

corporation are protected by the business judgment rule, which is “a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *Id.* at 1178–79. While the board of directors generally decides whether to pursue legal action on behalf of the corporation, shareholders, through what is known as a derivative suit, may file a lawsuit to enforce the corporation’s rights. *Id.* at 1179. To be permitted to file a derivative suit, a shareholder must set forth particularized factual statements that are essential to the claim that demand has been made on the corporation that it pursue the claim that the shareholder seeks to pursue, or, alternatively, that making a demand on the corporation would be futile. *Id.* at 1179–80 (see also *ed. Civ. P. 31*). “shareholder’s failure to sufficiently plead compliance with the demand requirement deprives the shareholder of standing and justifies dismissal of the complaint for failure to state a claim upon which relief may be granted.” *Schoen*, 137 P.3d at 1180.

The Supreme Court of Nevada has adopted a two prong analysis to determine whether demand would be futile:

When a shareholder’s demand would be made to the same board that voted to take or reject an action, so



that the allegedly improper action constitutes a business decision by the board, a shareholder asserting demand futility must allege, with particularity, facts that raise a reasonable doubt as to the directors' independence or their entitlement to protection under the business judgment rule. However, when a board does not affirmatively make a business decision or agree to the subject action, the demand requirement will be excused as futile only when particularized pleadings show that at least fifty percent of the directors considering the demand for corrective action would be unable to act impartially.

*Id.* at 11. The first prong concerns business decisions by the board of directors with respect to the first prong,

a plaintiff challenging a business decision and asserting demand futility must sufficiently show that either the board is incapable of invoking the business judgment rule's protections (e.g., because the directors are financially or otherwise interested in the challenged transaction) or, if the board is capable of invoking the business judgment rule's protections, that that rule is not likely to in fact protect the decision (i.e., because there exists a possibility of overcoming the business judgment rule's presumptions that the requisite due care was taken when the business decision was made).

*Id.* at 11-12. The second prong concerns actions by the corporation to which the business judgment rule does not apply, for example, when the board members who decided the challenged act have since changed or when the challenged act



does not constitute a decision by the board.” *Id.* at 118. With respect to the second prong, “the demand futility analysis considers only whether a majority of the directors had a disqualifying interest in the [demand] matter or were otherwise unable to act independently’ at the time the complaint was filed.” *Id.* at 118. “To show interestedness, a shareholder must allege that a majority of the board members would be ‘materially’ affected, either to [their] benefit or detriment, by a decision of the board, in a manner not shared by the corporation and the stockholders.” *Id.* The Supreme Court of Nevada noted, “[a]llegations of mere threats of liability through approval of the wrongdoing or other participation, however, do not show sufficient interestedness to excuse the demand requirement.” *Id.*

### III. ISSUE PRECLUSION

#### Issue preclusion

In cases governed by the law of the State of Nevada, “issue preclusion ‘applies to prevent relitigation of [] a specific issue that was decided in a previous suit between the parties, even if the second suit is based on different causes of



fatty liver disease with advanced fibrosis. Doc. No. [74], p. 3, ¶¶ 2-3; Doc. No. [74], p. 11, ¶ 20; Doc. No. [74], pp. 19-20, ¶ 39. The Individual Defendants comprise the management team of Galectin—e.g., Chief Executive Officer, Chief Medical Officer, and Chief Financial Officer—and members of Galectin's board of directors. Doc. No. [74], pp. 12-17, ¶¶ 21-31. 10X Fund and its general partner, 10X Capital Management, LLC, were co-founded by Czirr and Martin in 2007 as a technology-focused hedge fund headquartered in Niceville, Florida. Doc. No. [74], p. 17, ¶ 32. As of March 20, 2015, 10X Fund owned all of the issued and outstanding shares of Galectin Series B preferred stock, as well as warrants exercisable to purchase additional common stock. Doc. No. [74], p. 17, ¶ 32. Czirr was a managing partner of 10X Fund and served as Executive Chairman of Galectin's Board of Directors during the class period. Doc. No. [74], pp. 12-13, ¶ 22. Martin was also a managing partner of 10X Fund and served as Vice Chairman of Galectin's Board of Directors during the time period pertinent to this matter. Doc. No. [74], p. 15, ¶ 27.

Plaintiffs include six substantive counts in the Verified Amended Complaint.<sup>3</sup> In Count 1, Plaintiffs allege that Individual Defendants violated

<sup>3</sup> The Verified Amended Complaint is a quintessential shotgun pleading. The United States Court of Appeals for the Eleventh Circuit defines shotgun pleadings as "those that



Section 14(a) of the Exchange Act and Rule 14a-9 promulgated thereunder by failing to disclose in Galectin's 2013 and 2014 Proxy Statements that they had caused the company to enter into a secret stock promotion scheme. Doc No. [74], pp. 150-52, ¶¶ 311-18. In Count II, Plaintiffs allege that Individual Defendants breached their fiduciary duties by failing to disclose material information concerning Galectin, namely the secret stock promotion scheme. Doc No. [74], pp. 152-54, ¶¶ 320-27. In Count III, Plaintiffs allege that Czirn, Martin, and Prelack breached their fiduciary duties by selling Galectin stock while in possession of material non public information. Doc No. [74], pp. 154-56, ¶¶ 328-34. In Count IV, Plaintiffs allege that Individual Defendants were unjustly enriched due to the compensation they received while in breach of their fiduciary duties. Doc No. [74], pp. 156-57, ¶¶ 335-40. In Count V, Plaintiffs allege that Individual Defendants wasted corporate assets through improper payments to officers of Galectin, awarding stock options to officers and directors of Galectin, paying third party stock promoters, and potentially incurring substantial legal liability and legal costs. Doc No. [74], pp. 157-58,

incorporate every antecedent allegation by reference into each subsequent claim for relief or affirmative defense." *Wagner v. First Horizon Pharm. Corp.*, 464 F.3d 127, 1279 (11th Cir. 2006). "[S]hotgun pleadings wreak havoc on the judicial system." *Id.*



[ 341-45. In Count I, plaintiffs allege that Individual Defendants and 10X Fund aided and abetted in the alleged breaches of fiduciary duties. Doc. No. [74], p. 158-59. [ 346-52.

On July 8, 2015, Galectin filed a Motion to Dismiss (Doc. No. [79]) and Individual Defendants and 10X Fund filed a Motion to Dismiss (Doc. No. [80]). The parties have briefed the motions and the Court heard oral argument with respect to the motions on November 3, 2015 (Doc. No. [88]). The motions are now ripe for consideration by the Court.

## II. LEGAL STANDARD

Under the law of the State of Nevada, “a corporation’s board of directors has full control over the affairs of the corporation.” *Schoen v. S. C. Holding Corp.*, 137 Nev. 3d 1171, 1178 (Nev. 2006). The power conferred upon the board of directors to act on behalf of the corporation “is governed by the directors’ fiduciary relationship with the corporation and its shareholders, which imparts upon the directors duties of care and loyalty.” *Id.* “In essence, the duty of care consists of an obligation to act on an informed basis; the duty of loyalty requires the board and its directors to maintain, in good faith, the corporation’s and its shareholders’ best interests over anyone else’s interests.” *Id.* Directors of a



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE GALECTIN  
THERAPEUTICS, INC.  
DERIVATIVE LITIGATION

CIVIL ACTION NO.  
1:15-CV-208-SCJ

ORDER

This matter appears before the Court on Galectin Therapeutics, Inc.'s ("Galectin") Motion to Dismiss (Doc. No. [77]) and Peter Traber, Jack Callicutt, James C. Carr, Gilbert F. Amelio, Kevin D. Freeman, Arthur R. Greenberg, Rod D. Martin, John F. Mauldin, Steven Prelack, Herman Paul Pressler, III, Mark Rubin (the "Individual Defendants"), and 10X Fund L.P.'s ("10X Fund") Motion to Dismiss (Doc. No. [80]). Defendants move to dismiss with prejudice the Verified First Consolidated Amended Shareholder Derivative Complaint ("Verified Amended Complaint") for failure to make pre-suit demand on Galectin's board of directors or plead facts excusing demand as required by Federal Rule of Civil Procedure 23.1 and the law of the State of Nevada, and for

Individual Defendants and 10X Fund join in, adopt, and incorporate the arguments set forth in [Galectin's] Motion to Dismiss the Verified Consolidated Amended Shareholder Derivative Complaint pursuant to Federal Rules of Civil Procedure 12(c)(1) and 23.1 and Nevada law as if fully set forth [therein]." Doc. No. [80], p. 2.



failure to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6) and Federal Rule of Civil Procedure 9(b).

