
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

SCHEDULE 14D-9

(Rule 14d-101)

(Amendment No. 2)

SOLICITATION/RECOMMENDATION STATEMENT
UNDER SECTION 14(d)(4) OF THE SECURITIES EXCHANGE ACT OF 1934

REPROS THERAPEUTICS INC.

(Name of Subject Company)

REPROS THERAPEUTICS INC.

(Name of Person(s) Filing Statement)

Common Stock, par value \$0.001 per share
(Title of Class of Securities)

76028H209

(CUSIP Number of Class of Securities)

Larry M. Dillaha, M.D.
President and Chief Executive Officer
Repros Therapeutics Inc.
2408 Timberloch Place, Suite B-7
The Woodlands, Texas 77380
(281) 719-3400

(Name, Address and Telephone Number of Person Authorized to Receive
Notice and Communications on Behalf of the Person(s) Filing Statement)

With a copy to:
Justin W. Chairman
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, Pennsylvania 19103
(215) 963-5000

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

This Amendment No. 2 to Schedule 14D-9 (this “Amendment”) amends and supplements the Solicitation/Recommendation Statement on Schedule 14D-9 filed with the Securities and Exchange Commission (the “SEC”) on December 29, 2017 and subsequently amended by Amendment No. 1 filed with the SEC on January 3, 2018 (together with the Exhibits or Annexes thereto and as amended or supplemented from time to time, the “Statement”) by Repros Therapeutics Inc., a Delaware corporation (the “Company”). The Statement relates to a tender offer by Celestial Merger Sub, Inc., a Delaware corporation (“Purchaser”), and wholly owned subsidiary of Allergan Sales, LLC, a Delaware limited liability company (“Parent”), and a wholly owned subsidiary of Allergan plc, an Irish public limited company (“Allergan”), to purchase all of the issued and outstanding shares of common stock, par value \$0.001 per share, of the Company for a purchase price of \$0.67 per Share in cash, without any interest thereon and subject to any required tax withholdings, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated December 29, 2017 (as amended or supplemented from time to time), and in the related Letter of Transmittal (as amended or supplemented from time to time), which were filed as Exhibits (a)(1)(A) and (a)(1)(B) to the Statement, respectively.

Capitalized terms used, but not otherwise defined, in this Amendment shall have the meanings ascribed to them in the Statement. The information in the Statement is incorporated into this Amendment by reference to all applicable items in the Statement, except that such information is hereby amended and supplemented to the extent specifically provided herein.

Item 8. Additional Information

Item 8 of the Statement is hereby amended and supplemented by amending and restating the first paragraph under “Additional Information — Legal Proceedings” as follows:

“Following the announcement of the Merger Agreement, the following putative class actions relating to the Offer and the Merger was commenced.

On December 29, 2017, a putative class action complaint was filed in the United States District Court for the Southern District of Texas by a purported stockholder of the Company in connection with the pending Offer and the Merger. The action captioned *Mark Neuterman v. Repros Therapeutics Inc. et al. (4:17-cv-03918)* (“Texas Action”), alleges that the directors of the Company violated Sections 14(e), 14(d)(4), and Section 20(a) of the federal securities laws by filing a Schedule 14D-9 Solicitation/Recommendation Statement with the Securities and Exchange Commission that contains allegedly misleading statements and omissions concerning financial projections for the Company and the valuation analyses performed by the Company’s financial advisor in support of its fairness opinion. On January 3, 2018, two putative class action complaints were filed in the United States District Court for the District of Delaware by purported stockholders of the Company in connection with the pending Offer and the Merger. The actions, captioned *Adam Franchi v. Repros Therapeutics Inc. et al. (4:18-cv-0100053)* (the “Franchi Action”) and *Stephen Clement v. Repros Therapeutics Inc. et al. (4:18-cv-0100050)*, allege that the directors of the Company violated Sections 14(d)(4) and Section 20(a) based on substantially similar allegations as those in the Texas Action. In addition, the Franchi Action also names Parent and Purchaser as defendants and alleges that they violated Section 20(a). The actions seek various remedies, including enjoining the Merger from being consummated, or in the event the Merger is consummated, damages, and costs and fees relating to the lawsuits.

The foregoing description is qualified in its entirety by reference to the complaints, which are filed as exhibits to this Statement and incorporated herein by reference.”

Item 9. Exhibits

Item 9 of the Statement is hereby amended and restated in its entirety to read as follows:

<u>Exhibit No.</u>	<u>Document</u>
(a)(1)(A)	Offer to Purchase, dated December 29, 2017 (incorporated by reference to Exhibit (a)(1)(A) to the Schedule TO).
(a)(1)(B)	Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9) (incorporated by reference to Exhibit (a)(1)(B) to the Schedule TO).
(a)(1)(C)	Notice of Guaranteed Delivery (incorporated by reference to Exhibit (a)(1)(C) to the Schedule TO).
(a)(1)(D)	Form of Letter from the Information Agent to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to Exhibit (a)(1)(D) to the Schedule TO).
(a)(1)(E)	Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees (incorporated by reference to Exhibit (a)(1)(E) to the Schedule TO).
(a)(1)(F)	Press Release issued by Repros Therapeutics Inc., dated December 12, 2017 (incorporated herein by reference to Exhibit 99.1 to Repros Therapeutics Inc.’s Current Report on Form 8-K filed with the SEC on December 12, 2017).
(a)(1)(G)	Summary Advertisement as published in the New York Times on December 29, 2017 (incorporated herein by reference to Exhibit (a)(1)(I) to the Schedule TO).
(a)(1)(H)	Opinion of Stifel, Nicolaus & Company, Incorporated, dated December 11, 2017 (included as Annex I to this Schedule 14D-9).
(a)(5)(i)	Text of Class Action Complaint, dated December 29, 2017 (Mark Neuterman v. Repros Therapeutics Inc. et al.).
(a)(5)(ii)	Text of Class Action Complaint, dated January 3, 2017 (Adam Franchi v. Repros Therapeutics Inc. et al.).*
(a)(5)(iii)	Text of Class Action Complaint, dated January 3, 2018 (Stephen Clement v. Repros Therapeutics Inc. et al.).*
(e)(1)	Agreement and Plan of Merger, dated as of December 11, 2017, by and among Allergan Sales, LLC, Celestial Merger Sub, Inc. and Repros Therapeutics Inc. (incorporated by reference to Exhibit 2.1 to Repros Therapeutics Inc.’s Current Report on Form 8-K filed with the SEC on December 12, 2017).

