 Defendants.

No. 15-cv-06331-WHO

26
27
28
PROPOSED ORDER

1 **WHEREAS**, the Court has considered the competing motions for Appointment of Lead Plaintiff
2 and Approval of Lead Counsel,

3 **IT IS HEREBY ORDERED THAT:**

4 **I. CONSOLIDATION OF RELATED ACTIONS**

5 1. Pursuant to Federal Rule of Civil Procedure 42, the above-captioned actions are hereby
6 consolidated for all purposes into one action.

7
8 2. These actions shall be referred to herein as the “Consolidated Action.” This Order shall
9 apply to the Consolidated Action and to each case that is subsequently filed in this Court that relates to the
10 same subject matter as in the Consolidated Action.

11 3. Every pleading in this Consolidated Action shall bear the following Caption:

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 **IN RE KALOBIOUS**
15 **PHARMACEUTICALS, INC.**
16 **SECURITIES LITIGATION**

17 THIS DOCUMENT RELATES TO:

No. _____

CLASS ACTION

[TITLE OF DOCUMENT]

18 4. When the document being filed pertains to all actions, the phrase “All Actions” shall appear
19 immediately after the phrase “This Document Relates To:”. When the document applies to some, but not
20 all, of the actions, the document shall list, immediately after the phrase “This Document Relates To:”, the
21 docket number for each individual action to which the document applies, along with the name of the first-
22 listed plaintiff in said action.

23
24 5. This Court requests assistance of counsel in calling to the attention of the Clerk of this Court
25 the filing or transfer of any case which might not properly be consolidated as part of this Consolidated
26 Action.

27 **II. MASTER DOCKET AND MASTER FILE**

28 6. A Master Docket and Master File shall be established for the Consolidated Action. The

PROPOSED ORDER

1 Master File shall be No. 15-cv-05841-EJD. All orders, pleadings, motions and other documents shall, when
2 filed and docketed in the Master File, be deemed filed and docketed in each individual case to the extent
3 applicable. When an order, pleading, motion or document is filed with a caption indicating that it is
4 applicable to fewer than all individual actions in the Consolidated Action, the clerk shall file such pleadings
5 in the Master File and note such filing in the Master Docket and in the docket of each action referenced.

6
7 **III. APPOINTMENT OF LEAD PLAINTIFF AND LEAD COUNSEL**

8 1. Having reviewed all pending Motions and accompanying Memoranda of Law, the Court
9 hereby appoints Kaniz Fatema, Zeke Ingram, Bhaskar R. Gudlavenkatasiva, and Abuhena M. Saifulislam
10 (the “KaloBios Investor Group”) as Lead Plaintiff. The KaloBios Investor Group satisfies the
11 requirements for Lead Plaintiff pursuant to Section 21D(a)(3)(B)(iii) of the PSLRA.

12 2. Lead Plaintiff, pursuant to Section 21D(a)(3)(B)(v) of the PSLRA, has selected and
13 retained the law firm of Pomerantz LLP as Lead Counsel in this consolidated action, and the Court hereby
14 approves this selection.

15 3. Plaintiff’s Lead Counsel shall have the following responsibilities and duties, to be carried
16 out either personally or through counsel whom Lead Counsel shall designate:

- 17
18 (a) to coordinate the briefing and argument of motions;
19
20 (b) to coordinate the conduct of discovery proceedings;
21
22 (c) to coordinate the examination of witnesses in depositions;
23
24 (d) to coordinate the selection of counsel to act as a spokesperson at pretrial
25 conferences;
26
27 (e) to call meetings of the plaintiff’s counsel as they deem necessary and appropriate
28 from time to time;
29
30 (f) to coordinate all settlements negotiations with counsel for defendants;
31
32 (g) to coordinate and direct the pretrial discovery proceedings and the preparation for
33 trial and the trial of this matter and to delegate work responsibilities to selected
34 counsel as may be required; and

(h) to supervise any other matters concerning the prosecution, resolution or settlement of the Consolidated Action.

4. No motion, request for discovery, or other pretrial proceedings shall be initiated or filed by any plaintiff without the approval of Lead Counsel, so as to prevent duplicative pleadings or discovery by plaintiffs. No settlement negotiations shall be conducted without the approval of Lead Counsel.

5. Counsel in any related action that is consolidated with this action shall be bound by this organization of plaintiffs' counsel.

6. Lead Counsel shall have the responsibility of receiving and disseminating Court orders and notices.

7. Lead Counsel shall be the contact between plaintiffs' counsel and defendants' counsel, as well as the spokesperson for plaintiffs' counsel, and shall direct and coordinate the activities of plaintiffs' counsel.


8. Defendants shall effect service of papers on plaintiffs by serving a copy of same on Lead Counsel by overnight mail service, electronic or hand delivery. Plaintiffs shall effect service of papers on defendants by serving a copy of same on defendants' counsel by overnight mail service, electronic or hand delivery.

9. During the pendency of this litigation, or until further order of this Court, the parties shall take reasonable steps to preserve all documents within their possession, custody, or control, including computer-generated and stored information, and materials such as computerized data and electronic mail, containing information which is relevant or which may lead to the discovery of information relevant to the subject matter of the pending litigation.

The Clerk shall administratively close
Case Nos. 5:15-cv-05992-EJD and
5:15-cv-06331-EJD.

SO ORDERED.

Dated: April 28, 2016


Honorable Edward J. Davila
United States District Judge
Northern District of California

PROPOSED ORDER