## I. PROCEDURAL BACKGROUND AND SUMMARY OF ALLEGATIONS<sup>2</sup>

On August 1, 2014, David E. Hasbrouck, derivatively on behalf of Galectin, filed a Complaint in the United States District Court for the District of Nevada against the Individual Defendants and Galectin alleging breach of fiduciary duties, unjust enrichment, waste of corporate assets, and aiding and abetting fiduciary violations. Doc. No. 1. On September 3, 2014, Galectin, Czirr, Traber, and Callicutt filed an unopposed motion in a related securities class action with the United States District Court for the District of Nevada to transfer venue to the United States District Court for the Northern District of Georgia. On September 29, 2014, Galectin, Traber, Czirr, Callicutt, Martin, Mauldin, Amelio, Freeman, Greenberg, Prelack, Pressler, and Rubin, defendants in the derivative action, filed

<sup>2</sup> “In ruling on a 12(b)(6) motion, the Court accepts the factual allegations in the complaint as true and construes them in the light most favorable to the plaintiff.” *Speaker v. U.S. Dept. of Health and Human Servs. Ctrs. for Disease Control and Prevention*, 623 F.3d 1371, 1379 (11th Cir. 2010). While the Court accepts the factual allegations as true and construes them in the light most favorable to Plaintiff, securities fraud claims are subject to heightened pleadings standards that must be met to survive a motion to dismiss. *In re AIG Advisor Group Securities Litigation*, 309 F. App. 49, 497 (2nd Cir. 2009). Plaintiff must plead with particularity the circumstances constituting fraud. *Id.*



a second unopposed motion to transfer venue to the United States District Court for the Northern District of Georgia. Doc. No. [38]. The United States District Court for the District of Nevada granted the motions and transferred venue to the United States District Court for the Northern District of Georgia on January 5, 2015. Doc. No. [44]. On February 27, 2015, Hasbrouck and Sui Yip, derivatively on behalf of Galectin, filed a Verified Consolidated Shareholder Derivative Complaint against certain current and former officers and directors of the company. Doc. No. [58]. On May 2, 2015, Hasbrouck and Yip filed the Verified Amended Complaint alleging violations of the Securities Exchange Act of 1934 ("Exchange Act") and laws of the State of Nevada. Doc. No. [74].

Hasbrouck is a current shareholder of Galectin and has continuously held Galectin stock since 2003, when the company was known as Pro Pharmaceuticals. Doc. No. [74], p. 11, 18. Yip is a current shareholder of Galectin and has continuously held Galectin stock since February 2007, when the company was known as Pro Pharmaceuticals. Doc. No. [74], p. 11, 19. Incorporated in the State of Nevada and headquartered in Norcross, Georgia, Galectin is a biotechnology company engaged in the research of galectin proteins to develop therapies for cancer and non alcoholic steatohepatitis ("NASH"), or



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IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL KIRSCH; AND SIU YIP,

Appellants,

v.

PETER G. TRABER; JAMES C.  
CZIRR; JACK W. CALLICUTT;  
GILBERT F. AMELIO; KEVIN D.  
FREEMAN; ARTHUR R.  
GREENBERG; ROD D. MARTIN;  
JOHN F. MAULDIN; STEVEN  
PRELACK; HERMAN PAUL  
PRESSLER, III; DR. MARC RUBIN;  
AND GALECTIN THERAPEUTICS,  
INC., A NEVADA CORPORATION,

Respondents.

Supreme Court No. 70854

District Court Case No. A-14-706397-  
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Electronically Filed  
Mar 14 2017 04:10 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

APPENDIX TO APPELLANT'S OPENING BRIEF  
VOLUME VII

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## APPELLANT'S APPENDIX

<b>DOCUMENT DESCRIPTION</b>	<b>FILING DATE</b>	<b>BATES NUMBER</b>	<b>VOLUME NUMBER</b>
Order re: Motion to Dismiss Shareholder Derivative Action	4/1/2016	APP000001 – APP000004	I
Notice of Entry of Order Denying Motion to Correct Order re: Motion to Dismiss Shareholder Derivative Action	6/16/2016	APP000005 - APP000010	I
Notice of Appeal	7/15/2016	APP000011 - APP000019	I
Verified Shareholder Derivative Complaint	8/29/2014	APP000020 - APP000045	I
Defendants' Motion to Stay the Case in Deference to Prior-Filed Parallel Derivative Litigation and Supporting Memorandum of Law	11/17/2014	APP000046 - APP000165	I
Court Minutes	12/19/2014	APP000166	I
Defendants' Motion for Reconsideration of Ruling Denying Defendants' Motion to Stay Case and Supporting Memorandum of Points and Authorities	1/8/2015	APP000167 - APP000189	I
Memorandum in Support of Plaintiff's Motion for Leave to file Plaintiff's Second Amended Shareholder Derivative Complaint	3/19/2015	APP000190 - APP000285	II
Plaintiff's Second Amended Shareholder Derivative Complaint	3/27/2015	APP000286 - APP000368	II
Individual Defendants' Motion to Dismiss the Second Amended Shareholder Derivative Complaint and Memorandum of Points and Authorities	4/22/2015	APP000369 - APP000559	III



<b>DOCUMENT DESCRIPTION</b>	<b>FILING DATE</b>	<b>BATES NUMBER</b>	<b>VOLUME NUMBER</b>
Nominal Defendant Galectin Therapeutics, Inc.'s Motion to Dismiss the Second Amended Shareholder Derivative Complaint and Memorandum of Points and Authorities	4/22/2015	APP000560 - APP000759	IV
Plaintiff's Combined Memorandum of Law in Opposition to the Nominal Defendant and Individual Defendants' Motions to Dismiss the Second Amended Shareholder Derivative Complaint	5/20/2015	APP000760 - APP000798	IV
David L. Hasbrouck and Siu Yip's Motion to Intervene	5/29/2015	APP000799 - APP000992	V
Individual Defendants' Reply Memorandum in Support of their Motion to Dismiss the Second Amended Shareholder Derivative Complaint	6/4/2015	APP000993 - APP000999	V
Nominal Defendant Galectin Therapeutic, Inc.'s Reply Memorandum in Support of its Motion to Dismiss the Second Amended Shareholder Derivative Complaint	6/4/2015	APP001000 - APP001043	V
Notice of Entry of Order Re: June 11, 2015 Motions to Dismiss and Motion to Join Additional Plaintiffs	8/10/2015	APP001044 - APP001049	VI
Individual Defendants' and 10X Fund, L.P.'s Motion to Dismiss Shareholder Derivative Action	1/19/2016	APP001050 - APP001054	VI
Nominal Defendant Galectin Therapeutic, Inc.'s Motion to Dismiss Shareholder Derivative Action	1/19/2016	APP001055 - APP001470	VI VII



DOCUMENT DESCRIPTION	FILING DATE	BATES NUMBER	VOLUME NUMBER
Court Minutes	3/3/2016	APP001471 - APP001472	VII
Transcript of Proceedings on November 3, 2015	11/3/2015	APP001473 – APP001549	VIII
Corrected Transcript of Proceedings on March 3, 2016	3/16/2016	APP001550 – APP001560	VIII

DATED this 14<sup>th</sup> day of March, 2017.

LEE, HERNANDEZ, LANDRUM &  
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efficacy. For instance, in a press release attached to the Company's current report on Form 8-K filed with the SEC on April 23, 2014, Galectin represented that "the first cohort [showed] that GR-MD-02 treatment resulted in *significant improvement in multiple biomarkers* of fibrosis and liver inflammation in patients with NASH with advanced fibrosis."

60. In turn, the Stock Promoters—at the paid behest of Galectin—manipulated and exploited Galectin's disclosures emphasizing the potential efficacy of GR-MD-02 by publishing articles that exaggerated these representations and drew misleading comparisons between Galectin and Intercept in order to artificially inflate the price of Galectin's common stock. The Stock Promoters' articles were published conveniently and intentionally around the same general time that Galectin issued its own public statements regarding the Phase I clinical trial of GR-MD-02, which, as alleged above, coincided with Galectin's ATM Offerings.

61. For example, elaborating on Galectin's claims of its competitiveness with Intercept in the January 13, 2014 Form 8-K, on January 28, 2014, TDM published an article stating "[i]f conclusions are to be drawn so early in the game, it's arguable that *Intercept's peer Galectin Therapeutics may actually have a better NASH/fibrosis drug in GR-MD-02*, based upon several factors." Then, shortly after Galectin announced the March 21, 2014 ATM Offering, TDM published an article on March 27, 2014 titled "Leading Companies Being Defined in the Hunt for a NASH Treatment," which stated with respect to Galectin:

. . . . Sadly, liver fibrosis and NASH are not reversible and often lead to the necessity for a liver transplant, of which only about 6,000 actually happen each year.

*These facts make Galectin Therapeutics particularly attractive as early research shows its lead drug candidate of GR-MD-02 to actually reverse fibrotic damage.* Although the company may trail Intercept and Galmed in stage of human trials at this point, *Galectin is only a clinical data set away from a potential leap forward with GR-MD-02.* The drug is being developed under a "Fast Track" designation from the FDA, which provides an expedited developmental pathway as well as



other benefits.

Galectin is in a Phase 1 trial of GR-MD-02, a complex carbohydrate drug that targets and inhibits galectin-3, a key protein in the pathogenesis of fatty liver disease. *A critical difference in the trial protocol is that Galectin is treating patients with NASH and advanced fibrosis, rather than earlier stages of the disease as other biotechs are.* Moreover, in animal models, *GR-MD-02 was shown to not only stop liver scarring from worsening; it showed the damage to start to be repaired.* (underlined emphasis in original).

62. Again, as alleged above, TDM disingenuously claimed in a July 24, 2014 article published on Yahoo! Finance that Galectin was “*nipping at Intercept’s heels[,]*” with “*GR-MD-02 seeming to work well even in advanced stages of liver fibrosis[,]*” and “*showing changes in key biomarkers, which suggests a therapeutic effect on fibrosis[,]*” rendering the anticipated release of its second cohort results “*potentially a catalytic moment for the company’s value.*”

63. Not coincidentally, Galectin issued a press release the very next day (the “July 25, 2014 Press Release”) announcing that it would be presenting the results from the second cohort of its Phase I study of GR-MD-02 on July 29, 2014.

