IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA DIRECT PURCHASER ANTITRUST LITIGATION **THIS DOCUMENT RELATES TO:** **All Direct Purchaser Actions**	**Case No. 1:15-cv-07488-CM-RWL**

DECLARATION OF BRUCE E. GERSTEIN IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS

I. INTRODUCTION

I, Bruce E. Gerstein, a managing partner of Garwin Gerstein & Fisher, LLP ("GGF"), and co-lead counsel for Direct Purchaser Class Plaintiffs ("Plaintiffs"), respectfully submit this declaration in support of Class counsel's application for:

(1) an award of attorneys' fees from the Settlement;

(2) reimbursement of expenses incurred in the prosecution of Plaintiffs' claims against Forest; and

(3) incentive awards to the named Class representatives, J M Smith Corporation d/b/a Smith Drug Company ("Smith") and Rochester Drug Co-Operative, Inc. ("RDC").

GGF has been involved in all material aspects of this litigation from the pre-complaint investigation and filing of Plaintiffs' initial complaint in May 2015, through the filing of the Settlement with the Court (and continuing), and I am therefore fully familiar with the litigation, the most significant aspects of which are outlined below.

II. COMMENCEMENT OF THE CASE

1. On May 29, 2015, Class counsel,[1] on behalf of the Class, filed the first lawsuit challenging Forest's conduct regarding the prescription pharmaceutical product Namenda, which treats Alzheimer's patients, as violative of the antitrust laws proscribing reverse payment patent litigation settlement agreements. Class counsel filed on behalf of a putative class of direct purchasers. *See Burlington Drug Co. v. Actavis, PLC*, 15-cv-4152 (S.D.N.Y. filed May 29, 2015) (ECF No. 1). Five of the six claims challenged Forest's reverse payments; one of the claims challenged Forest's hard switch product hop. Class counsel then filed additional complaints: *J M Smith Corp. d/b/a Smith Drug Co. v. Actavis, PLC*, 15-cv-07488 (S.D.N.Y.

[1] On December 16, 2016, the Court entered an order concerning the organization of counsel for the Class by appointing GGF and Berger Montague PC ("Berger") Interim Lead Counsel. ECF No. 125.

filed Sep. 22, 2015) and *Rochester Drug Co-Operative, Inc. v. Actavis PLC*, 15-cv-10083 (S.D.N.Y. filed Dec. 28, 2015). These contained those same claims. These latter actions were consolidated at No. 15-cv-7488. ECF No. 65.

2. Class counsel began its investigation of this case in earnest in June of 2014. Class counsel analyzed the '703 patent litigation between Forest and 14 generic drug companies. These would-be competitors had filed Abbreviated New Drug Applications ("ANDAs") on the first day possible, all containing Paragraph IV certifications asserting that their respective products either did not infringe the '703 patent or that the patent was invalid or not enforceable. Class counsel analyzed the publicly available information about the series of settlement agreements that delayed generic competition.

3. In September of 2014, after Class counsel's investigation was well underway, the New York Attorney General ("NYAG") sued Forest, seeking to enjoin Forest's withdrawal of Namenda IR from the market. The NYAG did not sue over Forest's patent settlement agreements with would-be generic Namenda IR competitors such as Mylan, and the NYAG did not pursue damages.

4. Class counsel's complaints, by contrast, did challenge the patent settlement agreements and Class counsel did pursue damages. Class counsel's complaints alleged that Forest entered into a reverse payment agreement with would-be competitor Mylan Pharmaceuticals Inc. ("Mylan").

5. Class counsel alleged that the delay from Forest's reverse payment to Mylan harmed generic Namenda competition and caused direct purchasers to pay overcharges on their Namenda purchases, including because the delay facilitated Forest's hard switch from Namenda IR to Namenda XR.

6. Class counsel contended that Forest disguised a reverse payment to Mylan of $32.5 million in the form of an amendment to a pre-existing Lexapro authorized generic distribution deal (the "Lexapro Amendment"). Class counsel contended that the $32.5 million was actually a disguised payment to induce Mylan to quit the Namenda IR patent litigation and delay competition until 2015.

