

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IRENE KRISTAL, Individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

MESOBLAST LIMITED, SILVIU ITESCU, JOSH  
MUNTNER, and FRED GROSSMAN

Defendants.

**CASE No.: 7:20-CV-08430-PMH**

Honorable Philip M. Halpern

**PROOF OF CLAIM AND RELEASE**

Deadline for Submission: August 7, 2022

IF YOU PURCHASED MESOBLAST LIMITED (“MESOBLAST” OR THE “COMPANY”) AMERICAN DEPOSITORY SHARES (“ADSs”) BETWEEN DECEMBER 13, 2018 AND OCTOBER 2, 2020, INCLUSIVE, AND WERE DAMAGED THEREBY, YOU MAY BE A SETTLEMENT CLASS MEMBER AND YOU MAY BE ENTITLED TO SHARE IN THE SETTLEMENT PROCEEDS.

**I. GENERAL INSTRUCTIONS**

1. To recover as a member of the Settlement Class based on your claims in the action entitled *Kristal v. Mesoblast Limited, et. al.*, 7:20-CV-08430-PMH (the “Action”), you must complete and, on page 25 hereof, sign this Proof of Claim and Release. If you fail to file a properly addressed (as set forth in paragraph 3 below) Proof of Claim and Release, your claim may be rejected and you may be precluded from any recovery from the Net Settlement Fund created in connection with the proposed Settlement of the Action.

2. Submission of this Proof of Claim and Release, however, does not assure that you will share in the proceeds of the Settlement of the Action.

3. YOU MUST EMAIL OR MAIL YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE POSTMARKED ON OR BEFORE AUGUST 7, 2022, ADDRESSED AS FOLLOWS TO THE CLAIMS ADMINISTRATOR:

*In re Mesoblast Class Action Litigation*  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson St., Suite 205  
Media, PA 19063  
Fax: (610) 565-7985

-or-

Email: [info@strategicclaimns.net](mailto:info@strategicclaimns.net)

If you are NOT a member of the Settlement Class (as defined in the Postcard Notice or Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Notice”), DO NOT submit a Proof of Claim and Release form.

4. If you are a member of the Settlement Class and you do not timely request exclusion in connection with the proposed Settlement, you will be bound by the terms of any judgment entered in the Action, including the releases provided therein, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE FORM.

5. PLEASE NOTE: As set forth in the Plan of Allocation, each Authorized Claimant shall receive his, her or its *pro rata* share of the Net Settlement Fund. If the prorated payment to any Authorized Claimant calculates

to less than \$10.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

## II. CLAIMANT IDENTIFICATION

Use Part I of this form entitled “Claimant Identification” to identify the beneficial purchaser of Mesoblast ADSs which forms the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER(S) OR ACQUIRER(S), OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER(S) OR ACQUIRER(S), OF SHARES UPON WHICH THIS CLAIM IS BASED.**

All joint purchasers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of persons represented by them, and their authority must accompany this claim, and their titles or capacities must be stated. The last four digits of the Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

If you are acting in a representative capacity on behalf of a Settlement Class Member (for example, as an executor, administrator, trustee, or other representative), you must submit evidence of your current authority to act on behalf of that Settlement Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.

**NOTICE REGARDING ELECTRONIC FILES:** Certain claimants with large numbers of transactions may request, or may be requested, to submit information regarding their transactions in electronic files. To obtain the mandatory electronic filing requirements and file layout, you may visit the Settlement website at [www.strategicclaims.net/Mesoblast/](http://www.strategicclaims.net/Mesoblast/) or you may email the Claims Administrator’s electronic filing department at [efile@strategicclaims.net](mailto:efile@strategicclaims.net). Any file not in accordance with the required electronic filing format will be subject to rejection. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues an email to that effect after processing your file with your claim numbers and respective account information. Do not assume that your file has been received or processed until you receive this email. If you do not receive such an email within 10 days of your submission, you should contact the electronic filing department at [efile@strategicclaims.net](mailto:efile@strategicclaims.net) to inquire about your file and confirm it was received and acceptable.