64. In addition to TDM, Cox also published twenty-three (23) articles through his *Transformational Technology Alert* newsletter on Defendant Mauldin’s website, Mauldin Economics, that touted Galectin during the Class Period. Cox’s articles similarly exaggerated the putative efficacy of GR-MD-02 and Galectin’s competitiveness with Intercept. For example, on April 3, 2014, Cox wrote with respect to the results from the first cohort of Galectin’s Phase I study of GR-MD-02:

Markers of inflammation and fibrosis in the six patients suffering fatty liver disease *improved across the board.* More importantly, the two patients suffering from the most advanced form of NASH, with associated liver cell death due to fibrosis and inflammation, *showed significant reductions in the markers that indicate apoptosis or cell death.* This, in one hyphenated word, is *world-changing.* It means that the drug, even at low doses that proved safe in this study, reduced the markers of disease progression in earlier stages of the disease. In advanced patients, we saw indications that cellular damage was significantly



ameliorated. This means the drug is *disease-modifying*. *It didn't only prevent worsening. It improved the patients' condition.*

65. Likewise, Acorn also analogized Galectin to Intercept when it published a "Company Profile" of Galectin on March 10, 2014, in which it provided an analysis of GR-MD-02 and investment analysts' opinions of the Company's securities. After discussing the results from the first cohort of Galectin's Phase I study and the efficacy of GR-MD-02, Acorn stated, "Intercept Pharmaceuticals (ICPT)-----a company with a market cap worth \$1.4B on 01/09/2014, saw a jump to \$8.6B in two days. On NASH efficacy data for NASH-----an incurable and very common liver condition being targeted by GALT."

66. Also, on February 10, 2014, The Dream Team released an article on its MissionIR website titled "Investors Should Consider Galectin Therapeutics (GALT)." Among other facts, The Dream Team emphasized that "*GR-MD-02 demonstrated that it proved NASH activity significantly. Not only was this good news, but it also reduced fibrosis preventing/reducing the accumulation of collagen [sic] in the liver. There was also a reduction in galectin-3 and other inflammatory biomarkers.*" Based upon this data and other purportedly key developments in the GR-MD-02 clinical trial, The Dream Team positively concluded that "*[i]f the company continue[s] on its current pace, investors are likely looking at a long-term winner in Galectin Therapeutics.*"

67. Between the time Galectin announced its submission of an IND application to conduct the Phase I study of GR-MD-02 in January 2013 and the time that it issued the July 25, 2015 Press Release, the price of Galectin's common stock increased from roughly \$2 per share to as high as \$19 per share. Capitalizing on the artificially inflated price of its common stock during this period, Galectin conducted the two ATM Offerings.



**D. Defendants Misrepresent That They Do Not Manipulate the Price of Shares Being Sold in the ATM Offerings**

68. Despite the Company's extensive and (for the most part) undisclosed use of the Stock Promoters, Galectin represented during the Class Period that it did not engage in any conduct to manipulate the Company's stock price.

69. Specifically, the At-Market Agreements stated in pertinent part:

Neither the Company, nor any Subsidiary, nor any of their respective directors, officers or controlling persons has taken, directly or indirectly, any action designed, or that has constituted or would reasonably be expected to cause or result in, under the Exchange Act or otherwise, the stabilization or **manipulation** of the price of any security of the Company to facilitate the sale or resale of the Placement Shares.

\* \* \*

The Company will not, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or would reasonably be expected to constitute, the stabilization or **manipulation** of the price of any security of the Company to facilitate the sale or resale of Common Stock or (ii) sell, bid for, or purchase Common Stock in violation of Regulation M, or pay anyone any compensation for soliciting purchases of the Placement Shares other than MLV.

70. In addition, the Company made repeated representations in its public SEC filings regarding the proceeds that it had generated to date from the ATM Offerings. For example, the Company's annual report on Form 10-K filed with the SEC on March 21, 2014 (the "2013 Form 10-K") disclosed in relevant part:

On October 25, 2013, the Company entered into an At Market Issuance Sales Agreement (the "At Market Agreement") with a sales agent under which the Company may issue and sell shares of its common stock having an aggregate offering price of up to \$30.0 million from time to time through the sales agent. Sales of the Company's common stock through the sales agent, if any, will be made by any method that is deemed an "at the market" offering as defined by the U.S. Securities and Exchange Commission. The Company will pay to the sales agent a commission rate equal to 3.0% of the gross proceeds from the sale of any shares of common stock sold through the sales agent under the At Market Agreement. As of December 31, 2013, the Company had issued 99,942 shares of its common stock through its At Market issuance program at an average price of \$9.02 per share resulting in gross proceeds of approximately \$944,000. The Company incurred one time, initial legal and accounting costs of approximately



\$82,000 and commissions of \$29,000 resulting in net proceeds of \$833,000 as of December 31, 2013. In January and February 2014, the Company issued 2,663,647 shares of common stock for net proceeds of approximately \$28,178,000 which completed the At Market Agreement.

71. These statements were blatantly misleading and deceptively concealed the fact that the Company had paid the Stock Promoters to publish articles designed to artificially inflate the price of its common stock during the same time period in which the Company was selling such stock in its ATM Offerings.

**E. The Truth Is Revealed**

72. On July 25, 2014, Adam Feuerstein, an investment commentator for *TheStreet* initially alerted the market to Galectin's fraudulent stock promotion scheme when he tweeted on Twitter: "\$GALT paying penny stock promoters to issue misleading PRs posted to Y!"

73. Then, on July 28, 2014, Bleecker Street Research posted an article on the website *Seeking Alpha* titled "Galectin Therapeutics: Why This Penny Stock Dressed Up By Stock Promoters Is A Short." Confirming Feuerstein's tweet, the Bleecker Street Research Article stunningly revealed, among other facts, that Galectin "has strong ties to multiple stock promoters."

74. In particular, the Bleecker Street Research Article discussed Galectin's ties to TDM and Cox—both of whom the Company had paid to launch promotional campaigns aimed at increasing the price of Galectin's common stock—as follows:

From the time of the name change up until TDM Financial began getting paid to promote the stock, GALT was a sub \$5 stock that traded sparsely. The promotion worked, as *GALT's stock has nearly tripled since TDM Financial began targeting retail investors and retirees. Since the promotion began GALT has used the strength in its stock to do a \$100 million offering which included a 500,000 share sell from Richard Uhlein.*

\* \* \*

Having connections to one stock promoter is bad enough, but *GALT has ties to*



*another stock promoter. This time the stock promoter is Patrick Cox, who also promoted PVCT right before the stock plunged 90%. Patrick Cox has promoted numerous biotechs, here is an interview in which he touts several biotechs including GALT. As BuyersStrike points out, Patrick Cox has colorful background. . . . This is Patrick Cox calling GALT a company that will “change the world.”*

75. Elaborating on his earlier tweet, on July 28, 2014, Feuerstein posted an article on *TheStreet* titled “Galectin Pays Stock Promoters to Entice Retail Investors.” The July 28, 2014 Feuerstein Article shed additional light on Galectin’s deceptive scheme, as it exposed the gross inaccuracies of the Stock Promoters’ repeated representations touting putative evidence of GR-MD-02’s efficacy and analogizing Galectin to the industry leader, Intercept:

*Only someone being paid to shill would claim Galectin is “nipping at Intercept’s heels.” Intercept is way ahead in developing a drug to treat non-alcoholic steatohepatitis (NASH), a severe form of fatty liver disease, and its clinical studies to date have been designed using appropriate endpoints. Galectin, by comparison, is conducting a phase I “safety” study of its NASH candidate enrolling a tiny number of patients and using endpoints which collect useless biomarker data. It’s as if Galectin doesn’t really want to find out if their drug is effective against NASH.*

76. The July 28, 2014 Feuerstein Article further revealed Galectin’s routine practice of issuing its own press releases in conjunction with the Stock Promoters’ misleading articles in a patent attempt to attract the attention of investors and accordingly increase the price of its common stock being sold in the ATM Offerings:

After [TDM]’s misleading press release was issued Thursday, Galectin followed up with a press release of its own on Friday to announce a conference call for Tuesday morning. The subject of the call: To discuss updated results from its phase I NASH study. You think the two press releases might have been coordinated? Galectin pulled the same stunt in March, which helped the company sell stock through an At-The-Market (ATM) equity sales agreement.

77. The revelation of Defendants’ stock promotion scheme on July 28, 2014 caused Galectin’s stock price to collapse both before the markets closed that day and in after-hours trading, dropping \$8.81 per share, or *more than 55%*, from its opening price of \$15.91 per share



on July 28, 2014, to open at \$7.10 per share on July 29, 2014.

## VI. DEFENDANTS' FALSE AND MISLEADING STATEMENTS

### A. The Company's Press Releases and SEC Filings Were Materially False and Misleading

#### i. October 25, 2013 ATM Offering

78. On October 25, 2013, Galectin filed the October 25, 2013 Form 8-K, which was signed by Defendant Callicutt, announcing that it had entered into the At-Market Agreement with MLV. In accordance with the terms of the At-Market Agreement, which was signed by Defendant Traber and filed with the SEC as an exhibit to the October 25, 2013 Form 8-K, Galectin was authorized to offer and sell shares of its common stock having an aggregate price of up to \$30.0 million from time to time through MLV, acting as its sales agent, under the Company's October 25, 2013 Prospectus Supplement and the March 16, 2011 Registration Statement, by any method deemed an ATM offering, as defined in Rule 415 under the Securities Act.