<u>Exhibit No.</u>	<u>Document</u>
(e)(2)	Confidential Disclosure Agreement, dated April 11, 2017, by and among Allergan, Inc. and Repros Therapeutics Inc. (incorporated by reference to Exhibit (d)(2) to the Schedule TO).
(e)(3)	Agreement for Amendment to Series A and Series B Warrants, by and between Repros Therapeutics Inc. and Alto Opportunity Master Fund, SPC - Segregated Master Portfolio B, dated as of December 11, 2017 (incorporated by reference to Exhibit 4.1 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on December 12, 2017).
(e)(4)	Agreement for Amendment to Series A and Series B Warrants, by and between Repros Therapeutics Inc. and Hudson Bay Master Fund Ltd, dated as of December 11, 2017 (incorporated by reference to Exhibit 4.2 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on December 12, 2017).
(e)(5)	Agreement for Amendment to Series A and Series B Warrants, by and between the Company and KBB Asset Management, dated as of December 11, 2017 ((incorporated by reference to Exhibit 4.3 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on December 12, 2017).
(e)(6)	Agreement for Amendment to Series A and Series B Warrants, by and between Repros Therapeutics Inc. and Warberg Warrant Fund V, dated as of December 11, 2017 (incorporated by reference to Exhibit 4.4 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on December 12, 2017).
(e)(7)	Form of Escrow Agreement, by and among Allergan Sales, LLC, Repros Therapeutics Inc. and JPMorgan Chase Bank, N.A. (incorporated by reference to Exhibit 10.1 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on December 12, 2017)
(e)(8)	Form of Indemnification Agreement entered into between Repros Therapeutics Inc. and each of its directors (incorporated by reference to Exhibit 10.1 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on May 20, 2009).
(e)(9)	Restated Certificate of Incorporation of Repros Therapeutics Inc. (incorporated by reference to Exhibit 3.3 to Repros Therapeutics Inc.'s Registration Statement on Form SB-2 (No. 33-57728-FW), as amended (the "SB-2 Registration Statement")).
(e)(10)	Certificate of Amendment to Repros Therapeutics Inc.'s Restated Certificate of Incorporation, dated as of May 2, 2006 (incorporated by reference to Exhibit 3.1 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on May 2, 2006).

<u>Exhibit No.</u>	<u>Document</u>
(e)(11)	Certificate of Amendment to Restated Certificate of Incorporation of Repros Therapeutics Inc., dated as of December 16, 2008 (incorporated by reference to Exhibit 3.1(d) to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on December 23, 2008).
(e)(12)	Certificate of Amendment to Restated Certificate of Incorporation of Repros Therapeutics Inc., dated as of November 18, 2009 (incorporated by reference to Exhibit 3.1(e) to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on November 19, 2009).
(e)(13)	Certificate of Amendment to Restated Certificate of Incorporation of Repros Therapeutics Inc., dated October 14, 2010 (incorporated by reference to Exhibit 3.1(f) to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on October 15, 2010).
(e)(14)	Restated Bylaws of Repros Therapeutics Inc. (incorporated by reference to Exhibit 3.4 to the SB-2 Registration Statement).
(e)(15)	1994 Employee and Consultant Stock Option Plan (incorporated by reference to Exhibit 4.2 to Repros Therapeutics Inc.'s Registration Statement on Form S-8 (File No. 033-83406) filed with the SEC on August 29, 1994).
(e)(16)	2000 Non-Employee Directors' Stock Option Plan (incorporated by reference to Appendix B to Repros Therapeutics Inc.'s Definitive Proxy Statement filed with the SEC on April 26, 2000).
(e)(17)	First Amendment to the Repros Therapeutics Inc. 2000 Non-Employee Directors' Stock Option Plan (incorporated by reference to Exhibit 10.21 to Repros Therapeutics Inc.'s Form 10-K for the year ended December 31, 2000).
(e)(18)	Second Amendment to 2000 Non-Employee Directors' Stock Option Plan (incorporated by reference to Exhibit 10.6 to Repros Therapeutics Inc.'s Annual Report on Form 10-K for the year ended December 31, 2002).
(e)(19)	Repros Therapeutics Inc. 2004 Stock Option Plan (incorporated by reference to Exhibit 10.17 to Repros Therapeutics Inc.'s Amendment No. 4 to Registration Statement on Form S-1 (No. 333-119861) filed with the SEC on January 24, 2005).
(e)(20)	2011 Equity Incentive Plan (incorporated by reference to Exhibit 4.1 to Repros Therapeutics Inc.'s Registration Statement on Form S-8 (No. 333-200370) filed with the SEC on November 19, 2014).

Exhibit No.

Document

- (e)(21) Employment Agreement dated October 6, 2017 by and between Repros Therapeutics Inc. and Larry M. Dillaha, M.D. (incorporated by reference to Exhibit 99.1 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on October 13, 2017).
- (e)(22) Employment Agreement dated August 1, 2011 by and between the Company and Katherine A. Anderson, as modified effective February 1, 2017 (incorporated by reference to Exhibit 10.1 to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on August 4, 2011 and to Repros Therapeutics Inc.'s Current Report on Form 8-K filed with the SEC on February 2, 2017).

* Filed with this Amendment.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

REPROS THERAPEUTICS INC.

