

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 22-cv-2105-WJM-CYC

TAO WANG, individually and on behalf of all others similarly situated,
SYNWORLD TECHNOLOGIES CORPORATION, individually and on behalf of all others
similarly situated,

Plaintiff,

v.

AMPIO PHARMACEUTICALS, INC.
MICHAEL A. MARTINO,
MICHAEL MACALUSO,
HOLLI CHEREVKA,
DAN STOKELY,
DAVID BAR-OR,
PHILIP H. COELHO, and
RICHARD B. GILES

Defendants.

**LEAD PLAINTIFFS' MOTION TO CORRECT DATE IN THE ORDER GRANTING
LEAD PLAINTIFFS' MOTION FOR DISTRIBUTION OF THE NET SETTLEMENT
FUND (ECF NO. 114) *NUNC PRO TUNC*; AND MEMORANDUM OF LAW IN
SUPPORT**

Lead Plaintiffs Tao Wang and his wholly-owned company, SynWorld Technologies Corporation (“SynWorld” and collectively with Mr. Wang (“Plaintiffs”)), on behalf of themselves and the Settlement Class,¹ respectfully moves this Court under Fed. R. Civ. P. 60(a) (“Rule 60(a)”) to correct an error in the Order Granting Lead Plaintiffs’ Motion for Distribution of the Net Settlement Fund (“Original Distribution Order”). ECF No. 114.

¹ Unless otherwise noted, the following conventions are used herein: (a) all emphases are added; (b) all citations and internal quotation marks are omitted; and (c) all capitalized terms have the meaning ascribed to them in the Stipulation and Agreement of Settlement dated May 13, 2024 (“Stipulation” or “Stip.”), ECF No. 93.

This motion is accompanied by the Supplemental Declaration of Megan Todd (“Supplemental Todd Declaration” or “Suppl. Todd Decl.”), submitted herewith as Exhibit 1.

Pursuant to the Stipulation, Defendants have no interest in the relief sought by this motion. *See* Stipulation ¶15 (“The Settlement is not a claims-made settlement.”). As a result, Plaintiffs respectfully state that conferral is not required pursuant to D.C.COLO.LCivR 7.1(a).

MEMORANDUM OF LAW

On March 2, 2026, the Court issued the Original Distribution Order. ECF No. 114. The Original Distribution Order, *inter alia*, approved the Claims Administrator’s (“Simpluris”) administrative determinations accepting the claims listed in Exhibits B-1 and B-2 to the Declaration of Megan Todd in Support of Lead Plaintiffs’ Motion for Approval of Distribution of Net Settlement Fund” (“Initial Todd Declaration” or “Initial Todd Decl.”) and rejecting the claims listed in Exhibit B-3 to the Initial Todd Declaration. Original Distribution Order ¶¶2-4. Pursuant to the Original Distribution Order, Simpluris has been preparing to conduct the initial distribution of the Net Settlement Fund. During this preparation, Simpluris discovered that the Initial Todd Declaration and accompanying distribution motion (ECF No. 110) incorrectly represented the length of time that new claims were processed after the claims-filing deadline. *See* Suppl. Todd. Decl. ¶4. This was a mistake arising from oversight or omission.

By way of background, to be eligible to participate in the Settlement Fund, potential Class Members were required to submit Proof of Claim Forms (“Claim Forms”). The Order Granting Lead Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement in this action provides that “Lead Counsel may, in its discretion, accept-late submitted claims for processing by the Claims Administrator so long as distribution of the Net

Settlement Fund to Authorized Claimants is not materially delayed thereby.” ECF No. 97 at ¶16. Claim Forms were due January 13, 2025. *Id.* Simpluris, in consultation with Lead Counsel, kept accepting new Claim Forms received up until May 8, 2025 (effectively creating a grace period) but had to stop accepting Claim Forms at that time to avoid materially delaying distribution. *See* Suppl. Todd. Decl. ¶¶4-6. Simpluris did, however, continue to process claims through January 30, 2026, as long as they were received on or before May 8, 2025. *Id.* at ¶7. Specifically, between May 9, 2025 and January 30, 2026, Simpluris continued to review, process defect responses, make final determinations, and work with claimants to resolve and revise claims received on or before May 8, 2025. *Id.*

The distribution motion and the Initial Todd Declaration submitted therewith, however, provided that “Simpluris processed all late Proofs of Claim received through January 30, 2026,” and requested that the Court “order that no Proof of Claim received after January 30, 2026, be eligible for payment” Initial Todd Decl. ¶¶32-33. Accordingly, the Initial Distribution Order stated, “No new claims may be accepted after January 30, 2026, and no further adjustments to previously received claims that would result in an increased Recognized Loss may be made.” Initial Distribution Order ¶8.