79. In the At-Market Agreement, Defendants represented in pertinent part as follows:

*Neither the Company, nor any Subsidiary, nor any of their respective directors, officers or controlling persons has taken, directly or indirectly, any action designed, or that has constituted or would reasonably be expected to cause or result in, under the Exchange Act or otherwise, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Placement Shares.*

Defendants further pledged in the At-Market Agreement that “[t]he Company will not, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or would reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of Common Stock. . . .”

80. The foregoing statements in ¶ 79 were materially false and misleading when made because Defendants knew but failed to disclose that the Company had hired the Stock Promoters



to publish highly exaggerated and manipulative articles touting Galectin's common stock to investors by, *inter alia*: (i) embellishing the putative effectiveness of GR-MD-02 in the treatment of patients with NASH despite the absence of any definitive evidence proving its efficacy; and (ii) overstating Galectin's competitiveness with its so-called "peer" Intercept, even though Intercept's clinical trial was *more than two years ahead* of Galectin's and *had already delivered positive Phase II data demonstrating the efficacy of its drug candidate*. Thus, contrary to Defendants' assurances in the At-Market Agreement, Galectin had engaged in conduct designed to manipulate the price of its securities in order to generate capital with as little dilution as possible from the sale of its common stock in the October 25, 2013 ATM Offering.

## ii. 3Q13 Form 10-Q

81. On November 12, 2013, Galectin filed with the SEC its quarterly report on Form 10-Q for the period ended September 30, 2013 ("3Q13") (the "3Q13 Form 10-Q"), which was signed by Defendants Callicutt and Traber, and attached certifications pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act ("SOX") that were also signed by Defendants Callicutt and Traber. The 3Q13 Form 10-Q disclosed as follows with respect to the proceeds generated to date from the October 25, 2013 ATM Offering:

On October 25, 2013, the Company entered into an At Market Issuance Sales Agreement (the "At Market Agreement") with a sales agent under which the Company may issue and sell shares of its common stock having an aggregate offering price of up to \$30.0 million from time to time through the sales agent. Sales of the Company's common stock through the sales agent, if any, will be made by any method that is deemed an "at the market" offering as defined by the U.S. Securities and Exchange Commission. The Company will pay to the sales agent a commission rate equal to 3.0% of the gross proceeds from the sale of any shares of common stock sold through the sales agent under the At Market Agreement. Subsequent to September 30, 2013, the Company had issued 50,643 shares of its common stock through its At Market issuance program at an average price of \$10.82 per share resulting in net proceeds of approximately \$531,000.



82. The foregoing statements in ¶ 81 were materially false and misleading when made because Defendants knew but failed to disclose that Galectin had raised the above funds by secretly hiring the Stock Promoters to publish highly exaggerated and manipulative articles touting Galectin's common stock to investors by, *inter alia*: (i) embellishing the putative effectiveness of GR-MD-02 in the treatment of patients with NASH despite the absence of any definitive evidence proving its efficacy; and (ii) overstating Galectin's competitiveness with its so-called "peer" Intercept, even though Intercept's clinical trial was *more than two years ahead* of Galectin's and *had already delivered positive Phase II data demonstrating the efficacy of its drug candidate*.

### iii. January 10, 2014 Press Release

83. On January 10, 2014, Galectin filed with the SEC a current report on Form 8-K, which was signed by Defendant Callicutt and attached the January 10, 2014 Press Release. The January 10, 2014 Press Release announced the total proceeds that Galectin had generated to date from the October 25, 2013 ATM Offering as follows:

Galectin Therapeutics Inc. (NASDAQ: GALT), the leading developer of therapeutics that target galectin proteins to treat fibrosis and cancer, today announced that it had sold, from October 28, 2013 through January 9, 2014, a total of 2,391,204 shares of common stock at an average price per share of \$9.99 for total gross proceeds of \$23,883,137 through its at-the-market (ATM) financing vehicle. The Company entered into an ATM financing arrangement with MLV & Co. LLC ("MLV") in October 2013, which provides it the opportunity to sell up to \$30 million in registered shares into the open market through MLV from time-to-time under its effective shelf registration. After commissions, the Company received \$23,164,712 in net proceeds. The intended use of the net proceeds is to finance the Company's planned Phase 2 program for GR-MD-02 after completion of the Phase 1 clinical trial and for general corporate purposes. The Company currently has approximately \$32.3 million in cash, and there are approximately 20.7 million shares of our common stock outstanding.

84. The foregoing statements in ¶ 83 were materially false and misleading when made because Defendants knew but failed to disclose that Galectin had raised the above funds by



secretly hiring the Stock Promoters to publish highly exaggerated and manipulative articles touting Galectin's common stock to investors by, *inter alia*: (i) embellishing the putative effectiveness of GR-MD-02 in the treatment of patients with NASH despite the absence of any definitive evidence proving its efficacy; and (ii) overstating Galectin's competitiveness with its so-called "peer" Intercept, even though Intercept's clinical trial was *more than two years ahead* of Galectin's and *had already delivered positive Phase II data demonstrating the efficacy of its drug candidate*.

#### iv. 2013 Form 10-K

85. On March 21, 2014, Galectin filed its 2013 Form 10-K, which was signed by the Individual Defendants, and attached certifications pursuant to SOX Sections 302 and 906 that were signed by Defendants Callicutt and Traber. The 2013 Form 10-K disclosed as follows with respect to the proceeds generated to date from the October 25, 2013 ATM Offering:

On October 25, 2013, the Company entered into an At Market Issuance Sales Agreement (the "At Market Agreement") with a sales agent under which the Company may issue and sell shares of its common stock having an aggregate offering price of up to \$30.0 million from time to time through the sales agent. Sales of the Company's common stock through the sales agent, if any, will be made by any method that is deemed an "at the market" offering as defined by the U.S. Securities and Exchange Commission. The Company will pay to the sales agent a commission rate equal to 3.0% of the gross proceeds from the sale of any shares of common stock sold through the sales agent under the At Market Agreement. As of December 31, 2013, the Company had issued 99,942 shares of its common stock through its At Market issuance program at an average price of \$9.02 per share resulting in gross proceeds of approximately \$944,000. The Company incurred one time, initial legal and accounting costs of approximately \$82,000 and commissions of \$29,000 resulting in net proceeds of \$833,000 as of December 31, 2013. In January and February 2014, the Company issued 2,663,647 shares of common stock for net proceeds of approximately \$28,178,000 which completed the At Market Agreement.

86. The foregoing statements in ¶ 85 were materially false and misleading when made because Defendants knew but failed to disclose that Galectin had raised the above funds by secretly hiring the Stock Promoters to publish highly exaggerated and manipulative articles



touting Galectin's common stock to investors by, *inter alia*: (i) embellishing the putative effectiveness of GR-MD-02 in the treatment of patients with NASH despite the absence of any definitive evidence proving its efficacy; and (ii) overstating Galectin's competitiveness with its so-called "peer" Intercept, even though Intercept's clinical trial was *more than two years ahead* of Galectin's and *had already delivered positive Phase II data demonstrating the efficacy of its drug candidate*.

**v. March 21, 2014 ATM Offering**

87. On March 21, 2014, Galectin filed the March 21, 2014 Registration Statement, which was signed by the Individual Defendants, announcing that, *inter alia*, the Company and MLV had amended the At-Market Agreement. In accordance with the terms of the At-Market Agreement, as amended, which was signed by Defendant Traber and filed with the SEC as an exhibit to the March 21, 2014 Registration Statement, Galectin was authorized to offer and sell shares of its common stock having an aggregate price of up to \$30 million from time to time through MLV, acting as its sales agent, under the Sales Agreement Prospectus, by any method deemed an "at the market" offering, as defined in Rule 415 under the Securities Act.

88. The At-Market Agreement, as amended, incorporated by reference the statements in the At-Market Agreement that are set forth above in ¶ 79.

89. The foregoing statements in ¶¶ 79 and 88 were materially false and misleading when made because Defendants knew but failed to disclose that the Company had hired the Stock Promoters to publish highly exaggerated and manipulative articles touting Galectin's common stock to investors by, *inter alia*: (i) embellishing the putative effectiveness of GR-MD-02 in the treatment of patients with NASH despite the absence of any definitive evidence proving its efficacy; and (ii) overstating Galectin's competitiveness with its so-called "peer" Intercept, even though Intercept's clinical trial was *more than two years ahead* of Galectin's and *had*



*already delivered positive Phase II data demonstrating the efficacy of its drug candidate.*

Thus, contrary to Defendants' assurances in the At-Market Agreement, as amended, Galectin had engaged in conduct designed to manipulate the price of its securities in order to generate capital with as little dilution as possible from the sale of its common stock in the March 21, 2014 ATM Offering.