7. After obtaining an injunction that prevented Forest from taking Namenda IR off the market until August 10, 2015, the NYAG asserted that "the Injunction was effective in protecting competition in the relevant market and permitting lower cost generic drugs to enter the market in July 2015," and that "[b]ecause the injunction protected competition … it is no longer necessary to continue legal action." ECF No. 761-36, at 3; ECF No. 761-37, at 1. Class counsel disagreed with the NYAG's statements (which Forest repeatedly invoked in defending this class action), and unlike the NYAG (which abandoned seeking damages from Forest), Class counsel continued to pursue damages attributable to the hard switch despite these statements.

8. Various groups of end-payors filed class actions in this District, substantially copying Class counsel's averments.

III. FOREST'S MOTION TO DISMISS

9. On December 22, 2015 Forest filed a 71-page motion to dismiss Plaintiffs' claims. ECF Nos. 55-57. Forest argued that dismissal was appropriate, primarily because (1) the NYAG injunction prevented Plaintiffs from being harmed; (2) the First Amendment protected Forest's hard switch announcements of impending withdrawal of Namenda IR; and (3) the alleged reverse payment to Mylan was small and the '703 patent was strong. Forest also argued that (4) Plaintiffs were not injured in fact either by the hard switch or the reverse payment; (5) the introduction of Namenda XR actually increased competition; and (6) Plaintiffs' claims were time barred.

10. Class counsel responded on January 29, 2016, in under 50 pages. ECF No. 68. Although Class counsel rebutted each of Forest's arguments, Class counsel focused on their assertions that the hard switch began before the withdrawal of Namenda IR was enjoined (and that announcing the imminent withdrawal was not speech protected by the First Amendment, as Forest argued), and that the alleged reverse payments were sufficiently large.

11. The Court denied Forest's Motion in a 34-page opinion issued on September 13, 2016. ECF No. 106. Despite sustaining Class counsel's complaint, the Court observed that "viewed in isolation, the settlement terms do not appear anticompetitive," and warned Plaintiffs that "[t]o survive a motion for summary judgment, Plaintiffs will have to substantiate these allegations with evidence suggesting that the settlement agreements did, in fact, delay generic entry and that the delay had the effect of allowing Forest to complete the hard switch." *Id.* at 31-32. The Court's ruling portended that this case would be difficult for Class counsel to prove.

IV. WRITTEN DISCOVERY

12. Following denial of the motion to dismiss, the Court entered a Case Management Order that consolidated all direct purchaser actions for all pretrial proceedings and set an aggressive one-year schedule from that point through trial. ECF No. 128. *See also* ECF No. 340 (Judge Francis notes the "tight discovery schedule"); ECF No. 348 (same).

13. Class counsel served written discovery requests on Forest, and 20 subpoenas on non-parties, consisting of generic drug companies and law firms. Subpoenas were directed to the following entities:

Subpoena recipient	Date
Actavis	7/8/17
Amneal	1/5/17
Aurobindo	9/14/17
Budd Larner	6/14/17
Dr. Reddy's	1/6/17

Subpoena recipient	Date
Duane Morris	5/12/17
Kirkland & Ellis	5/9/17
Lannett	8/14/17
Lupin	1/6/17
Macleods	8/14/17
Major Pharmaceutical	1/6/17
Morris Nichols	5/15/17
Mylan	1/7/17
Orchid/Orgenus	6/29/17
Potter Anderson	5/15/17
Quinn Emmanuel	5/9/17
Sun Pharma	1/6/17
Teva	7/18/17
Unichem	9/14/17
Wilson Sonsini	6/6/17

14. Forest served an additional 21 subpoenas, for a total of 41 subpoenas issued in this case that Class counsel had to manage.