Rule 60(a) provides that “[t]he court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record.” That is the case here. *See McAuliffe v. Vail Corp.*, No. 20-cv-1121-RBJ (D. Colo. Mar. 2, 2022) (stating, in a text only entry (ECF No. 127), that the court “can and will issue an amended order and final judgment nunc pro tunc the date of the original order and final

judgment” pursuant to a motion to correct the omission of a defendant in those documents (ECF No. 126)).

For the sake of accuracy and the avoidance of confusion, Plaintiffs and Simpluris respectfully submit that ¶8 of the Initial Distribution Order should be revised to state: “No new claims may be accepted after May 8, 2025, and no further adjustments to previously received claims that would result in an increased Recognized Loss may be made after January 30, 2026.” Suppl. Todd. Decl. ¶11. This change is reflected in the red line of the Initial Distribution Order. See Exhibit 2, submitted herewith.

To be clear, this correction does not change the Court’s prior determinations reflected in the Initial Distribution Order. The claimants in Exhibits B-1, B-2, and B-3 that Simpluris previously recommended for acceptance and rejection remain undisturbed, as these reflect claims submitted on or before May 8, 2025. *Id.* at ¶8. Any claims received after that date were not reflected in those exhibits because they were not processed. *Id.*

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter a corrected distribution order as set forth in Exhibit 2, to be effective *nunc pro tunc*.

Dated: April 30, 2026

Respectfully submitted,

By: s/ James M. Wilson, Jr.

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*Attorneys for Lead Plaintiffs Tao Wang and SynWorld
Technologies Corporation and Lead Counsel for the
Settlement Class*

CERTIFICATE OF SERVICE

I, James M. Wilson, Jr., hereby certify that on April 30, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the e-mail addresses denoted on the Court's Electronic Mail Notice List.

s/ James M. Wilson, Jr.
James M. Wilson, Jr.

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

TAO WANG and SYNWORLD
TECHNOLOGIES CORPORATION,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

AMPIO PHARMACEUTICALS, INC.
MICHAEL A. MARTINO,
MICHAEL MACALUSO,
HOLLI CHEREVKA,
DAN STOKELY
DAVID BAR-OR,
PHILIP H. COELHO, and
RICHARD B. GILES,

Defendants.

Case No.: 1:22-cv-02105-WJM-MEH

**SUPPLEMENTAL DECLARATION OF
MEGAN TODD OF SIMPLURIS IN
SUPPORT OF LEAD PLAINTIFF'S
MOTION TO CORRECT DATE IN
THE ORDER GRANTING LEAD
PLAINTIFFS' MOTION FOR
DISTRIBUTION OF THE NET
SETTLEMENT FUND (ECF NO. 114)
*NUNC PRO TUNC***

I, MEGAN TODD, declare as follows:

1. I am employed as a Project Manager by Simpluris, Inc. ("Simpluris"), the claims administrator in the above-entitled action. Our corporate office address is 3194-C Airport Loop Dr., Costa Mesa, CA 92626. I am over twenty-one years of age and authorized to make this declaration on behalf of Simpluris and myself. I have personal knowledge of the information set forth herein.

2. I submit this Declaration to supplement my earlier declaration, the Declaration of Megan Todd in Support of Lead Plaintiffs' Motion for Approval of Distribution of Net Settlement Fund, dated February 6, 2026 (the "Distribution Declaration") (ECF No. 111), which provided the Court with information regarding the processing of claims and distribution of the net settlement fund.

