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ATTORNEYS AT LAW

December 23, 2019

**VIA ECF**

The Honorable Madeline Cox Arleo  
United States District Judge for the District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street, Room 4015  
Newark, New Jersey 07101

Re: ***In re Thalomid and Revlimid Antitrust Litigation***  
**Civil Action No. 14-6997 (MCA) (MAH)**

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Dear Judge Arleo:

Plaintiffs write to inform the Court that pursuant to paragraph 36 of the settlement agreement (ECF 289-3), Celgene informed Plaintiffs this morning that it is terminating the settlement agreement.<sup>1</sup> Therefore, Plaintiffs withdraw as moot their motion for final approval of settlement (ECF 294) and motion for attorneys' fees, expenses, and service awards to the class representatives (ECF 293).

Needless to say, Plaintiffs are disappointed that because some 80 class members exercised their right to exclude themselves from the class settlement, the approximately 9,000 consumers and third-party payors that filed claims to participate in the \$55 million settlement will be denied any compensation at this time.

Plaintiffs' renewed motion to certify the class was fully briefed in February 2019, and was pending decision prior to the parties' announcement of a settlement agreement in July 2019. No objections were received to the class settlement. Plaintiffs respectfully request that the Court convert the January 6, 2020 Fairness Hearing to a status conference to discuss next steps.

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<sup>1</sup> Paragraph 36 states: "In the event that certain Settlement Class Members timely and validly exercise their rights to opt out of the Settlement (as set forth in a separate letter agreement between Settlement Class Counsel and Celgene (the 'Letter Agreement')), then Celgene shall have the right to elect, in its sole and absolute discretion, whether to proceed with this Agreement. If Celgene furnishes written notice to Settlement Class Counsel that it is exercising its right to terminate this Agreement pursuant to this Paragraph within fourteen (14) calendar days of receiving the Opt-Out List (the 'Rescission Deadline'), then this Agreement will be of no further force or effect and whatever portion of the Settlement Fund that remains after payment of settlement notice and administration costs (including payment of taxes) incurred up through the date of such election shall be returned immediately to Celgene."

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Respectfully submitted,



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