**vi. 1Q14 Form 10-Q**

90. On May 13, 2014, Galectin filed with the SEC the 1Q14 Form 10-Q, which was signed by Defendants Callicutt and Traber, and attached certifications pursuant to SOX Sections 302 and 906 that were also signed by Defendants Callicutt and Traber. The 1Q14 Form 10-Q disclosed as follows with respect to the proceeds generated to date from the October 25, 2013 ATM Offering:

On October 25, 2013, the Company entered into an At Market Issuance Sales Agreement (the "At Market Agreement") with a sales agent under which the Company may issue and sell shares of its common stock having an aggregate offering price of up to \$30.0 million from time to time through the sales agent. Sales of the Company's common stock through the sales agent, if any, will be made by any method that is deemed an "at the market" offering as defined by the U.S. Securities and Exchange Commission. The Company will pay to the sales agent a commission rate equal to 3.0% of the gross proceeds from the sale of any shares of common stock sold through the sales agent under the At Market Agreement. As of December 31, 2013, the Company had issued 99,942 shares of its common stock through its At Market issuance program at an average price of \$9.02 per share resulting in gross proceeds of approximately \$944,000. The Company incurred one time, initial legal and accounting costs of approximately \$82,000 and commissions of \$29,000 resulting in net proceeds of \$833,000 as of December 31, 2013. In January and February 2014, the Company issued 2,663,647 shares of common stock for net proceeds of approximately \$28,178,000 which completed the At Market Agreement.

91. The foregoing statements in ¶ 90 were materially false and misleading when made because Defendants knew but failed to disclose that the Company had raised the above funds by secretly hiring the Stock Promoters to publish highly exaggerated and manipulative articles touting Galectin's common stock to investors by, *inter alia*: (i) embellishing the putative



effectiveness of GR-MD-02 in the treatment of patients with NASH despite the absence of any definitive evidence proving its efficacy; and (ii) overstating Galectin's competitiveness with its so-called "peer" Intercept, even though Intercept's clinical trial was *more than two years ahead* of Galectin's and *had already delivered positive Phase II data demonstrating the efficacy of its drug candidate*.

**B. The Stock Promoters' Articles Omitted Material Facts**

**i. The Dream Team**

92. Defendants, acting through their agent, The Dream Team, issued the following promotional article touting Galectin to investors during the Class Period:

- 1) "Investors Should Consider Galectin Therapeutics (GALT)," MissionIR (February 10, 2014).

93. Defendants knew and/or recklessly disregarded that the foregoing article in ¶ 92 was materially false and misleading when issued, because it failed to disclose that the Company had paid The Dream Team to tout Galectin's current performance and future prospects.

**ii. Cox**

94. Defendants, acting through their agent, Cox, issued the following promotional articles touting Galectin to investors during the Class Period:

- 1) "DNA that Fights Crime and Creates Fortunes," *Transformational Technology Alert* (Issue 1.03, November 2013);
- 2) "Buy Galectin Therapeutics (Nasdaq:GALT) on the Dip," *Transformational Technology Alert* (November 6, 2013);
- 3) "Inovio CEO Opens Up Regarding Rejuvenating DNA Vaccine," *Transformational Technology Alert* (November 7, 2013);
- 4) "On Old and New Media, Ignorance, Malevolence and Transformational Biotech," *Transformational Technology Alert* (November 21, 2013);
- 5) "BioTime Shows 23andMe How It's Done," *Transformational Technology Alert* (December 19, 2013);



- 6) “Room-Temperature Ambient-Pressure Nanotechnologies Change the Solar Game,” *Transformational Technology Alert* (Issue 1.04, January 2014);
- 7) “How to Play the Superbug Hysteria to Make Super Profits,” *Transformational Technology Alert* (Issue 1.05, January 2014);
- 8) “Galectin Therapeutics Moves as Liver Drugs Gain Spotlight,” *Transformational Technology Alert* (January 16, 2014);
- 9) “Galectin Therapeutics Jumps on Study Results, Patent Approval,” *Transformational Technology Alert* (January 22, 2014);
- 10) “Screaming Toward the Biotech Singularity: BioTime,” Galectin Therapeutics, and More,” *Transformational Technology Alert* (January 30, 2014);
- 11) “Shark Steroid Offers Hope for Combating Macular Degeneration (and for Enormous Profits),” *Transformational Technology Alert* (Issue 1.06, February 2014);
- 12) “What Does the IND Phase 1B Trial for Galectin Therapeutics Really Mean?,” *Transformational Technology Alert* (February 6, 2014);
- 13) “Technology to Help You Clean Up in the Fracking Boom,” *Transformational Technology Alert* (Issue 1.07, March 2014);
- 14) “What Penicillin Can Teach Us About Transformational Biotech,” *Transformational Technology Alert* (March 13, 2014);
- 15) “Regenerative Medicine Promotion Act of 2014 Introduced,” *Transformational Technology Alert* (March 20, 2014);
- 16) “Delivering Superior Profits Through Superior Delivery Technology,” *Transformational Technology Alert* (Issue 1.08, April 2014);
- 17) “Two World-Changing Presentations You Must Watch,” *Transformational Technology Alert* (April 3, 2014);
- 18) “A Note on the Broad Biotechnology Selloff,” *Transformational Technology Alert* (April 17, 2014);
- 19) “The Body’s Own Antibiotic Acid Could Lower Medical Costs and Generate Huge Profits,” *Transformational Technology Alert* (Issue 1.09, May 2014);
- 20) “BioTime and Inovio Announce Major Developments,” *Transformational Technology Alert* (May 29, 2014);
- 21) “Nanocage Smart-Bomb Drugs Could Deliver Explosive Gains,” *Transformational Technology Alert* (Issue 1.10, June 2014);
- 22) “Galectin Therapeutics Announces Preclinical Oral Efficacy,” *Transformational Technology Alert* (June 25, 2014);



- 23) “Winning the War on Alzheimer’s,” *Transformational Technology Alert* (Issue 1.11, July 2014).

95. Defendants knew and/or recklessly disregarded that the foregoing articles in ¶ 94 were each materially false and misleading when issued because they failed to disclose that the Company had paid Cox to tout Galectin’s current performance and future prospects.

**iii. TDM**

96. Defendants, acting through their agent, TDM, issued the following promotional articles touting Galectin to investors during the Class Period:

- 1) “Pharmaceutical Stocks Outperform The S&P 500 By 20% YTD,” SECFilings.com (November 4, 2013);
- 2) “Obesity Stock Plays Standing Out From The Crowd,” SECFilings.com (December 17, 2013);
- 3) “Aegis Raises Price Target On Galectin As Intercept Raises Bar For Value Of Fibrosis Drugs,” SECFilings.com (January 28, 2014);
- 4) “Galectin Therapeutics Leaps Ahead With SBH Sciences Partnership,” SECFilings.com (February 13, 2014);
- 5) “Leading Companies Being Defined In The Hunt For A NASH Treatment,” SECFilings.com (March 27, 2014);
- 6) “Galectin, Intercept, Others Vying For Lead Drugs In NASH Epidemic,” Emerging Growth LLC (July 24, 2014).

97. Defendants knew and/or recklessly disregarded that the foregoing articles in ¶ 96 were each materially false and misleading when issued because they failed to disclose that the Company had paid TDM to tout Galectin’s current performance and future prospects.

**iv. Acorn**

98. Defendants, acting through their agent, Acorn, issued the following promotional materials touting Galectin to investors during the Class Period:

- 1) “Galectin Therapeutics: Company Profile,” Acorn Management Partners, LLC (March 10, 2014);
- 2) “AMP Quick Facts: Galectin Therapeutics (Nasdaq: GALT),” Acorn Management Partners, LLC (June 23, 2014).



99. Defendants knew and/or recklessly disregarded that the foregoing materials in ¶ 98 were each materially false and misleading when issued because they failed to disclose that the Company had paid Acorn to tout Galectin's current performance and future prospects.

## VII. ADDITIONAL SCIENTER ALLEGATIONS

100. As alleged above, Defendants Galectin and the Individual Defendants acted with scienter in that they: (i) knew or recklessly disregarded that the statements identified above in ¶¶ 79, 81, 83, 85, 88, 90, 92, 94, 96, and 98 were materially false and misleading when made; (ii) knew or recklessly disregarded that such statements would be issued or disseminated to the investing public; (iii) knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents; and/or (iv) knowingly or recklessly engaged in the fraudulent scheme alleged herein as primary violators of the federal securities laws. Defendants Galectin and the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding Galectin's hidden stock promotion scheme, and their control over, and receipt or modification of Galectin's materially false and misleading statements, actively participated in the fraudulent scheme alleged herein.

101. *First*, the Individual Defendants, as Galectin's executive officers and/or directors, controlled the contents of the Company's public SEC filings during the Class Period. Each was provided with, or had access to, copies of the documents alleged herein to be false or misleading prior to, or shortly after, their issuance, and had the ability and opportunity to prevent their issuance. By virtue of their respective positions and access to material non-public information regarding the Company, each knew or recklessly disregarded that the adverse facts alleged herein concerning the Company's retention of the Stock Promoters to artificially inflate the price of Galectin's common stock had not been disclosed to, and were being concealed from the public, and that the positive representations that were being made were materially false, misleading, and



incomplete. As a result, the Individual Defendants were responsible for the accuracy of Galectin's public SEC filings, and were therefore responsible and liable for the representations contained therein or omitted therefrom.