By: /s/ Larry M. Dillaha, M. D
Name: Larry M. Dillaha, M. D.
Title: President, Chief Executive Officer
Date: **January 5, 2018**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ADAM FRANCHI, Individually and On)	
Behalf of All Others Similarly Situated,)	
)	Case No. _____
Plaintiff,)	
)	JURY TRIAL DEMANDED
v.)	
)	<u>CLASS ACTION</u>
REPOS THERAPEUTICS INC.,)	
PATRICK FOURTEAU, KATHERINE A.)	
ANDERSON, DANIEL F. CAIN, LARRY)	
DILLAHA, NOLA E. MASTERSON,)	
SAIRA RAMASASTRY, MICHAEL G.)	
WYLLIE, ALLERGAN SALES, LLC, and)	
CELESTIAL MERGER SUB, INC.)	
)	
Defendants.)	

COMPLAINT FOR VIOLATION OF THE SECURITIES EXCHANGE ACT OF 1934

Plaintiff, by his undersigned attorneys, for this complaint against defendants, alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This action stems from a proposed transaction announced on December 12, 2017 (the "Proposed Transaction"), pursuant to which Repros Therapeutics Inc. ("Repos" or the "Company") will be acquired by Allergan Sales, LLC ("Parent") and Celestial Merger Sub, Inc. ("Merger Sub" and collectively with Parent, "Allergan").

2. On December 11, 2017, Repros' Board of Directors (the "Board" or "Individual Defendants") caused the Company to enter into an agreement and plan of merger (the "Merger Agreement") with Allergan. Pursuant to the terms of the Merger Agreement, Merger Sub commenced a tender offer, set to expire on January 29, 2018, and shareholders of Repros will receive \$0.67 in cash for each share of Repros common stock.



3. On December 29, 2017, defendants filed a Solicitation/Recommendation Statement (the “Solicitation Statement”) with the United States Securities and Exchange Commission (“SEC”) in connection with the Proposed Transaction.

4. The Solicitation Statement omits material information with respect to the Proposed Transaction, which renders the Solicitation Statement false and misleading. Accordingly, plaintiff alleges herein that defendants violated Sections 14(e), 14(d), and 20(a) of the Securities Exchange Act of 1934 (the “1934 Act”) in connection with the Solicitation Statement.

JURISDICTION AND VENUE

5. This Court has jurisdiction over all claims asserted herein pursuant to Section 27 of the 1934 Act because the claims asserted herein arise under Sections 14(e), 14(d), and 20(a) of the 1934 Act and Rule 14a-9.

6. This Court has jurisdiction over defendants because each defendant is either a corporation that conducts business in and maintains operations within this District, or is an individual with sufficient minimum contacts with this District so as to make the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

7. Venue is proper under 28 U.S.C. § 1391 because a substantial portion of the transactions and wrongs complained of herein occurred in this District.

PARTIES

8. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of Repros common stock.

9. Defendant Repros is a Delaware corporation and maintains its principal executive offices at 2408 Timberloch Place, Suite B-7, The Woodlands, TX 77380. Repros' common stock is traded on the NasdaqCM under the ticker symbol "RPRX."

10. Defendant Patrick Fourteau ("Fourteau") has served as Chairman of the Board of Repros since 2016.

11. Defendant Katherine A. Anderson ("Anderson") is a director and Chief Financial Officer ("CFO") of Repros.

12. Defendant Daniel F. Cain ("Cain") has served as a director of Repros since 2004, and previously served as Chairman of the Board from 2005 through 2008.

13. Defendant Larry Dillaha ("Dillaha") is a director, President, and Chief Executive Officer ("CEO") of Repros.

14. Defendant Nola E. Masterson ("Masterson") has served as a director of Repros since 2004, and previously served as Chairman of the Board from 2009 through May 2016.

15. Defendant Saira Ramasastry ("Ramasastry") has served as a director of Repros since 2013.

16. Defendant Michael G. Wyllie ("Wyllie") has served as a director of Repros since 2011.

17. The defendants identified in paragraphs 10 through 16 are collectively referred to herein as the "Individual Defendants."

18. Defendant Parent is a Delaware limited liability company and a party to the Merger Agreement.

19. Defendant Merger Sub is a Delaware corporation, a wholly-owned subsidiary of the Parent, and a party to the Merger Agreement.

CLASS ACTION ALLEGATIONS

20. Plaintiff brings this action as a class action on behalf of himself and the other public stockholders of Repros (the "Class"). Excluded from the Class are defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.

21. This action is properly maintainable as a class action.

22. The Class is so numerous that joinder of all members is impracticable. As of December 11, 2017, there were approximately 39,560,688 shares of Repros common stock outstanding, held by hundreds, if not thousands, of individuals and entities scattered throughout the country.

23. Questions of law and fact are common to the Class, including, among others, whether defendants will irreparably harm plaintiff and the other members of the Class if defendants' conduct complained of herein continues.

24. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff has the same interests as the other members of the Class. Accordingly, plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

25. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for defendants, or adjudications that would, as a practical matter, be dispositive of the interests of individual members of the Class who are not parties to the adjudications or would substantially impair or impede those non-party Class members' ability to protect their interests.

26. Defendants have acted, or refused to act, on grounds generally applicable to the Class as a whole, and are causing injury to the entire Class. Therefore, final injunctive relief on behalf of the Class is appropriate.

SUBSTANTIVE ALLEGATIONS

Background of the Company and the Proposed Transaction

27. Repros was organized on August 20, 1987. The Company is a development stage biopharmaceutical company focused on the development of new drugs to treat hormonal and reproductive system disorders.

28. The Company's current pipeline includes Enclomiphene and Proellex®.

29. Enclomiphene is a single isomer of clomiphene citrate and is an orally active proprietary small molecule compound. The Company is developing enclomiphene for men of reproductive age with low testosterone due to secondary hypogonadism. Secondary hypogonadism is associated with obesity and the Company believes it is among the most common causes of low testosterone in men. It is estimated that 13 million men in the U.S. experience low levels of testosterone, and the condition is becoming recognized with more frequency. Repros believes enclomiphene is highly differentiated from currently marketed testosterone treatments or those treatments in late stage development because it is an oral therapy and it treats the cause of secondary hypogonadism, which is inadequate pituitary hormones. Repros believes that by treating the cause of secondary hypogonadism, enclomiphene also has the potential to maintain reproductive status and potentially improve overall metabolic profiles. In addition, the Company continues to consider the potential for use of enclomiphene as an adjuvant therapy in hypogonadal men with Type 2 diabetes. The Company has an active IND open with the Division of Endocrine and Metabolic Products at the Food and Drug Administration ("FDA") for this indication. Repros believes there may be an association between the restoration of normal pituitary function and improvement of metabolic conditions such as Type 2 diabetes. Research has been published which demonstrates that increased insulin resistance, a characteristic implicated in Type 2 diabetes, is associated with the onset of secondary hypogonadism.