**IMPORTANT: PLEASE NOTE THAT YOUR CLAIM IS NOT DEEMED FILED UNTIL YOU RECEIVE AN ACKNOWLEDGEMENT POSTCARD. THE CLAIMS ADMINISTRATOR WILL ACKNOWLEDGE RECEIPT OF YOUR CLAIM FORM BY MAIL, WITHIN 60 DAYS. IF YOU DO NOT RECEIVE AN ACKNOWLEDGEMENT POSTCARD WITHIN 60 DAYS, PLEASE CALL THE CLAIMS ADMINISTRATOR TOLL FREE AT (866)-274-4004.**

## III. CLAIM FORM

Use Part II of this form entitled “Schedule of Transactions in Mesoblast ADSs” to supply all required details of your transaction(s) (including free transfers and deliveries) in and holdings of Mesoblast ADSs. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Print the beneficial owner’s full name and last four digits of social security/taxpayer identification number on each additional sheet.

On the schedules, provide all of the requested information with respect to *all* of your purchases and acquisitions and *all* of your sales of Mesoblast ADSs between December 13, 2018 and December 31, 2020, whether such transactions resulted in a profit or a loss. You must also provide all of the requested information with respect to *all* of the Mesoblast ADSs you held at the close of trading on December 12, 2018 and December 31, 2020. Failure to report all such transactions may result in the rejection of your claim.

List these transactions separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day, and year of each transaction you list.

The date of covering a “short sale” is deemed to be the date of purchase or acquisition of Mesoblast ADSs. The date of a “short sale” is deemed to be the date of sale of Mesoblast ADSs.

Copies of stockbroker confirmation slips, stockbroker statements, or other documents evidencing your transactions Mesoblast ADSs should be attached to your claim. If any such documents are not in your possession, please obtain a copy or equivalent documents from your broker because these documents are necessary to prove and process your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK  
*Kristal v. Mesoblast Limited. et al.*  
 Case No. 7:20-cv-08430-PMH

**PROOF OF CLAIM AND RELEASE**  
**Must Be Emailed or Postmarked No Later Than:**  
**August 7, 2022**

Please Type or Print in Blue or Black Ink

**PART I: CLAIMANT IDENTIFICATION**

Beneficial Owner's Name (First, Middle, Last):		
Address:		
City:	State:	ZIP:
Foreign Province:	Foreign Country:	
Day Phone:	Evening Phone:	
Email:		
Account Number:		
Last Four Digits of Social Security Number (for individuals):	OR	Last Four Digits of Taxpayer Identification Number (for estates, trusts, corporations, etc.):

**PART II: SCHEDULE OF TRANSACTIONS IN MESOBLAST ADSs**

Please be sure to include proper documentation with your Claim Form as described in detail in Part II – General Instructions, above. Do not include information regarding securities other than Mesoblast ADSs.

<b>1. HOLDINGS AS OF DECEMBER 12, 2018</b> – State the total number of shares of Mesoblast ADSs held as of the close of trading on December 12, 2018. (Must be documented.) If none, write “zero” or “0.” _____				Confirm Proof of Position Enclosed <input type="radio"/>
<b>2. PURCHASES/ACQUISITIONS FROM DECEMBER 13, 2018 TO OCTOBER 2, 2020</b> – Separately list each and every purchase/acquisition (including free receipts) of Mesoblast ADSs from after the opening of trading on December 13, 2018 through and including the close of trading on October 2, 2020. (Must be documented.)				
Date of Purchase/ Acquisition (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/Acquired	Purchase/Acquisition Price Per Share	Total Purchase/ Acquisition Price (excluding taxes, commissions, and fees)	Confirm Proof of Purchase Enclosed
/ /		\$	\$	<input type="radio"/>
/ /		\$	\$	<input type="radio"/>
/ /		\$	\$	<input type="radio"/>
<b>3. PURCHASES/ACQUISITIONS FROM OCTOBER 3, 2020 THROUGH DECEMBER 31, 2020</b> – State the total number of shares of Mesoblast ADSs purchased/acquired (including free receipts) from after the opening of trading on October 3, 2020 through and including the close of trading on December 31, 2020. If none, write “zero” or “0.” <sup>1</sup> _____				
<b>4. SALES FROM DECEMBER 13, 2018 THROUGH DECEMBER 31, 2020</b> – Separately list each and every sale/disposition (including free deliveries) of Mesoblast ADSs from after the opening of trading on December 13, 2018, through and including the close of trading on December 31, 2020. (Must be documented.)				<b>IF NONE, CHECK HERE</b> <input type="radio"/>
Date of Sale (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Sale Price Per Share	Total Sale Price (excluding taxes, commissions, and fees)	Confirm Proof of Sale Enclosed
/ /		\$	\$	<input type="radio"/>
/ /		\$	\$	<input type="radio"/>
/ /		\$	\$	<input type="radio"/>
<b>5. HOLDINGS AS OF DECEMBER 31, 2020</b> – State the total number of shares of Mesoblast ADSs held as of the close of trading on December 31, 2020. (Must be documented.) If none, write “zero” or “0.” _____				Confirm Proof of Position Enclosed <input type="radio"/>