15. Class counsel was required to move to compel compliance with its document requests against Forest and against a variety of the subpoena recipients. *See* ECF Nos. 197-203, 217, 222, 232-233, 238-239, 249, 256, 258, 264, 265-267, 281-283, 315, 340, 343, 346-348, 361, 363-364, 366-367, 370-377, 382-384, 386-387, 394 (Forest); ECF Nos. 214-215, 427, 429, 579 (Mylan); ECF No. 362, 427 (Lupin); ECF No. 378-380, 391, 393, 398-399, 416 (Macleods). This resulted in a variety of orders and opinions. *E.g.*, *In re Namenda Direct Purchaser Antitrust Litig.*, 2017 U.S. Dist. LEXIS 139983 (S.D.N.Y. Aug. 30, 2017); *id.*, 2017 U.S. Dist. LEXIS 173403 (S.D.N.Y. Oct. 19, 2017).

16. All told, a total of 311,345 documents (of which 28,789 were native computerized files) comprising well over 4.7 million pages (not including the native files, which have no "pages") were produced in this case, from Forest and the non-party subpoena recipients combined. In addition, over 2.7 million lines of transactional data were produced in this case,

reflecting sales, credits, returns, chargebacks, and price adjustments. Class counsel, in subject-matter teams, analyzed all such productions, creating a variety of work product memoranda.

V. DEPOSITIONS OF FACT WITNESSES

17. From their document review, Class counsel identified and then deposed numerous fact witnesses, both parties and nonparties. In total, Class counsel took 25 fact depositions, all of which required extensive preparation, and all of which are catalogued in the table below.

Deponent name	Employer	Deposition date	Location
Eric Agovino	Forest	September 12, 2017	Westlake Village, CA
June K. Bray	Forest	August 18, 2017	New York
Robert Carnevale	Forest	August 23, 2017	New York
Maureen Cavanaugh	Teva	July 18, 2017	Philadelphia
Mark Devlin	Forest	August 29, 2017	New York
James J. Finchen	Forest	November 21, 2017	Danbury
Kapil Gupta	Amneal	July 27, 2017	Bridgewater, NJ
Sanjay Gupta	Torrent	June 15, 2017	New York
Patrick Jochum	Merz	August 30, 2017	New York
Bob Lahman	Optum Rx	July 14, 2017	Irvine, CA
S. Peter Ludwig	Darby & Darby	August 4, 2017	New York
Jinping McCormick	Dr. Reddy's	July 20, 2017	Princeton
Rachel Mears	Forest	August 30, 2017	New York
Katrina Curia	Mylan	August 3, 2017	Morgantown, WV
Seth Silber	Mylan	August 3, 2017	Morgantown, WV
Bharati Nadkarni	Sun	August 31, 2017	Princeton
Lauren Rabinovic	Teva	July 18, 2017	Philadelphia
Charles Ryan	Forest	September 7, 2017	New York
Charles Ryan	Forest	November 7, 2017	New York
Julie Snyder	Forest	October 11, 2017	New York
David Solomon	Forest	September 7, 2017	New York
David Solomon	Forest	November 15, 2017	New York
Michael Towers	Forest	August 21, 2017	New York
G. Venkatesan	Wockhardt	July 13, 2017	New York
Diana Wilk	Orgenus	August 17, 2017	Lawrenceville, NJ

VI. PRIVILEGE-RELATED MOTION PRACTICE

18. No discovery disputes were more consequential than the privilege waiver disputes, which involved multiple rounds of briefing and extensive time and effort from Class counsel and Judge Francis, and which were hotly contested by Forest. ECF Nos. 197-198, 200,

202-203, 217, 222, 232-233, 238-239, 249, 265-267, 281-283, 315, 339-340, 343, 346-348, 361, 363-364, 366-367, 370-371, 376-377, 382-384, 386, 387, 393, 394, 403-405, 684-687, 694-696, 713-714, 717-719, 721, 739, 805, 853-854, 887.