102. Indeed, as alleged herein, throughout the Class Period, Defendant Traber served as the Company's CEO, President, and CMO. In these capacities, Defendant Traber signed the At-Market Agreements, the 3Q13 Form 10-Q, the 2013 Form 10-K, the March 21, 2014 Registration Statement, and the 1Q14 Form 10-Q, each of which contained the materially false and misleading statements alleged herein, as set forth above in ¶¶ 78, 81, 83, 85, 87, 89. In addition, as alleged herein, throughout the Class Period, Defendant Callicutt served as the Company's CFO. In this capacity, Defendant Callicutt signed the October 25, 2013 Form 8-K, the 3Q13 Form 10-Q, the January 10, 2014 Press Release, the 2013 Form 10-K, the March 21, 2014 Registration Statement, and the 1Q14 Form 10-Q, each of which contained the materially false and misleading statements alleged herein, as set forth above in ¶¶ 78, 81, 83, 85, 87, 90. Finally, as alleged herein, throughout the Class Period, Defendants Czirr, Martin, and Mauldin served as directors of the Board. In this capacity, they each signed the 2013 Form 10-K and the March 21, 2014 Registration Statement, each of which contained the materially false and misleading statements alleged herein, as set forth above in ¶¶ 85, 87.

103. Further, for each of Galectin's quarterly and annual reports on Forms 10-Q and 10-K that were filed with the SEC during the Class Period, Defendants Callicutt and Traber separately executed certifications pursuant to SOX Section 302 attesting to the Company's disclosure controls and procedures in pertinent part as follows:

The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and we have:

- a) Designed such disclosure controls and procedures, or caused such



disclosure controls and procedures to be designed under our supervision to ensure that *material information* relating to the registrant, including its consolidated subsidiaries, *is made known to us* by others within those entities, particularly during the period in which this report is being prepared.

104. *Second*, Galectin and the Individual Defendants were financially motivated to conceal the Company's retention of the Stock Promoters. With no source of revenue, Galectin's successful development of GR-MD-02 and its continued existence were contingent upon raising capital to finance the GR-MD-02 clinical trial. To this end, the Company conducted the ATM Offerings. Because the price at which Galectin was authorized to sell shares of its common stock in each of these offerings was based upon the market price of such shares, Galectin and the Individual Defendants had a clear incentive to artificially inflate this price so that the Company could generate maximum proceeds from each of these offerings and minimize any potential dilution to their holdings.

105. *Third*, the fact that Galectin's undisclosed stock promotion scheme directly involved Galectin's core business operations—the GR-MD-02 clinical trial—further supports a strong inference that Galectin and the Individual Defendants acted with scienter. Indeed, the Company expressly acknowledged in its public SEC filings that it was “largely dependent” on the development of its lead product candidate, GR-MD-02. Because the promotional articles alleged herein specifically touted the putative success of the GR-MD-02 clinical trial for the purpose of enabling the Company to finance the same through the sale of its common stock at artificially inflated prices in the October 25, 2013 and March 21, 2014 ATM Offerings, Galectin and the Individual Defendants knowingly and/or recklessly issued the materially false and misleading statements alleged herein.



## VIII. LOSS CAUSATION

106. The material misstatements and omissions detailed above had the cause and effect of creating unrealistically positive assessments of Galectin and its business, prospects, and operations in the market, which caused the Company's common stock to be overvalued and artificially inflated throughout the Class Period. Lead Plaintiff and other Class members purchased or otherwise acquired Galectin common stock at prices that were artificially inflated by Defendants' misrepresentations and omissions of material fact alleged herein.

107. Defendants' materially false and misleading statements and omissions alleged herein directly and proximately caused the damages suffered by Lead Plaintiff and other Class members. During the Class Period, Defendants publicly issued materially false and misleading statements and omissions of material fact concerning the At-Market Agreements underlying and the proceeds generated from Galectin's ATM Offerings because they: (i) misrepresented that the Company abstained from taking actions that manipulated the price of its common stock; and/or (ii) failed to disclose Galectin's engagement of the Stock Promoters to artificially inflate the price of Galectin common stock by flooding the market with unsubstantiated, sensationalized articles purporting to truthfully report the efficacy of GR-MD-02 and the imminent, burgeoning success of the Company. In addition, the articles published by the Stock Promoters as agents of the Company were false and misleading for failing to disclose that the Stock Promoters were paid by the Company to publish the articles. Had Defendants been truthful about these matters during the Class Period, Lead Plaintiff and other Class members would not have purchased or otherwise acquired their shares of Galectin common stock at the artificially inflated prices at which they were offered.

108. As a direct result of Defendants' misrepresentations and omissions of material fact, the price of Galectin's common stock was artificially inflated throughout the Class Period.



This artificial inflation was removed from the price of Galectin's common stock when the truth about Galectin's misrepresentations was finally revealed, causing investors' losses. The timing and magnitude of Galectin's common stock price decline negates any inference that the losses suffered by Lead Plaintiff and the other members of the Class were caused by changed market conditions, macroeconomic or industry factors, or even Company-specific facts unrelated to the Defendants' fraudulent conduct.

109. Specifically, on July 28, 2014, the Bleecker Street Research Article disclosed that Galectin had ties to several of the Stock Promoters—including TDM and Cox, as alleged above in ¶¶ 73-74.

110. That same day, the July 28, 2014 Feuerstein Article also reported that Galectin had engaged the Stock Promoters to artificially boost the share price of Galectin's common stock in order to raise capital through the ATM Offerings, as alleged above in ¶¶ 75-76. In direct response to these disclosures of the true facts misrepresented and concealed by Defendants' materially false and misleading statements and omissions, the price of Galectin's common stock plunged by \$8.81 per share, or more than 55%, from an opening price of \$15.91 per share on July 28, 2014, to \$7.10 per share when the markets opened on July 29, 2014.

#### **IX. LEAD PLAINTIFF AND THE CLASS ARE ENTITLED TO A PRESUMPTION OF RELIANCE**

111. At all relevant times, the market for Galectin's common stock was an open and efficient market for the following reasons, among others:

- a) Galectin's stock met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient electronic stock market;
- b) As a registered and regulated issuer of securities, Galectin filed periodic public reports with the SEC, in addition to the Company's frequent voluntary dissemination of information;



- c) Galectin regularly communicated with public investors via established market communication mechanisms, including regular disseminations of press releases on the national circuits of major newswire services and other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services;
- d) Galectin was followed by securities analysts who wrote reports that were publicly available and entered the public marketplace; and
- e) The material misrepresentations and omissions alleged herein would tend to induce a reasonable investor to misjudge the value of Galectin stock.

112. As a result of the foregoing, the market for Galectin common stock promptly digested current information regarding Galectin from all publicly available sources, and the prices of Galectin common stock reflected such information. Based upon the materially false and misleading statements and omissions of material fact alleged herein, Galectin common stock traded at artificially inflated prices during the Class Period. Lead Plaintiff and the other members of the Class purchased Galectin common stock relying upon the integrity of the market price of Galectin common stock and other market information relating to Galectin.

113. Under these circumstances, all purchasers of Galectin common stock during the Class Period suffered similar injuries through their purchases of Galectin common stock at artificially inflated prices, and a presumption of reliance applies.

114. Further, at all relevant times, Lead Plaintiff and other members of the Class reasonably relied upon Defendants to disclose material information, as required by law and in the Company's SEC filings. Lead Plaintiff and the other members of the Class would not have purchased or otherwise acquired Galectin common stock at artificially inflated prices if Defendants had disclosed all material information as required. Thus, to the extent that Defendants concealed or improperly failed to disclose material facts concerning the Company and its operations, Lead Plaintiff and the other members are entitled to a presumption of reliance



in accordance with *Affiliated Ute Citizens v. United States*, 406 U.S. 128, 153 (1972) (“*Affiliated Ute*”).

**X. THE STATUTORY SAFE HARBOR AND BESPEAKS CAUTION DOCTRINE ARE INAPPLICABLE**

115. The PSLRA’s statutory safe harbor and/or the bespeaks caution doctrine applicable to forward-looking statements under certain circumstances do not apply to any of the materially false and/or misleading statements alleged herein.

116. None of the statements alleged herein was a forward-looking statement, nor were they identified as “forward-looking statements” when made. Rather, each was a historical statement or a statement of purportedly current facts and conditions at the time each statement was made.

117. To the extent that any materially false and/or misleading statement alleged herein, or any portion thereof, can be construed as forward-looking, such statement was not accompanied by meaningful cautionary language identifying important factors that could cause actual results to differ materially from those set forth in the purportedly forward-looking statement.

118. Alternatively, to the extent the statutory safe harbor does apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Galectin who knew that those statements were false when made.



## **XI. CLASS ACTION ALLEGATIONS**

119. Lead Plaintiff brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of himself and all those who purchased Galectin common stock during the Class Period. Excluded from the Class are Defendants, members of Defendants' immediate families, any person, firm, trust, corporation, officer, director, or other individual or entity in which any Defendant has a controlling interest, or which is related to or affiliated with any of Defendants, and the legal representatives, agents, affiliates, heirs, successors-in-interest, or assigns of any such excluded party.

120. The members of the Class are so numerous and geographically dispersed that joinder of all members is impracticable. At the end of the Class Period, approximately 22.0 million shares of Galectin common stock were outstanding and actively traded on the NASDAQ. The precise number of Class members is unknown to Lead Plaintiff at this time, but is believed to be in the thousands. In addition, the names and addresses of the Class members can be ascertained from the books and records of Galectin or its transfer agent. Notice can be provided to such record owners by a combination of published notice and first-class mail, using techniques and a form of notice similar to those customarily used in class actions arising under the federal securities laws.