30. Proellex is a new chemical entity that acts as a selective blocker of the progesterone receptor and is being developed for the treatment of symptoms associated with uterine fibroids and endometriosis. There are currently no FDA-approved orally administered drug treatments for the long-term treatment of either uterine fibroids or endometriosis. The National Uterine Fibroids Foundation estimates that 80% of all women in the U.S. have uterine fibroids, and one in four of these women have symptoms severe enough to require treatment. The current standards of care for uterine fibroids and endometriosis consist of surgery or short-term treatment with gonadotropin-releasing hormone agonists drugs.

31. On December 11, 2017, the Board caused the Company to enter into the Merger Agreement, pursuant to which the Company will be acquired by Allergan.

32. Pursuant to the terms of the Merger Agreement, shareholders of Repros will receive \$0.67 in cash for each share of Repros common stock.

33. The Merger Agreement contains a “no solicitation” provision that prohibits the Individual Defendants from soliciting alternative proposals and severely constrains their ability to communicate and negotiate with potential buyers who wish to submit or have submitted unsolicited alternative proposals. Section 6.2(a) of the Merger Agreement provides:

No Solicitation or Negotiation. From and after the date of this Agreement until the earlier of the Effective Time and the termination of this Agreement in accordance with Section 9.1, and except as otherwise specifically provided for in this Section 6.2, the Company shall not, shall cause each of its affiliates and its and their respective officers, directors and employees not to, and shall use its reasonable best efforts to cause its and their respective other Representatives not to, directly or indirectly:

(i) solicit, initiate, knowingly encourage or facilitate (including by way of furnishing information) any inquiry regarding, or the submission of any proposal or offer that constitutes, or could reasonably be expected to lead to, a Competing Proposal;

(ii) engage, continue or otherwise participate in any discussions or negotiations regarding, or furnish to any Person any information or data with respect to, or knowingly cooperate in any way with any Person (whether or not such Person is making a Competing Proposal) with respect to any Competing Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to a Competing Proposal;

(iii) take any action to exempt any Person (other than Parent and the Parent Subsidiaries) from the restrictions on “business combinations” or any similar provision contained in any applicable Takeover Statute or the Company Governing Documents; or

(iv) resolve or propose to do any of the foregoing.

The Company shall, and shall cause the Company Subsidiary, and its and their respective affiliates, officers, directors and employees to, use its and their reasonable best efforts to cause its and their respective other Representatives to, immediately cease any solicitation, encouragement, discussions or negotiations with any Persons that may be ongoing with respect to any Competing Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to a Competing Proposal, and shall, within forty-eight (48) hours after execution and delivery of this Agreement, instruct (to the extent it has contractual authority to do so and has not already done so prior to the date of this Agreement) or otherwise request, any Person that has executed a confidentiality or non-disclosure agreement in connection with any such Competing Proposal or potential Competing Proposal to return or destroy all such information or documents or material incorporating confidential information in the possession of such Person or its Representatives. The Company shall, on the date hereof, terminate access by any third party (other than Parent, Merger Sub, or their respective Representatives) to any data room (virtual or actual) containing any confidential information of the Company or the Company Subsidiary.

34. Additionally, the Company must promptly advise Allergan of any proposals or inquiries received from other parties. Section 6.2(c) of the Merger Agreement provides:

Notice. The Company shall promptly (and, in any event, within twenty-four hours (24) hours) notify Parent in writing of the receipt by the Company, the Company Subsidiary or any of their respective Representatives of any inquiry regarding, or the submission of any proposal or offer that constitutes, or could reasonably be expected to lead to, a Competing Proposal (including any inquiry or request for nonpublic information relating to the Company or the Company Subsidiary). Any such notice to Parent shall include copies of any written materials (including any proposed term sheet, letter of intent, acquisition agreement or similar agreement with respect thereto) submitted in connection with such Competing Proposal (or inquiry, proposal, offer or request) and indicate the identity of the Person making such Competing Proposal (or inquiry, proposal, offer or request) and the material terms and conditions thereof. Thereafter the Company shall promptly (and, in any event, within twenty-four (24) hours) keep Parent reasonably informed on a current basis regarding any material change to the terms of any such Competing Proposal (or inquiry, proposal, offer or request) and the nature of any information requested of the Company or the Company Subsidiary or any of their respective Representatives with respect thereto. The Company agrees that it and the Company Subsidiary will not enter into any agreement with any Person subsequent to the date of this Agreement which prohibits the Company from providing any information to Parent in accordance with this Section 6.2.

35. Moreover, the Merger Agreement contains a highly restrictive “fiduciary out” provision permitting the Board to change its recommendation of the Proposed Transaction under extremely limited circumstances, and grants Allergan a “matching right” with respect to any “Superior Proposal” made to the Company. Section 6.2(e) of the Merger Agreement provides:

Fiduciary Exception to No Change of Recommendation Provision.