19. From the outset, Class counsel recognized that Forest's subjective beliefs about the strength of its '703 patent and the reasons why Mylan agreed to the July 2015 entry date were central issues in this reverse payment case. Class counsel sought document discovery regarding Forest's subjective beliefs on those issues and others. Forest objected on grounds of privilege.

20. Class counsel's April 12, 2017 motion to compel (ECF No. 197) argued that, by asserting certain defenses, Forest had placed its subjective beliefs at issue, effectuating an implied waiver of privilege. On May 19, 2017, Judge Francis denied Class counsel's motion as premature (ECF No. 249), but the Court directed Forest to "disclose any subjective beliefs it will rely on in its defense of this action." *In re Namenda Direct Purchaser Antitrust Litig.*, 2017 U.S. Dist. LEXIS 76675 (S.D.N.Y. May 19, 2017).

21. Forest then submitted its election on June 2, 2017 (ECF No. 281-1) stating, *inter alia*, "Forest does not intend to affirmatively rely on its subjective beliefs to rebut any argument that [] its position in the patent case was weak[.]" ECF No. 281-1, at 5.

22. In accordance with its election, throughout discovery Forest withheld documents it claimed were privileged and instructed its witnesses at deposition not to answer questions relating to its subjective beliefs about the strength of the '703 patent and other issues it had disavowed in its election.

23. As the September 15, 2017 close of discovery was approaching, Class counsel renewed their motion to compel, seeking 191 documents that Forest had identified on its privilege log, including documents that Forest had initially produced but "clawed back." ECF

Nos. 265, 267, 361. Plaintiffs asserted that Forest had waived the privilege with respect to these documents by electing to rely on its subjective views on the link between the Lexapro Amendment and the Forest-Mylan patent settlement (*i.e.*, that the former was not compensation for the latter). *See* ECF No. 281-1, at 4, 5 (Forest elects to rely upon its subjective views concerning the Lexapro Amendment's "independence from the then-pending patent litigations and respective settlement agreements," and its belief "that the Namenda IR patent litigation settlement agreements provided the generic competitors [no] consideration beyond the express terms of each of the final agreements.").

24. Forest opposed the renewed motion, arguing that the documents were privileged. In a September 25, 2017 Order, Judge Francis found that Forest had waived the privilege over a series of documents because they "appear to link the Namenda settlements with the side agreements with Mylan and Orchid." ECF No. 394.

25. Among the documents Judge Francis ordered be produced were two versions of the "Mylan Deal Concept" document and two versions of the "Forest-Mylan Meeting February 11, 2010" presentation, important evidence supporting Class counsel's reverse payment agreement case.

26. Class counsel's dislodging of this evidence sent Forest into an apparent tailspin. Suddenly, Forest began to engage in self-help, seeking to *de facto* reverse its earlier election without leave of Court and after the close of discovery. Deposed on these new documents, the very same Forest witnesses who earlier refused to answer questions about the patent litigations now volunteered under Forest counsel's questioning that Forest's position in the '703 patent litigation was "very strong."

27. Forest's sharp tactics required Class counsel to file a motion to enforce its earlier election. ECF No. 685. The Court granted the motion, explaining, "I am of the belief that Forest's understanding of the strength of its patent is highly relevant to this case; but if Forest has not answered questions or produced documents on that subject during discovery, Forest will not be permitted to offer any evidence on the point." ECF No. 684. Apparently undeterred, Forest then sought to inject a previously-unproduced document into evidence purporting to reveal Forest's chances of success in litigating the '703 patent against generic seller Dr. Reddy's, by moving to amend two of its expert reports to account for that document, which had been produced in the endpayor plaintiffs' case. ECF Nos. 694-696, 717-718, 804. Class counsel opposed. ECF Nos. 713-714, 805. The Court analogized the late-produced document to a "little grenade explod[ing]." ECF No. 719. The Court denied Forest's motion during a status conference on June 4, 2019.

28. Class counsel's persistence in seeking to require Forest to elect whether to waive privilege or not on certain topics, and in seeking production of otherwise-privileged documents pertinent to that election, led to the production of critical evidence supporting the Plaintiffs' claims. Class counsel's persistence in holding Forest to its election thwarted Forest's apparent strategy of trial by ambush.