<sup>1</sup> **Please note:** Information requested with respect to your purchases/acquisitions of Mesoblast ADSs from after the opening of trading on October 3, 2020 through and including the close of trading on December 31, 2020 is needed in order to balance your claim; purchases during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Claim pursuant to the Plan of Allocation.

**IF YOU REQUIRE ADDITIONAL SPACE FOR THE SCHEDULE ABOVE, ATTACH EXTRA SCHEDULES IN THE SAME FORMAT. PRINT THE BENEFICIAL OWNER'S FULL NAME AND LAST FOUR DIGITS OF SOCIAL SECURITY/TAXPAYER IDENTIFICATION NUMBER ON EACH ADDITIONAL PAGE. IF YOU DO ATTACH EXTRA SCHEDULES, CHECK THIS BOX**

### **PART III: RELEASE OF CLAIMS AND SIGNATURE**

**YOU MUST READ AND SIGN THE RELEASE ON PAGE 25. FAILURE TO SIGN THE RELEASE MAY RESULT IN A DELAY IN PROCESSING OR REJECTION OF YOUR CLAIM.**

#### **I. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS**

I (We) submit this Proof of Claim and Release under the terms of the Stipulation and Agreement of Settlement (“Stipulation”) described in the Postcard Notice and the detailed Notice.<sup>2</sup> I (We) also submit to the jurisdiction of the United States District Court for the Southern District of New York with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the Action. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim in connection with the same purchases of Mesoblast ADSs and know of no other person having done so on my (our) behalf.

#### **II. RELEASE**

1. Upon the Effective Date of the Settlement, I (we) hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release and discharge from the Released Plaintiffs’ Claims (defined below), including Unknown Claims (defined below), each and all of the Defendants’ Releasees (defined below) as provided in the Stipulation, parts of which are set forth in Paragraphs 2-5 below.

2. “Defendants’ Releasees” means (i) each Defendant, (ii) each of their respective immediate family members (for individuals) and each of their direct or indirect parent entities, subsidiaries, related entities, and affiliates, any trust of which any Individual Defendant is the settler or which is for the benefit of any Defendant and/or member(s) of his or her family, and (iii) for any of the entities listed in parts (i) or (ii), their respective past and present general partners, limited partners, principals, shareholders, joint venturers, members, officers, directors, managers, managing directors, supervisors, employees, contractors, consultants, auditors, accountants, financial advisors, professional advisors, investment bankers, representatives, insurers, trustees, trustors, agents, attorneys, professionals, predecessors, successors, assigns, heirs, executors, administrators, and any controlling person thereof, in their capacities as such, and any entity in which a Defendant has a controlling interest.

3. “Defendants” means Mesoblast and the Individual Defendants: Silvui Itescu, Josh Muntner, and Fred Grossman.

4. “Released Plaintiffs’ Claims” means all claims, demands, rights, and causes of action, or liabilities of every nature and description, whether known or Unknown Claims (as defined below), whether arising under federal, state, local, common, statutory, administrative, or foreign law, or any other law, rule, or regulation, at law or in equity, whether fixed or contingent, whether foreseen or unforeseen, whether accrued or unaccrued, whether liquidated or unliquidated, whether matured or unmatured, whether direct, representative, class, or individual in nature that (a) Plaintiffs or any other member of the Class: (i) asserted in the Action or (ii) could have asserted in any court or forum (including those in any other US or global jurisdiction) that arise out of or are based upon any of the allegations, transactions, facts, matters or occurrences, representations, or omissions set forth in the Action; and (b) relate in any way to the purchase or

<sup>2</sup> All capitalized terms used in this Proof of Claim and Release that are not otherwise defined herein shall have the meanings ascribed to them in the Stipulation, which is available at [www.strategicclaims.net/Mesoblast/](http://www.strategicclaims.net/Mesoblast/).

other acquisition of Mesoblast ADSs during the Class Period. Released Plaintiffs' Claims do not include: (i) any claims relating to the enforcement of the Settlement; (ii) any claims of any person or entity who or which submits a request for exclusion that is accepted by the Court.