(i) Notwithstanding anything to the contrary set forth in this Agreement, prior to the Acceptance Time, the Company Board may make a Change of Recommendation and/or, if applicable, terminate this Agreement pursuant to Section 9.1(d)(i) if after receiving a bona fide, unsolicited written Competing Proposal that did not result from a material breach of Section 6.2, the Company Board has determined in good faith (after consultation with the Company’s outside legal counsel and financial advisors) that (A) such Competing Proposal constitutes a Superior Proposal and (B) in light of such Competing Proposal, the failure to take such action would be reasonably likely to be inconsistent with the fiduciary duties of the members of the Company Board under applicable Law; provided, however, that, prior to making such Change of Recommendation or terminating this Agreement pursuant to Section 9.1(d)(i), (1) the Company has given Parent at least four (4) business days’ prior written notice of its intention to take such action (which notice shall specify the material terms and conditions of any such Superior Proposal) and has contemporaneously provided to Parent a copy of the Superior Proposal, a copy of any proposed Company Acquisition Agreement with the Person making such Superior Proposal and a copy of any financing commitments relating thereto (or, if not provided in writing to the Company, a written summary of the material terms thereof), (2) the Company has negotiated, and has caused its Representatives to negotiate, in good faith with Parent during such notice period, to the extent Parent wishes to negotiate, to enable Parent to propose revisions to the terms of this Agreement such that it would cause such Superior Proposal to no longer constitute a Superior Proposal, (3) following the end of such notice period, the Company Board shall have considered in good faith any revisions to the terms of this Agreement proposed by Parent in writing, and shall have determined in good faith (after consultation with the Company’s outside legal counsel and financial advisors) that the Superior Proposal would nevertheless continue to constitute a Superior Proposal if the revisions proposed by Parent were to be given effect, and (4) in the event of any change to any of the financial terms (including the form, amount and timing of payment of consideration) or any other material terms of such Superior Proposal, the Company shall, in each case, have delivered to Parent an additional notice consistent with that described in clause (1) above of this proviso and a new notice period under clause (1) of this proviso shall commence (except that the four (4) business day period notice period referred to in clause (1) above of this proviso shall instead be equal to the longer of (x) three (3) business days and (y) the period remaining under the notice period under clause (1) of this proviso immediately prior to the delivery of such additional notice under this clause (4)) during which time the Company shall be required to comply with the requirements of this Section 6.2(e)(i) anew with respect to such additional notice pursuant to clauses (1) through (4) above of this proviso; and provided, further, that the Company has complied in all material respects with its obligations under this Section 6.2.

36. The Merger Agreement also provides for a “termination fee” of \$1,000,000 payable by the Company to Allergan if the Individual Defendants cause the Company to terminate the Merger Agreement.

37. By agreeing to all of the deal protection devices, the Individual Defendants have locked up the Proposed Transaction and have precluded other bidders from making successful competing offers for the Company.

The Solicitation Statement Omits Material Information

38. On December 29, 2017, defendants filed the Solicitation Statement with the SEC in connection with the Proposed Transaction.

39. The Solicitation Statement omits material information with respect to the Proposed Transaction, which renders the Solicitation Statement false and misleading.

40. First, the Solicitation Statement omits material information regarding the Company's financial projections and the analyses performed by the Company's financial advisor, Stifel, Nicolaus & Company, Incorporated ("Stifel").

41. With respect to Repros' financial projections, the Solicitation Statement fails to disclose the Company's projected cash flows.

42. With respect to Stifel's *Sum-of-the-Parts Discounted Cash Flow Analysis*, the Solicitation Statement fails to disclose: (i) Repros' projected cash flows used by Stifel in the analysis; (ii) the inputs and assumptions underlying the discount rates of 14.0% to 16.0%; (iii) the Company's total cash, equivalents, and debt; and (iv) the Company's diluted shares outstanding.

43. With respect to Stifel's *Premiums Paid Analysis*, the Solicitation Statement fails to disclose the premiums paid in the transactions observed by Stifel in the analysis.

44. The disclosure of projected financial information is material because it provides stockholders with a basis to project the future financial performance of a company, and allows stockholders to better understand the financial analyses performed by the company's financial advisor in support of its fairness opinion. Moreover, when a banker's endorsement of the fairness of a transaction is touted to stockholders, the valuation methods used to arrive at that opinion as well as the key inputs and range of ultimate values generated by those analyses must also be fairly disclosed.

45. Second, the Solicitation Statement fails to disclose whether any non-disclosure agreements executed by the Company and the prospective bidders contained standstill and/or "don't ask, don't waive" provisions that are or were preventing those counterparties from submitting superior offers to acquire the Company.

46. Without this information, stockholders may have the mistaken belief that, if these potentially interested parties wished to come forward with a superior offer, they are or were permitted to do so, when in fact they are or were contractually prohibited from doing so.

47. Third, the Solicitation Statement omits material information regarding potential conflicts of interest of the Company's officers and directors.

48. Specifically, the Solicitation Statement fails to disclose the timing and nature of all communications regarding future employment and directorship of the Company's officers and directors, including who participated in all such communications.

49. Communications regarding post-transaction employment during the negotiation of the underlying transaction must be disclosed to stockholders. This information is necessary for stockholders to understand potential conflicts of interest of management and the Board, as that information provides illumination concerning motivations that would prevent fiduciaries from acting solely in the best interests of the Company's stockholders.

50. The omission of the above-referenced material information renders the Solicitation Statement false and misleading, including, *inter alia*, the following section of the Solicitation Statement: "The Solicitation or Recommendation."

51. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to Repros' stockholders.

COUNT I

(Claim for Violation of Section 14(e) of the 1934 Act Against Defendants)

52. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

53. Section 14(e) of the 1934 Act states, in relevant part, that:

It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading . . . in connection with any tender offer or request or invitation for tenders[.]

54. Defendants disseminated the misleading Solicitation Statement, which contained statements that, in violation of Section 14(e) of the 1934 Act, in light of the circumstances under which they were made, omitted to state material facts necessary to make the statements therein not misleading.

55. The Solicitation Statement was prepared, reviewed, and/or disseminated by defendants.

56. The Solicitation Statement misrepresented and/or omitted material facts in connection with the Proposed Transaction as set forth above.

57. By virtue of their positions within the Company and/or roles in the process and the preparation of the Solicitation Statement, defendants were aware of this information and their duty to disclose this information in the Solicitation Statement.

58. The omissions in the Solicitation Statement are material in that a reasonable shareholder will consider them important in deciding whether to tender their shares in connection with the Proposed Transaction. In addition, a reasonable investor will view a full and accurate disclosure as significantly altering the total mix of information made available.