VII. COLLATERAL ESTOPPEL MOTION PRACTICE

29. On February 16, 2017 Class counsel moved for offensive, nonmutual collateral estoppel with respect to certain aspects of the hard switch, in light of Judge Sweet's injunction, which the Court of Appeals had affirmed. ECF Nos. 134-137, 145-146, 157, 159-160, 169-171, 176-177, 184-185, 253. Class counsel sought collateral estoppel on, among other subjects, (1) Forest's possession of market power with respect to Namenda (an issue which Forest had not

contested on appeal); and (2) the announcement of an imminent product withdrawal as being tantamount to a hard switch.

30. Class counsel fully recognized the challenge involved in obtaining collateral estoppel based on findings of fact made by a judge during a preliminary injunction hearing. The Court made abundantly clear that it, too, recognized the challenge Class counsel faced. *E.g.*, Hr'g Tr. (5/5/17) at 5:10-14 ("[O]n what conceivable basis does the Second Circuit have jurisdiction on an appeal from an order granting a preliminary injunction to enter a final judgment, to change the fundamental nature of the preceding before it?"). Yet, Class counsel demonstrated in briefs and argument that the motion fully comported with Second Circuit law, particularly because Forest itself had, in the Court of Appeals, successfully demanded that the NYAG meet a "practical finality" standard.

31. Because of Class counsel's ingenuity, the Court precluded Forest from relitigating that it had market power with respect to Namenda and that its hard switch announcement violated Section 2 of the Sherman Act. *See In re Namenda Direct Purchaser Antitrust Litig.*, 2017 WL 4358244 (S.D.N.Y. May 23, 2017). Taken as established, these facts promised to shorten trial and permit focus on the gravamen of Class counsel's case: Forest's reverse payment to Mylan.

VIII. EXPERT DISCOVERY

32. Plaintiffs retained nine experts in this case who collectively issued 17 reports, catalogued below:

Plaintiff expert name	Main subject	Number of reports
Ernst R. Berndt, Ph.D.	Market impact from hard switch; Forest's Lexapro forecasts	2
James Bruno	Authorized generic Lexapro manufacturing costs	2
Janet K. DeLeon	Generic Namenda competitors readiness to launch earlier	2
Einer Elhauge	Earlier entry date in a no-reverse-payment settlement between Forest and Mylan	2
Nathan Herrmann, M.D.	Noninfringement of the '703 patent	2
George W. Johnston	Forest's chances of success in the '703 patent litigation	2
Russell L. Lamb, Ph.D.	Impact and damages	2
Lon S. Schneider, M.D.	Invalidity of the '703 patent	2
Jay Thomas	Hatch-Waxman Act background	1

The need for nine experts illustrates the unique complexity of this case. This lawsuit stands apart as uniquely large and complicated, representing the most complex Hatch-Waxman antitrust case Class counsel have encountered in over two decades of prosecuting them. This case uniquely required Class counsel to:

a. master various complexities of patent law to show that Mylan would have prevailed in showing that the '703 patent was not infringed, and that the patent claims as well as the patent term extension were invalid, and in rebutting Forest's arguments to the contrary;

b. master the biopharmaceutical aspects of NMDA receptor antagonism;

c. master several challenging areas of FDA and CMS drug regulation, including:

i. FDA regulations regarding approval of transfers of manufacturing technology (for Lexapro) from one site to another; and

ii. CMS regulations governing the Medicaid rebate liability consequences of selling an authorized generic (Lexapro) in various ways;

d. apply those areas of FDA and CMS drug regulation (and the cost savings they imply) to a forensic examination of Forest's deal valuation spreadsheets;

e. develop economic modeling of the complicated interaction between the delay of generic Namenda entry from the reverse payments (on the one hand) and the hard switch product conversion enabled by that delay (on the other hand), which were interdependent sources of overcharges for direct purchasers; and

f. develop a defensible multi-input economic model to determine the earlier entry date a reverse-payment-free settlement between Forest and Mylan would have borne.