5. "Unknown Claims" means any and all Released Plaintiffs' Claims of every nature and description against the Defendants' Releasees which any Plaintiffs or any member of the Class does not know or suspect to exist in his, her, or its favor at the time of their release of the Released Plaintiffs' Claims, and any and all Defendants' Released Claims of every nature and description against the Plaintiffs' Releasees which any Defendant does not know or suspect to exist in his, her, or its favor at the time of their release of the Defendants' Released Claims, and including, without limitation, those which, if known by such Plaintiffs, member of the Class or Defendant, might have affected his, her, or its decision(s) with respect to the settlement or the releases, including his, her, or its decision(s) to object or not to object to the settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs and Defendants shall expressly waive, and each of the other Settlement Class Members and each of the other Defendants' Releasees shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

6. Plaintiffs, any Settlement Class Member, Defendants, and each of their respective Releasees, may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims, but the Parties shall expressly fully, finally, and forever settle and release, and each Settlement Class Member and each of the Releasees, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment or Alternate Judgment shall have fully, finally, and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs and Defendants acknowledge, and each of the other Settlement Class Members and each of the Defendants' Releasees shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement. This release shall be of no force or effect unless and until the Court approves the Stipulation and the Settlement becomes effective on the Effective Date.

7. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

8. I (We) hereby warrant and represent that I (we) have included information about all of my (our) purchases, acquisitions, and sales of Mesoblast ADSs between December 13, 2018 and December 31, 2020, and the number of shares of Mesoblast ADSs held by me (us) at the close of trading on December 12, 2018 and December 31, 2020.

9. I (We) certify that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code.

Note: If you have been notified by the Internal Revenue Service that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

10. I (We) declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_  
(Month/Year)

in \_\_\_\_\_, \_\_\_\_\_.  
(City) (State/Country)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g., Beneficial Purchaser or Acquirer, Executor or Administrator)

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g., Beneficial Purchaser or Acquirer, Executor or Administrator)

**ACCURATE CLAIMS PROCESSING TAKES A  
SIGNIFICANT AMOUNT OF TIME.  
THANK YOU FOR YOUR PATIENCE.**

**THIS PROOF OF CLAIM AND RELEASE MUST BE SUBMITTED VIA EMAIL OR  
POSTMARKED NO LATER THAN AUGUST 7, 2022, ADDRESSED AS FOLLOWS:**

*In re Mesoblast Class Action Litigation*  
c/o Strategic Claims Services  
P.O. Box 230  
600 N. Jackson St., Suite 205  
Media, PA 19063  
Tel.: (866) 274-4004  
Fax: (610) 565-7985

-or-

Email: info@strategicclaims.net

*In re Mesoblast Class Action Litigation*  
c/o Strategic Claims Services  
600 N. Jackson St., Suite 205  
Media, PA 19063

**IMPORTANT LEGAL NOTICE – PLEASE FORWARD**

**Reminder Checklist:**

1. Please sign and date the above release and declaration. If this Proof of Claim and Release is submitted on behalf of joint claimants, then both claimants must sign.
2. Remember to attach supporting documentation, if available.
3. **DO NOT** send original stock certificates.
4. Keep a copy of everything you submit for your records, including your Proof of Claim and Release form.
5. The Claims Administrator will acknowledge receipt of your Claim Form by mail, within 60 days. Your claim is not deemed filed until you receive an acknowledgement postcard. If you do not receive an acknowledgement postcard within 60 days, please call the Claims Administrator toll-free at (866) 274-4004.
6. If you move after submitting this Proof of Claim and Release, please notify the Claims Administrator of the change in your address.