59. Defendants knowingly or with deliberate recklessness omitted the material information identified above in the Solicitation Statement, causing statements therein to be materially incomplete and misleading.

60. By reason of the foregoing, defendants violated Section 14(e) of the 1934 Act.

61. Because of the false and misleading statements in the Solicitation Statement, plaintiff and the Class are threatened with irreparable harm.

62. Plaintiff and the Class have no adequate remedy at law.

COUNT II

(Claim for Violation of 14(d) of the 1934 Act Against Defendants)

63. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

64. Section 14(d)(4) of the 1934 Act states:

Any solicitation or recommendation to the holders of such a security to accept or reject a tender offer or request or invitation for tenders shall be made in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

65. Rule 14d-9(d) states, in relevant part:

Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1 through 8 of Schedule 14D-9 (§ 240.14d-101) or a fair and adequate summary thereof[.]

Item 8 requires that directors must “furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.”

66. The Solicitation Statement violates Section 14(d)(4) and Rule 14d-9 because it omits the material facts set forth above, which renders the Solicitation Statement false and/or misleading.

67. Defendants knowingly or with deliberate recklessness omitted the material information set forth above, causing statements therein to be materially incomplete and misleading.

68. The omissions in the Solicitation Statement are material to plaintiff and the Class, and they will be deprived of their entitlement to make a fully informed decision with respect to the Proposed Transaction if such misrepresentations and omissions are not corrected prior to the expiration of the tender offer.

69. Plaintiff and the Class have no adequate remedy at law.

COUNT III

**(Claim for Violation of Section 20(a) of the 1934 Act
Against the Individual Defendants and Allergan)**

70. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

71. The Individual Defendants and Allergan acted as controlling persons of Repros within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their positions as officers and/or directors of Repros and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Solicitation Statement filed with the SEC, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements that plaintiff contends are false and misleading.

72. Each of the Individual Defendants and Allergan was provided with or had unlimited access to copies of the Solicitation Statement alleged by plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause them to be corrected.

73. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control and influence the particular transactions giving rise to the violations as alleged herein, and exercised the same. The Solicitation Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly connected with and involved in the making of the Solicitation Statement.

74. Allergan also had direct supervisory control over the composition of the Solicitation Statement and the information disclosed therein, as well as the information that was omitted and/or misrepresented in the Solicitation Statement.

75. By virtue of the foregoing, the Individual Defendants and Allergan violated Section 20(a) of the 1934 Act.

76. As set forth above, the Individual Defendants and Allergan had the ability to exercise control over and did control a person or persons who have each violated Section 14(e) of the 1934 Act and Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act.

77. As a direct and proximate result of defendants' conduct, plaintiff and the Class are threatened with irreparable harm.

78. Plaintiff and the Class have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment and relief as follows:

- A. Enjoining defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction;
- B. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages;
- C. Directing the Individual Defendants to file a Solicitation Statement that does not contain any untrue statements of material fact and that states all material facts required in it or necessary to make the statements contained therein not misleading;
- D. Declaring that defendants violated Sections 14(e), 14(d), and 20(a) of the 1934 Act, as well as Rule 14a-9 promulgated thereunder;

- E. Awarding plaintiff the costs of this action, including reasonable allowance for plaintiff's attorneys' and experts' fees; and
- F. Granting such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: January 3, 2018

RIGRODSKY & LONG, P.A.

OF COUNSEL:

By: /s/ Brian D. Long

RM LAW, P.C.

Richard A. Maniskas
1055 Westlakes Drive, Suite 300
Berwyn, PA 19312
Telephone: (484) 324-6800

Brian D. Long (#4347)
Gina M. Serra (#5387)
300 Delaware Avenue, Suite 1220
Wilmington, DE 19801
Telephone: (302) 295-5310
Facsimile: (302) 654-7530
Email: bdl@rl-legal.com
Email: gms@rl-legal.com

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

STEPHEN CLEMENT,)	
)	
Plaintiff,)	CASE NO. _____
)	
v.)	COMPLAINT FOR
)	VIOLATION OF FEDERAL
REPOS THERAPEUTICS INC.,)	SECURITIES LAWS
DANIEL F. CAIN, LARRY DILLAHA,)	
PATRICK FOURTEAU, NOLA E.)	
MASTERSON, SAIRA RAMASASTRY,)	
and MICHAEL G. WYLLIE,)	
)	
Defendants.)	

Plaintiff Stephen Clement ("Plaintiff"), by his attorneys, alleges upon information and belief, except for his own acts, which are alleged on knowledge, as follows:

NATURE AND SUMMARY OF THE ACTION

1. Plaintiff, a stockholder of Repros Therapeutics, Inc. ("Repros" or the "Company") brings this action against the members of Repros' Board of Directors (the "Board" or the "Individual Defendants") for their violations of Section 14(d)(4), and Rule 14D-9 promulgated thereunder by the U.S. Securities and Exchange Commission (the "SEC"), and 20(a), arising out of their attempt to sell the Company to Allergan plc ("Allergan").

2. On December 11, 2017, the Board caused the Company to enter into a definitive agreement and plan of merger (the "Merger Agreement"), by which Allergan will acquire all of the outstanding shares of the Company's common stock in an all-cash tender offer for stockholder consideration of \$0.67 per share through Allergan's subsidiaries Allergan Sales, LLC ("Parent") and Celestial Merger Sub, Inc. ("Purchaser") (the "Proposed Transaction").



3. The Proposed Transaction implies a total equity value for the Company of approximately \$30 million when the repurchase of warrants is taken into account.

4. On December 29, 2017, Purchaser filed a Schedule TO-T with the SEC and commenced the Tender Offer, set to expire at the end of the day on January 29, 2018. The same day, the Company filed a Schedule 14D-9 Solicitation/Recommendation Statement (the "Recommendation Statement") with the SEC. The Recommendation Statement is materially deficient and misleading because, *inter alia*, it fails to disclose material information regarding the financial projections for the Company provided to the Board and its financial advisor, Stifel, Nicolaus & Company, Inc. ("Stifel"), and the required GAAP reconciliation of the non-GAAP financial measures contained in the Company's projections, material information pertaining to the financial analysis underlying Stifel's fairness opinion, and the background of the Proposed Transaction.