33. Each of Class counsel's experts was deposed, in some cases twice. In all, Plaintiffs defended 11 expert depositions.

34. Forest proffered eight experts:

Defense expert name	**Main subject**
Alexandra Mooney Bonelli	The Medicaid drug rebate program in the context of the Lexapro Amendment
Pierre-Yves Cremieux, Ph.D.	Impact and damages
Martin R. Farlow, M.D.	Validity of the '703 patent
Lona Fowdur, Ph.D.	Absence of delay from Forest-Mylan agreement and absence of harm from hard switch
Philip Green	Absence of reverse payment from Lexapro Amendment
Roberto Malinow, M.D., Ph.D.	Infringement and validity of the '703 patent
Roderick McKelvie	Forest's chances of success in the '703 patent litigation
David L. Rosen	FDA practices and procedures concerning applications for patent term extensions

35. Plaintiffs took the depositions of each of Forest's eight experts, obtaining admissions needed to cross examine them at trial and limit their testimony prior to trial.

IX. CLASS CERTIFICATION

36. Class certification was heavily briefed and hotly contested in this case. ECF Nos. 400-402, 406, 409, 410, 417, 514, 523, 551, 552, 559, 561, 589-590, 599, 602, 606, 679. The Court certified the Class. ECF No. 570. Forest appealed under Fed. R. Civ. P. 23(f), but review was denied. ECF No. 600. There were no opt out requests, attesting to the confidence that absent members of the Class placed in Class counsel to prosecute this matter to a successful conclusion.

X. SUMMARY JUDGMENT AND *DAUBERT* MOTIONS

37. Class counsel faced a combined total of 219 pages of summary judgment and *Daubert* briefing over an extremely compressed period.

38. Specifically, Forest filed a 64-page memorandum in support of its summary judgment motion. ECF Nos. 434-436, 465-467. Forest filed a 25-page reply. ECF Nos. 478, 630. Forest included a 494-paragraph statement of facts (ECF No. 466) and, including those submitted on reply, a total of 417 exhibits (ECF Nos. 467, 479, 666-668, 670, 672-676).

39. Forest also filed six *Daubert* motions, comprising nearly 80 additional pages of briefing, plus over 50 additional pages on reply, challenging aspects of opinions from almost all of Plaintiffs' experts. ECF Nos. 437-438 (Deleon); ECF Nos. 439-440 (Elhauge); ECF Nos. 441-442 (Berndt and Lamb); ECF Nos. 443-444 (Johnston); ECF Nos. 445-446 (Lamb); ECF Nos. 485-486 (Thomas); ECF No. 474, 623-628, 537-538 (replies). Forest's *Daubert* motions were accompanied by declarations with 51 exhibits (ECF Nos. 438, 440, 442, 444, 446, 476, 538, 678).

40. Class counsel had just three weeks to respond to all of these motions. Class counsel responded with a 64-page memorandum in opposition to Forest's summary judgment motion (ECF Nos. 455, 498, 526) and *Daubert* opposition briefing totaling 113 pages (ECF Nos.

493-497, 508, 651-655, 637). Class counsel also responded to Forest's 494-paragraph statement of facts and served their own 405-paragraph affirmative statement of facts and 535 exhibits. ECF Nos. 456, 499-502, 680. This led to an additional round of briefing on the propriety of Class counsel's affirmative fact statement (ECF Nos. 457-464) and multiple filings pertaining to supplemental authority (ECF Nos. 543, 548, 555, 557, 560).

41. In a comprehensive 99-page opinion dated August 2, 2018, the Court denied Forest's Motion for Summary Judgment, granted Plaintiffs' motion for Class Certification, and denied all but one of Forest's *Daubert* motions. ECF No. 570. Since then, the Court's opinion has been extensively cited.