121. Lead Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class. Lead Plaintiff has retained competent counsel experienced in class action litigation under the federal securities laws to further ensure such protection and intends to prosecute this action vigorously.

122. Lead Plaintiff's claims are typical of the claims of all other members of the Class because Lead Plaintiff's and all of the other Class members' damages arise from, and were caused by, the same false and misleading representations and omissions made by, or chargeable



to, Defendants. Lead Plaintiff does not have any interests antagonistic to, or in conflict with, the Class.

123. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it virtually impossible for Class members to seek redress for the wrongful conduct alleged herein. Lead Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action.

124. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to members of the Class are:

- a) whether the federal securities laws were violated by Defendants' acts as alleged herein;
- b) whether Defendants' statements issued during the Class Period were materially false and misleading;
- c) whether and to what extent the market price of Galectin's common stock was artificially inflated and/or distorted during the Class Period due to the misrepresentations and/or omissions of material fact complained of herein;
- d) whether the Defendants named under Section 10(b) of the Exchange Act acted with scienter; and
- e) the extent of injuries sustained by members of the Class and the appropriate measure of damages.



## **XII. CAUSES OF ACTION**

### **COUNT I**

#### **For Violations of Section 10(b) of the Exchange Act and Rule 10b-5(b) Promulgated Thereunder Against Defendants Galectin, Callicutt, and Traber**

125. Lead Plaintiff incorporates by reference and realleges all preceding paragraphs as if fully set forth herein. This claim is asserted against Defendants Galectin, Callicutt, and Traber (collectively, the “Rule 10b-5(b) Defendants”).

126. During the Class Period, the Rule 10b-5(b) Defendants used the means and instrumentalities of interstate commerce, the U.S. mails, and the facilities of national securities exchanges to make the materially false and misleading statements and omissions of material fact alleged herein to: (i) deceive the investing public, including Lead Plaintiff and the other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Galectin common stock; and (iii) cause Lead Plaintiff and the other members of the Class to purchase shares of Galectin common stock at artificially inflated prices that did not reflect their true value. In furtherance of their unlawful scheme, plan, and course of conduct, the Rule 10b-5(b) Defendants took the actions set forth herein.

127. While in possession of material adverse, non-public information, the Rule 10b-5(b) Defendants, individually and in concert, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the U.S. mails, and the facilities of national securities exchanges, made untrue statements of material fact and/or failed to disclose material facts necessary to make the statements that they made not misleading in an effort to maintain artificially high market prices for Galectin common stock, in violation of Section 10(b) of the Exchange Act and Rule 10b-5(b) promulgated thereunder. The Rule 10b-5(b) Defendants are



sued as primary participants in the dissemination of the material misrepresentations and omissions alleged herein.

128. By virtue of their high-level positions at the Company during the Class Period, Defendants Callicutt and Traber were authorized to make public statements, and made public statements during the Class Period on Galectin's behalf. Defendants Callicutt and Traber were privy to and participated in the creation, development, and issuance of the materially false and misleading statements and omissions alleged herein, and/or were aware of the Company's and their own dissemination of information to the investing public that they recklessly disregarded was materially false and misleading.

129. In addition to the duties of full disclosure imposed on the Rule 10b-5(b) Defendants as a result of their making of affirmative statements and reports to the investing public, the Rule 10b-5(b) Defendants had a duty to promptly disseminate truthful information that would be material to investors in compliance with the integrated disclosure provisions of the SEC, as embodied in SEC Regulation S-X (17 C.F.R. Section 210.01 et seq.) and Regulation S-K (17 C.F.R. Section 229.10 et seq.), as well as other SEC regulations, including accurate and truthful information with respect to the Company's operations, so that the market price of the Company's common stock would be based on truthful, complete, and accurate information. Defendants Callicutt and Traber also had duties under SOX to ensure that Galectin's Forms 10-Q and 10-K filed with the SEC did not misrepresent or omit any material facts.

130. The Rule 10b-5(b) Defendants acted with knowledge or a reckless disregard for the truth of the misrepresented and omitted facts alleged herein, in that they failed to ascertain and to disclose such facts, even though such facts were known or readily available to them. The Rule 10b-5(b) Defendants' material misrepresentations and omissions were done knowingly

and/or recklessly, and had the effect of concealing the truth with respect to Galectin's operations, business, performance, and prospects from the investing public and supporting the artificially inflated price of its common stock.

131. The dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, artificially inflated the market price of Galectin's common stock during the Class Period. In ignorance of the fact that the market prices of Galectin's common stock were artificially inflated, and relying directly or indirectly upon the materially false and misleading statements made by the Rule 10b-5(b) Defendants, and upon the integrity of the market in which the Company's common stock trades, or upon the absence of material adverse information that was recklessly disregarded by the Rule 10b-5(b) Defendants but not disclosed in public statements by the Rule 10b-5(b) Defendants during the Class Period, Lead Plaintiff and the other members of the Class purchased Galectin's common stock during the Class Period at artificially inflated prices. As the truth eventually emerged, the price of Galectin's common stock substantially declined.

132. At the time of the material misrepresentations and omissions alleged herein, Lead Plaintiff and the other members of the Class were ignorant of their falsity, and believed them to be true. Had Lead Plaintiff and the other members of the Class and the marketplace known the truth with respect to the business, operations, performance, and prospects of Galectin, which was concealed by the Rule 10b-5(b) Defendants, Lead Plaintiff and the other members of the Class would not have purchased Galectin's common stock, or if they had purchased such securities, would not have done so at the artificially inflated prices that they paid.

133. By virtue of the foregoing, the Rule 10b-5(b) Defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5(b) promulgated thereunder.



134. As a direct and proximate result of the Rule 10b-5(b) Defendants' materially false and misleading statements and omissions of material fact, Lead Plaintiff and the other members of the Class suffered damages in connection with their transactions in the Company's common stock during the Class Period.

## **COUNT II**

### **For Violations of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) Against Galectin and the Individual Defendants**

135. Lead Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is asserted against Galectin and the Individual Defendants (collectively, the "Rule 10b-5(a) and (c) Defendants").

136. During the Class Period, the Rule 10b-5(a) and (c) Defendants used the means and instrumentalities of interstate commerce, the U.S. mails, and the facilities of national securities exchanges to participate in the undisclosed stock promotion scheme alleged herein in order to: (i) deceive the investing public, including Lead Plaintiff and the other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Galectin common stock; and (iii) cause Lead Plaintiff and the other members of the Class to purchase shares of Galectin common stock at artificially inflated prices that did not reflect their true value. In furtherance of their unlawful scheme, plan, and course of conduct, the Rule 10b-5(a) and (c) Defendants took the actions set forth herein.

137. While in possession of material adverse, non-public information, the Rule 10b-5(a) and (c) Defendants, individually and in concert, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the U.S. mails, and the facilities of national securities exchanges: (i) employed devices, schemes, and artifices to defraud; and/or (ii) engaged in acts, practices, and a course of business that operated as a fraud or deceit upon Lead Plaintiff

and the other Class members in an effort to maintain artificially high market prices for Galectin common stock, in violation of Section 10(b) of the Exchange Act and Rule 10b-5(a) and (c) promulgated thereunder. The Rule 10b-5(a) and (c) Defendants are sued as primary participants in the fraudulent scheme alleged herein.

138. The Rule 10b-5(a) and (c) Defendants' misconduct was engaged in knowingly and/or recklessly, and had the effect of concealing the truth with respect to Galectin's operations, business, performance, and prospects from the investing public and supporting the artificially inflated price of its common stock.

139. The stock promotion scheme alleged herein artificially inflated the market price of Galectin's common stock during the Class Period. In ignorance of the fact that the market prices of Galectin's common stock were artificially inflated, and relying directly or indirectly upon the fraudulent scheme engaged in by the Rule 10b-5(a) and (c) Defendants, and upon the integrity of the market in which the Company's common stock trades, or upon the absence of material adverse information that was knowingly and/or recklessly concealed by the Rule 10b-5(a) and (c) Defendants' misconduct, Lead Plaintiff and the other members of the Class purchased Galectin's common stock during the Class Period at artificially inflated prices. As the truth eventually emerged, the price of Galectin's common stock substantially declined.

140. At the time of the stock promotion scheme alleged herein, Lead Plaintiff and the other members of the Class were ignorant of the fact that the price of Galectin common shares had been artificially inflated by the Rule 10b-5(a) and (c) Defendants' misconduct. Had Lead Plaintiff and the other members of the Class and the marketplace known the truth with respect to the business, operations, performance, and prospects of Galectin, which was concealed by the Rule 10b-5(a) and (c) Defendants' fraudulent scheme, Lead Plaintiff and the other members of



the Class would not have purchased Galectin's common stock, or if they had purchased such securities, would not have done so at the artificially inflated prices that they paid.

141. By virtue of the foregoing, the Rule 10b-5(a) and (c) Defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5(a) and (c) promulgated thereunder.

142. As a direct and proximate result of the Rule 10b-5(a) and (c) Defendants' fraudulent scheme, Lead Plaintiff and the other members of the Class suffered damages in connection with their transactions in the Company's common stock during the Class Period.

### **COUNT III**

#### **For Violations of Section 20(a) of the Exchange Act Against the Individual Defendants and Defendant 10X Fund**

143. Lead Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein. This claim is asserted against the Individual Defendants and Defendant 10X Fund.