5. Without additional information the Recommendation Statement is materially misleading in violation of federal securities laws.

6. By unanimously approving the Proposed Transaction and authorizing the issuance of the Recommendation Statement, the Individual Defendants participated in the solicitation even though they knew, or should have known, that the Recommendation Statement was materially false and/or misleading. The Recommendation Statement is an essential link in accomplishing, and receiving stockholder approval for, the Proposed Transaction.

7. For these reasons and as set forth in detail herein, Plaintiff seeks to enjoin Defendants (collectively identified below) from conducting the stockholder vote on the Proposed Transaction unless and until the material information discussed below is disclosed to the holders of Repros common stock or, in the event the Proposed Transaction is consummated, to recover damages resulting from the Defendants' violations of the Exchange Act.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction under 28 U.S.C. § 1331–32, pursuant to 15 U.S.C. § 78aa (federal question jurisdiction), as Plaintiff alleges violations of Sections 14(d)(4), and 20(a) of the Exchange Act and Rule 14d-9 promulgated thereunder.

9. The Court has personal jurisdiction over each of the Defendants because each either is a corporation that is incorporated under the laws of, conducts business in and maintains operations in this District or is an individual who either is present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because: (a) one or more of the Defendants either resides in or maintains executive offices here; (b) a substantial portion of the transactions and wrongs complained of herein occurred here; and (c) Defendants have received substantial compensation and other transfers of money here by doing business here and engaging in activities having an effect here.

PARTIES AND RELEVANT NON-PARTIES

11. Plaintiff is, and has been at all relevant times, the owner of Repros common stock.

12. Defendant Repros is incorporated in Delaware and maintains its principal executive offices at 2408 Timberloch Place, B-7, The Woodlands, Texas, 77380. The Company's common stock trades on the NASDAQ under the ticker symbol "RPRX."

13. Defendant Daniel F. Cain has served as a director of the Company since 2004.

14. Defendant Larry Dillaha has served as interim President and Chief Executive Officer since February 2017.
15. Defendant Patrick Fourteau has served as a director and Chairman of the Company since May 2016.
16. Defendant Nola E. Masterson has served as a director of the Company since 2004.
17. Defendant Saira Ramasastry has served as a director of the Company since March 2013.
18. Defendant Michael G. Wyllie has served as a director of the Company since October 2011.
19. Defendants referenced in ¶¶ 13 through 18 are collectively referred to as Individual Defendants and/or the Board.

FURTHER SUBSTANTIVE ALLEGATIONS

20. On December 12, 2017, the Company issued a press release announcing the Proposed Transaction. The Press Release read in relevant part:

THE WOODLANDS, Texas, Dec. 12, 2017 (GLOBE NEWSWIRE) -- Repros Therapeutics Inc. (NASDAQ:RPRX) ("Repros" or the "Company") today announced that it has entered into a definitive agreement under which Allergan plc ("Allergan"), through a subsidiary, will acquire Repros for a cash payment of \$0.67 per share. The Company's Board of Directors has unanimously approved the transaction.

Under the terms of the merger agreement, a subsidiary of Allergan will commence a cash tender offer to purchase all of the outstanding shares of Repros common stock for \$0.67 per share. The closing of the tender offer is subject to customary closing conditions, including the tender of a majority of the outstanding shares of Repros common stock. The merger agreement contemplates that Allergan, through its subsidiary, will acquire any shares of Repros that are not tendered into the offer through a second-step merger, which will be completed as soon as practicable following the closing of the tender offer. Pending approvals, Repros anticipates the transaction will close during the first quarter of 2018.

The Recommendation Statement Misleads Repros Stockholders by Omitting Material Information

21. On December 29, 2017, the Company filed the materially misleading and incomplete Recommendation Statement with the SEC. Designed to convince stockholders to vote in favor of the Proposed Transaction, the Recommendation Statement is rendered misleading by the omission of critical information concerning the Company's expected future value as a public entity as evidenced by the Company's financial projections, Stifel's financial analysis presented to the Board, and the process undertaken by the Company leading up to entry into the Merger Agreement.

Material Omissions Concerning the Company's Financial Projections

22. The Recommendation Statement omits any projections of the Company's cash flows relied upon by Stifel in its *Sum-of-the-Parts Discounted Cash Flow Analysis*. As noted in the summary of Stifel's financial analysis, Stifel discounted "each set of projected cash flows" to present values.

23. But the projections disclosed in the Recommendation Statement only include US Patent Litigation Revenue, EU Patent Litigation Revenue, Enclomiphene Revenue, Total Revenue, Unallocated G&A, and Operating Income. The Recommendation Statement omits any projections of EBITDA, Adjusted EBITDA, unlevered free cash flow, or any other metric for the Company's cash flows potentially used by Stifel.

24. These projections were provided to Stifel and the Board, and used by Stifel for the purpose of creating a fairness opinion that could then be used in soliciting stockholder approval of the Proposed Transaction. Because these analyses were presented to the Repros stockholders as evidence of the fairness of the Proposed Transaction, the omission of the financial projections materially misleads those same stockholders as to the accuracy and value of the analyses.

25. Moreover, Repros stockholders are currently faced with the decision of whether the price offered by Allergan is sufficient to tender their shares. Without unlevered free cash flow projections, the EBITDA, and Adjusted EBITDA projections the Repros stockholders cannot possibly assess the adequacy of the price offered by Allergan

Material Omissions Concerning Stifel's Financial Analysis

26. In connection with Stifel's *Premiums Paid Analysis*, the Recommendation Statement fails to disclose the individual multiples for each company that were utilized in the analysis, or any summary values of the multiples such as low, high, median, or mean. Without such information, Repros stockholders are unable to determine how the multiples used in determining Repros' value compare to the other companies. As a result, stockholders are unable to assess whether Stifel utilized unreasonably low multiples thereby rendering the implied share price ranges set forth in the analyses misleading.