XI. TRIAL PREPARATION

42. Class counsel were fully prepared to try this case. After denying Forest's motion to dismiss, the Court issued a Case Management Order that required the case to be trial ready within one year. ECF No. 128. Thus, at the same time that the parties were briefing summary judgment and *Daubert*, they were also engaged in meet-and-confers concerning the first Joint Pre-trial Order which was submitted on January 12, 2018. ECF Nos. 487-489. Class counsel also prepared their 94-page trial contentions, their trial exhibit list, and a joint list of deposition designations, and objections to deposition designations and exhibits. At the same time, Class counsel submitted to chambers their proposed *voir dire*, a proposed verdict form, and a 120-page set of proposed jury instructions.

43. After the Court's opinion denying Forest's Motion for Summary Judgment (ECF No. 570), the Court entered a scheduling order setting a trial date and requiring the parties to submit a revised Joint Pre-trial Order. ECF No. 688. The parties prepared and submitted a revised pretrial order on April 30, 2019. ECF No. 699.

44. Class counsel prepared their live witness examinations, both directs and crosses for Plaintiffs' case in chief, and cross examinations for Forest's case in chief, both for Phase 1 and for Phase 2.

45. Class counsel filed 16 motions *in limine* comprising over 80 pages of briefing, and opposed Forest's 16 motions *in limine*, which comprised 110 pages of briefing. ECF Nos. 721-736, 737-801, 811-854. The Court ruled on August 2, 2019. ECF No. 859. Although Class counsel lost their bid to exclude Forest's evidence that threatened to reduce the magnitude of its reverse payment to Mylan, Class counsel largely prevailed in motions *in limine*, securing rulings, *inter alia*, that:

a. Class counsel's experts could testify about statistical outcomes in Hatch-Waxman patent litigation;

b. The rule of reason framework did not apply to the Lexapro Amendment;

c. Post-Lexapro Amendment sales history was relevant and admissible to impeach Forest's Lexapro forecasts;

d. Forest could not justify its reverse payment by pointing to the avoided risk of competition.

46. The Court then set a final pre-trial conference. ECF Nos. 863, 868. The final pre-trial conference resolved numerous issues and questions regarding the admissibility of exhibits. ECF Nos. 886, 891. It also gave rise to additional briefing on the issue of how the "largeness" of a reverse payment is measured under *Actavis*, and the extent to which patent infringement and invalidity evidence should be offered at trial. ECF Nos. 895, 897, 899, 907.

47. Ultimately, the parties reached agreement on a settlement in principle hours before jury selection was set to start on October 28, 2019.

XII. MEDIATION AND SETTLEMENT

48. In March 2017, Class counsel and Forest engaged in direct discussions to attempt an early resolution of this case.

49. The parties next engaged in settlement discussions in the Fall of 2018, retaining Jonathan Marks, one of the nation's preeminent mediators. The parties engaged in multiple individual sessions over the course of several months, which led to a March 2019 joint session at the offices of White & Case LLP in Manhattan.

50. As part of that process, Class counsel provided Mr. Marks with voluminous submissions drafted specifically for the mediation. The final mediation session in March 2019 lasted a full day, but the parties could not reach a resolution.

51. Starting in September 2019, the parties engaged in additional mediation efforts before retired United States District Court Judge Faith S. Hochberg, a highly distinguished mediator and jurist. Judge Hochberg brought with her a wealth of experience assessing the risks of trial, including in patent and antitrust cases, including direct purchaser Hatch-Waxman antitrust cases such as *In re Remeron Antitrust Litigation* and *In re Neurontin Antitrust Litigation*, both of which involved Class counsel and the latter of which involved Forest's trial counsel.

52. The mediation before Judge Hochberg included multiple individual sessions and another full-day joint session, and laid the groundwork for the parties' ultimate settlement, reached with the assistance of the Court's staff the night before a jury was to be selected.

XIII. THE SETTLEMENT

53. On December 24, 2019, Class counsel filed a fully-executed settlement agreement with the Court. ECF No. 919-1. The Settlement provides for the payment by Forest of $750 million into an interest-bearing escrow account for the benefit of all Class members.