CLARIFICATION AND REQUEST FOR CORRECTIVE EDIT

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SUPPLEMENTAL DECLARATION OF MEGAN TODD OF SIMPLURIS IN SUPPORT OF
LEAD PLAINTIFF'S MOTION TO CORRECT DATE IN THE ORDER GRANTING LEAD
PLAINTIFFS' MOTION FOR DISTRIBUTION OF THE NET SETTLEMENT FUND (ECF
NO. 114) NUNC PRO TUNC

4. In paragraph 32 of the Distribution Declaration, Simpluris mistakenly stated that “Simpluris processed all late Proofs of Claim received through January 30, 2026...” That was incorrect and made in error. As detailed below, Simpluris processed all late Proofs of Claim received through May 8, 2025, not January 30, 2026. That is, claims were accepted during a grace period that lasted approximately four months after the official published deadline to submit claims of January 13, 2025.

5. The grace period was set in coordination with Plaintiffs’ counsel.

6. Any new claims submitted to Simpluris after May 8, 2025 (the end of the four month grace period for late claims), were not accepted and not reviewed or processed.

7. Between May 9, 2025, and January 30, 2026, Simpluris did, however, continue reviewing the claims that were timely submitted on or before May 8, 2025. Specifically, between May 9, 2025, and January 30, 2026, Simpluris continued to review, process defect responses, make final determinations, and work with claimants to resolve and revise claims received on or before May 8, 2025.

8. The information I previously submitted in my prior Declaration at Exhibits B-1, B-2 and B-3 accurately reflects all information regarding all claims submitted and accepted through the above-referenced cut-off date of May 8, 2025. Thus, Claimants in Exhibits B-1, B-2, and B-3 of the Distribution Declaration that Simpluris previously recommended for acceptance and rejection remain undisturbed, as these exhibits only include claims submitted on or before May 8, 2025. Any claims which were received after May 8, 2025, are not reflected in those exhibits, as they were denied intake and not processed. Moreover, if a new claim was submitted after May 8, 2025, the person making such submission was informed in writing that their claims were late and would not be processed.

9. All of the actual claims information in my prior affidavit is accurate. The only inaccuracy in my prior declaration is that the cut-off date that we used for accepting new claims was stated to be January 30, 2026 when in fact it was May 8, 2025.

10. That inadvertent error in the declaration submitted to the Court led to the Court stating in Paragraph 8 of the distribution order: **“No new claims may be accepted after January 30, 2026...”**

11. Plaintiffs and Simpluris now request that the Court revise that statement in Paragraph 8 of the Distribution Order, nunc pro tunc, to state: **“No new claims may be accepted after May 8, 2025, and no further adjustments to previously received claims that would result in an increased Recognized Loss may be made after January 30, 2026.”** This will correct the mistake caused by the inadvertent error in my affidavit and conform the distribution order to what has actually occurred.

12. If that mistake is not corrected, and the grace period were to be extended beyond the four month period above, the claims process would be rendered incomplete and the distribution of funds would be significantly delayed in order to process claims submitted beyond that four month grace period.

13. I declare under penalty of perjury that the above is true and correct and that this Declaration was executed this 29th day of April, 2026, in Spring Hill, Florida.



MEGAN TODD

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martinez**

Civil Action No. 22-cv-2105-WJM-CYC

TAO WANG, individually and on behalf of
all others similarly situated; and
SYNWORLD TECHNOLOGIES
CORPORATION, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

AMPIO PHARMACEUTICALS, INC.
MICHAEL A. MARTINO,
MICHAEL MACALUSO,
HOLLI CHEREVKA,
DAN STOKELY,
DAVID BAR-OR,
PHILIP H. COELHO, and
RICHARD B. GILES

Defendants.

**ORDER GRANTING LEAD PLAINTIFFS' MOTION
FOR DISTRIBUTION OF THE NET SETTLEMENT FUND**

Before the Court is Lead Plaintiffs Tao Wang and his wholly-owned company, SynWorld Technologies Corporation's ("SynWorld," together with Mr. Wang, "Plaintiffs") Motion for Distribution of the Net Settlement Fund ("Motion"). (ECF No. 110.) Having reviewed and considered all the materials and arguments submitted in support of the Motion, IT IS HEREBY ORDERED that:

1. This Order incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated May 13, 2024 ("Stipulation") (ECF No. 93), and all terms

used herein shall have the same meaning as set forth in the Stipulation, unless otherwise set forth herein.

2. The Motion is granted in its entirety and the Court approves the administrative determinations of Simpluris, the Court-approved Claims Administrator, in accepting and rejecting the Proof of Claim Forms (“Claim Forms” or “Claims”).