27. With respect to Sifel's *Sum-of-the-Parts Discounted Cash Flow Analysis*, the Recommendation Statement fails to disclosed: (i) the assumptions underlying the discount rate range of 14.0% to 16.0%; and (ii) when and why the cash flows would end so that a terminal value was rendered obsolete.

Material Omissions Concerning the Process

28. The Recommendation Statement fails to disclose whether the nondisclosure agreements Repros entered into with Parties C, D, and E are still in effect and/or contain don't-ask-don't-waive standstill provisions that are presently precluding these parties from making a topping bid for the Company.

29. The terms of these nondisclosure agreements are particularly important where the terms Repros sought actually drove off a potential strategic partner in Party C. As recited in the Recommendation Statement, Party C withdrew from the process when Repros sought to add additional terms to the previously agreed-upon nondisclosure agreement

30. The omission of the terms of the nondisclosure agreement, including the presence of a standstill provision, is material and crucial to informing Repros stockholders of the restrictive devices potentially foreclose a topping bid for the Company.

31. Defendants failure to provide Repros stockholders with the foregoing material information constitutes a violation of Sections 14(d)(4) and 20(a) of the Exchange Act, and Rule 14d-9 promulgated thereunder. The Individual Defendants were aware of their duty to disclose this information. The material information described above that was omitted from the Recommendation Statement takes on actual significance in the minds of Repros stockholders in reaching their decision whether to vote in favor of the Proposed Transaction. Absent disclosure of this material information prior to the vote on the Proposed Transaction, Plaintiff and the other members of the Class will be unable to make an informed decision about whether to vote in favor of the Proposed Transaction and are thus threatened with irreparable harm for which damages are not an adequate remedy

32. Accordingly, Plaintiff seeks injunctive and other equitable relief to prevent the irreparable injury that Company stockholders will continue to suffer absent judicial intervention.

CLAIMS FOR RELIEF

COUNT I

**Claims Against All Defendants for Violations of § 14(d)(4) of the
Securities Exchange Act of 1934 and SEC Rule 14d-9 (17 C.F.R. § 240.14d-9)**

33. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

34. Defendants have caused the Recommendation Statement to be issued with the intention of soliciting stockholder support of the Proposed Transaction.

35. Section 14(d)(4) of the Exchange Act and SEC Rule 14d-9 promulgated thereunder require full and complete disclosure in connection with tender offers.

36. The Recommendation Statement violates § 14(d)(4) and Rule 14d-9 because it omits material facts, including those set forth above, which render the Recommendation Statement false and/or misleading.

37. Defendants knowingly or with deliberate recklessness omitted the material information identified above from the Recommendation Statement, causing certain statements therein to be materially incomplete and therefore misleading. Indeed, while defendants undoubtedly had access to and/or reviewed the omitted material information in connection with approving the Proposed Transaction, they allowed it to be omitted from the Recommendation Statement, rendering certain portions of the Recommendation Statement materially incomplete and therefore misleading.

38. The misrepresentations and omissions in the Recommendation Statement are material to Plaintiff, and Plaintiff will be deprived of their entitlement to make a fully informed decision if such misrepresentations and omissions are not corrected prior to the expiration of the tender offer.

39. The omissions and incomplete and misleading statements in the Recommendation Statement are material in that a reasonable stockholder would consider them important in deciding whether to tender their shares or seek appraisal. In addition, a reasonable investor would view the information identified above which has been omitted from the Recommendation Statement as altering the “total mix” of information made available to stockholders.

COUNT II
Against the Individual Defendants for
Violations of § 20(a) of the 1934 Act

40. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein.

41. The Individual Defendants acted as controlling persons of Repros within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their positions as officers and/or directors of Repros and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Recommendation Statement, they had the power to influence and control and did influence and control, directly or indirectly, the decision making of the Company, including the content and dissemination of the various statements that plaintiff contends are false and misleading.

42. Each of the Individual Defendants was provided with or had unlimited access to copies of the Recommendation Statement alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause them to be corrected.

43. In particular, each of the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company, and, therefore, is presumed to have had the power to control and influence the particular transactions giving rise to the violations as alleged herein, and exercised the same. The Recommendation Statement contains the unanimous recommendation of the Individual Defendants to approve the Proposed Transaction. They were thus directly involved in the making of the Recommendation Statement.

44. By virtue of the foregoing, the Individual Defendants violated Section 20(a) of the 1934 Act.

45. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Section 14(d) of the 1934 Act and Rule 14d-9, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act. As a direct and proximate result of defendants' conduct, Plaintiff is threatened with irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against defendants jointly and severally, as follows:

- (A) declaring that the Recommendation Statement is materially false or misleading;
- (B) enjoining, preliminarily and permanently, the Proposed Transaction;
- (C) in the event that the transaction is consummated before the entry of this Court's final judgment, rescinding it or awarding Plaintiff rescissory damages;
- (D) directing that Defendants account to Plaintiff and the Repros stockholders for all damages caused by them and account for all profits and any special benefits obtained as a result of their breaches of their fiduciary duties.
- (E) awarding Plaintiff the costs of this action, including a reasonable allowance for the fees and expenses of Plaintiff's attorneys and experts; and
- (F) granting Plaintiff such further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: January 3, 2018

LEVI & KORSINSKY LLP

Donald J. Enright (to be admitted *pro hac vice*)
Elizabeth K. Tripodi (to be admitted *pro hac vice*)
1101 30th Street, N.W., Suite 115
Washington, DC 20007
Tel: (202) 524-4290
Fax: (202) 337-1567
Email: denright@zlk.com
Email: etripodi@zlk.com

Attorneys for Plaintiff

Respectfully submitted,

FARUQI & FARUQI, LLP

By: /s/ Michael Van Gorder
Michael Van Gorder (#6214)
20 Montchanin Road, Suite 145
Wilmington, DE 19807
Tel.: (302) 482-3182
Email: mvangorder@faruqilaw.com

Attorneys for Plaintiff