144. During the Class Period, the Individual Defendants were senior executive officers, directors, and Defendant 10X Fund was the beneficial owner of all of the issued and outstanding shares of Galectin's Series B preferred stock. As such, each of these Defendants was privy to confidential and proprietary information concerning Galectin, and its business, operations, performance, and future prospects, including its compliance with applicable federal, state, and local laws and regulations.

145. At all relevant times, Defendant Callicutt served as the Company's CFO, Defendant Czirr served as Executive Chairman of the Board, Defendant Martin served as a director, Defendant Mauldin served as a director, and Defendant Traber served as the Company's CEO, President, CMO, and a director.

146. Defendant 10X Fund beneficially owned all of the issued and outstanding shares of Galectin's Series B preferred stock at all relevant times. Through its ownership of Galectin Series B preferred stock, Defendant 10X Fund was entitled to: (i) elect three directors to the Company's Board in a separate class vote; (ii) nominate three directors for election by all shares entitled to vote; and (iii) provide or withhold consent to a range of fundamental corporate actions that the Company may have wished to undertake, such as recapitalization, sale of the Company, and other matters.

147. By reason of the foregoing, the Individual Defendants and Defendant 10X Fund had regular access to non-public information about Galectin's business, operations, performance, and future prospects through access to internal corporate documents and information, conversations and connections with other corporate officers and employees, attendance at management meetings and meetings of the Company's Board and committees thereof, as well as reports and other information provided to them in connection therewith.

148. The Individual Defendants and Defendant 10X Fund acted as controlling persons of Galectin within the meaning of Section 20(a) of the Exchange Act, as alleged herein. By virtue of their high-level positions, participation in, and/or awareness of the Company's day-to-day operations, and/or intimate knowledge of the statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants and Defendant 10X Fund had the power to influence and control, and did influence and control, directly or indirectly, the day-to-day decision-making of the Company, including the content and dissemination of the various statements Lead Plaintiff alleges were materially false and misleading. The Individual Defendants and Defendant 10X Fund were provided with, or had unlimited access to, copies of the Company's reports, press releases, public filings, and other statements alleged by Lead



Plaintiff to have been misleading prior to and/or shortly after those statements were issued, and had the ability to prevent the issuance of the statements and/or to cause the statements to be corrected.

149. In particular, the Individual Defendants and Defendant 10X Fund had direct and supervisory involvement in the day-to-day operations of the Company, and therefore had, or are presumed to have had, the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

150. As set forth above, Galectin and the Individual Defendants violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of the Individual Defendants' and Defendant 10X Fund's status as controlling persons, and/or their participation in the underlying violation of Section 10(b) and Rule 10b-5, the Individual Defendants and Defendant 10X Fund are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of the Individual Defendants' and Defendant 10X Fund's wrongful conduct, Lead Plaintiff and the other members of the Class suffered damages in connection with their purchases of the Company's stock during the Class Period.

### **XIII. PRAYER FOR RELIEF**

WHEREFORE, Lead Plaintiff, on behalf of himself and the other members of the Class, prays for relief and judgment, including:

A. Determining that Counts I, II, and III of this action constitute a proper class action under Federal Rules of Civil Procedure 23, certifying Lead Plaintiff as a Class representative under Rule 23 of the Federal Rules of Civil Procedure, and certifying Lead Plaintiff's counsel as Lead and Liaison Counsel for the Class;

B. Awarding compensatory damages in favor of Lead Plaintiff and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result of

Defendants' wrongdoing, in an amount to be determined at trial, including pre-judgment and post-judgment interest, as allowed by law;

C. Awarding Lead Plaintiff and the other members of the Class their costs and expenses incurred in this action, including reasonable counsel fees and expert fees; and

D. Awarding such other and further relief as may be just and proper.

**JURY TRIAL DEMANDED**

Lead Plaintiff hereby demands a trial by jury on all triable claims.

Dated: May 8, 2015

Respectfully Submitted,

/s/ Ross A. Albert

**MORRIS, MANNING & MARTIN, LLP**

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3343 Peachtree Road, N.E.

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*Liaison Counsel for Lead Plaintiff and the Class*

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kjustice@ktmc.com

280 King of Prussia Road

Radnor, PA 19087

Telephone: (610) 667-7706

Facsimile: (610) 667-7056

*Lead Counsel for Lead Plaintiff and the Class*



**CERTIFICATE OF SERVICE**

I hereby certify that on May 8, 2015 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to counsel of record by operation of the Court's electronic filing system.

I certify under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 8, 2015.

/s/Ross A. Albert  
Ross A. Albert

# EXHIBIT A



### CERTIFICATION

I, Glyn Hotz ("Plaintiff"), declare, as to the claims asserted under the federal securities laws, that:

1. I did not purchase and/or acquire the securities that are the subject of this action at the direction of Plaintiff's counsel or in order to participate in any private action.

2. I am willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary. I understand that this is not a claim form and that my ability to share in any recovery as a member of the class is not dependent upon execution of this Certification.

3. Attached in Schedule A are my purchase and sale transactions in the Galectin Therapeutics Inc. securities that are the subject of this action during the Class Period set forth in the Consolidated Class Action Complaint ("Complaint").

4. I have complete authority to bring suit to recover for investment losses for all securities set forth in Schedule A.

5. I have fully reviewed the facts and allegations of the Complaint and have authorized the filing of the Complaint.

6. Aside from this action, I have neither served nor have sought to serve as a representative party for a class action filed under the federal securities laws filed during the three years prior to the date of this certification.

7. I will not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 8<sup>th</sup> day of May, 2015.

Glyn Hotz

A handwritten signature in black ink, appearing to read 'Glyn Hotz', is written over a horizontal line. The signature is stylized with a large, circular initial 'G' and a long, sweeping horizontal stroke at the end.



Schedule A

Security	Transaction	Date	Quantity	Price
Com Stk	Buy	2/26/2014	16,000	\$17.90

for the

IN RE GALECTIN THERAPEUTICS, INC.  
SECURITIES LITIGATION

Plaintiff(s)

 $V_0$ 

Civil Action No. 1:15-CV-0029-SCJ

Defendant(s)

To: *(Defendant's name and address)* 10X Fund L.P.  
c/o Rod D. Martin  
404 Kelly Plantation Drive, PH 8  
Destin, FL 32541

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Kimberly A. Justice  
Kessler Topaz Meltzer & Check, LLP  
280 King of Prussia Road  
Radnor, PA 19087

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk



AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:15-CV-0029-SCJ

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

# Exhibit C



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE GALECTIN  
THERAPEUTICS, INC.  
SECURITIES LITIGATION

CIVIL ACTION FILE  
NO. 1:15-cv-208-SCJ

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**J U D G M E N T**

This action having come before the court, Honorable Steve C. Jones, United States District Judge, for consideration of defendant Gelectin Therapeutics, Inc.'s Motion to Dismiss and Peter G. Traber, Jack W. Callicutt, James C. Czirr, Gilbert F. Amelio, Kevin D. Freeman, Arthur R. Greenburg, Rod. D. Martin, John F. Mauldin, Steven Prelack, Herman Paul Pressler, III, and Mark Rubin (the "Individual Defendants") and 10X Fund L.P.'s Motion to Dismiss, and the court having granted said motions, it is

**Ordered and Adjudged** that defendants Gelectin Therapeutics, Inc., Peter G. Traber, Jack W. Callicutt, James C. Czirr, Gilbert F. Amelio, Kevin D. Freeman, Arthur R. Greenburg, Rod. D. Martin, John F. Mauldin, Steven Prelack, Herman Paul Pressler, III, Mark Rubin and 10X Fund L.P. recover their costs of this action, and the action be, and the same hereby is, **dismissed with prejudice.**

Dated at Atlanta, Georgia, this 30<sup>th</sup> day of December, 2015.

JAMES N. HATTEN  
CLERK OF COURT

By: s/Amanda Querrard  
Deputy Clerk

Prepared, Entered and Filed  
in the Clerk's Office  
December 30, 2015  
James N. Hatten  
Clerk of Court  
By: s/Amanda Querrard  
Deputy Clerk

# Exhibit D



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE GALECTIN  
THERAPEUTICS, INC.  
SECURITIES LITIGATION

CIVIL ACTION FILE  
NO. 1:15-cv-29-SCJ

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**J U D G M E N T**

This action having come before the court, Honorable Steve C. Jones, United States District Judge, for consideration of defendants Gelectin Therapeutics, Inc., James C. Czirr, Rod. D. Martin, Peter G. Traber, Jack W. Callicutt, John F. Mauldin and 10X Fund L.P.'s Motions to Dismiss, and the court having granted said motions, it is

**Ordered and Adjudged** that defendants Gelectin Therapeutics, Inc., James C. Czirr, Rod. D. Martin, Peter G. Traber, Jack W. Callicutt, John F. Mauldin and 10X Fund L.P. recover their costs of this action, and the action be, and the same hereby is, **dismissed with prejudice.**

Dated at Atlanta, Georgia, this 30<sup>th</sup> day of December, 2015.

JAMES N. HATTEN  
CLERK OF COURT

By: s/Amanda Querrard  
Deputy Clerk

Prepared, Entered and Filed  
in the Clerk's Office  
December 30, 2015  
James N. Hatten  
Clerk of Court  
By: s/Amanda Querrard  
Deputy Clerk

# Exhibit E