3. The Net Settlement Fund established by the settlement of this Action shall be distributed to the Authorized Claimants identified in Exhibits B-1 and B-2 to the Declaration of Megan Todd in Support of Lead Plaintiffs’ Motion for Approval of Distribution of Net Settlement Fund (“Todd Distribution Declaration”) (ECF No. 111) at the direction of Lead Counsel, Faruqi & Faruqi, LLP, pursuant to the Stipulation, and the Plan of Allocation of the Net Settlement Fund set forth in the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses (the “Notice”), ECF No. 93-2.

4. Simpluris’ administrative determinations rejecting the ineligible or otherwise deficient Claims, which are set forth in Exhibit B-3 of the Todd Distribution Declaration, are approved. Such claims may not receive any distributions from the Settlement Fund.

5. Simpluris will conduct an initial distribution (the “Initial Distribution”) of the Net Settlement Fund, after deducting all payments approved by the Court, and after payment of any estimated Taxes, the costs of preparing appropriate tax returns, and any escrow fees, as follows:

a. Simpluris will calculate award amounts to all Authorized Claimants by calculating their *pro rata* share of the Net Settlement Fund in accordance with

the Plan of Allocation;

b. Simpluris will, pursuant to the Plan of Allocation, eliminate from the Initial Distribution any Authorized Claimant whose *pro rata* share of the Net Settlement Fund, as calculated under subparagraph (a) above, is less than \$10.00. Such claimants will not receive any distribution from the Net Settlement Fund;

c. After eliminating claimants who would have received less than \$10.00, Simpluris will calculate the *pro rata* distribution payments for Authorized Claimants who would have received \$10.00 or more, as calculated under subparagraph (a) above, and will prepare and submit payments accordingly.

6. Consistent with the Plan of Allocation, after Simpluris has made reasonable and diligent efforts to have Authorized Claimants negotiate their distribution checks, but no earlier than six months after the Initial Distribution, Lead Counsel, in consultation with Simpluris, will determine whether it is cost-effective to conduct a second distribution of the Net Settlement Fund (the "Second Distribution"). The Second Distribution will be distributed to all Authorized Claimants who: (i) cashed their Initial Distribution checks; and (ii) would receive at least \$10.00 from such distribution based on their *pro rata* share of the remaining funds, after payment of the estimated costs, expenses, or fees to be incurred in administering the Net Settlement Fund and making this Second Distribution.

7. Additional re-distributions, after deduction of costs and expenses as described above, may occur thereafter until Lead Counsel, in consultation with Simpluris, determines that further redistribution would not be cost-effective. If further

redistribution of the funds remaining in the Net Settlement Fund is not feasible or economical to reallocate, the remaining balance shall be donated to the CII Research and Education Fund (“CII-REF”).

8. No new claims may be accepted after ~~January 30, 2026~~, **May 8, 2025**, and no further adjustments to previously received claims that would result in an increased Recognized Loss may be made **after January 30, 2026**.

9. The outstanding fees and expenses already incurred by Simpluris and its estimate to complete the Initial Distribution are approved. Simpluris shall be paid the sum of \$105,481.21 from the Settlement Fund for its costs and expenses in connection with the services performed in administering the Settlement to date and the estimated \$11,246.90 it anticipates incurring through the Initial Distribution. If the cost of the Initial Distribution is less than \$11,246.90, the excess shall be returned to the Net Settlement Fund.

10. Simpluris may destroy paper copies of the Proof of Claim Forms and all supporting documentation one year after the Initial Distribution, and electronic copies of the same three years after the Initial Distribution.

11. All persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in this matter, or otherwise involved in the administration or taxation of the Settlement Fund or Net Settlement Fund, including Plaintiff, Lead Counsel, and Simpluris, are hereby released and discharged from any and all claims arising out of such involvement, and all Class Members, whether or not they are to receive payment from the Net Settlement Fund, are hereby barred from making any further claims against the Net Settlement Fund or

the released persons beyond the amount allocated to them pursuant to this Order.

12. The Court retains jurisdiction to consider any further applications concerning the administration of the Settlement, and such other and further relief as this Court deems appropriate.

Dated this 2nd day of March, 2026.

BY THE COURT:



William J. Martínez
Senior United States District Judge