54. In their Motion for Preliminary Approval (ECF No. 917), Class counsel requested that the Court preliminarily approve the settlement, approve notice to the Class, and set a schedule leading up to and including a Fairness Hearing. In preparation for filing that motion, Class counsel entered into an escrow agreement with a proposed escrow agent for maintenance of the settlement fund and engaged a proposed claims administrator to assist with the notice process. Class counsel's request for preliminary approval was also posted on the GGF and Berger Montague PC websites.

55. On January 6, 2020, the Court concluded that that the settlement between the Class and Forest was arrived at by arms-length negotiations by highly experienced counsel after years of litigation and fell within the range of possibly approvable settlements, and preliminarily approved it. ECF No. 920. Concurrently, the Court appointed an escrow agent and claims administrator, approved a form of notice to the class and set a schedule. *Id.*

56. Thereafter, Forest deposited the settlement fund into an escrow account that is earning interest for the benefit of the Class, and the claims administrator duly mailed the written notice to class members on February 12, 2020.

57. Class members have until March 30, 2020 to object to the settlement or any of its terms and/or to Class counsel's request for attorneys' fees, unreimbursed expenses and an incentive awards to the class representatives. As of the date of this Declaration, no objections have been received. If any objections are received between the date of this Declaration and March 30, 2020, the Court will promptly be notified, and such objections will be addressed in Plaintiffs' upcoming submission for final approval of the settlement, due on April 21, 2020.

XIV. SUMMARY OF ATTORNEYS' FEES AND UNREIMBURSED EXPENSES

58. Class counsel are highly-skilled and nationally-respected law firms and have over two decades of extensive experience prosecuting and trying pharmaceutical antitrust cases

(including cases challenging reverse-payment settlements of patent litigation) on behalf of the same core class of direct purchasers.

59. At all junctures of this litigation, Class counsel faced substantial risk. A number of previous reverse-payment cases have been dismissed after significant outlays of time and expenses by Class counsel because of intervening judicial decisions.

60. For instance, in 2010, over the Honorable Rosemary S. Pooler's dissent, the Second Circuit, *en banc*, affirmed a district court's grant of summary judgment in favor of defendants in a case alleging a $400 million cash reverse payment concerning the drug Cipro, because of the then-emerging "scope-of-the-patent" test. *See Ark. Carpenters Health & Welfare Fund v. Bayer AG*, 604 F.3d 98 (2d Cir.), *reh'g denied*, 625 F.3d 779 (2d Cir. 2010). Three years later, after denying *certiorari* in *Cipro*, the Supreme Court issued its opinion in *FTC v. Actavis, Inc.*, 570 U.S. 136 (2013), enabling a later-filing group of Cipro indirect purchasers to reach settlements in California state court worth hundreds of millions of dollars. *See In re Cipro Cases I & II*, 348 P.3d 845 (Cal. 2015), *on remand*, 2018 Cal. App. Unpub. LEXIS 3258, at *3 (Cal. Ct. App. May 14, 2018) (settlement described). The Cipro direct purchasers made no recovery despite the expenditure of significant time and money by Class counsel.

61. Even after *Actavis* was decided, dismissals of other cases at the Rule 12 and Rule 56 stages quickly revealed that *Actavis* was no panacea for the risk these cases present. *See In re Wellbutrin XL Antitrust Litig.*, 133 F. Supp. 3d 734 (E.D. Pa. 2015) (summary judgment in reverse payment case); *In re Actos End Payor Antitrust Litig.*, 2015 WL 5610752 (S.D.N.Y. Sept. 22, 2015) (pre-answer dismissal in reverse payment case); *In re Effexor XR Antitrust Litig.*, 2014 WL 4988410 (D.N.J. Oct. 6, 2014) (same); *In re Lipitor Antitrust Litig.*, 46 F. Supp. 3d 523 (D.N.J. 2014) (same); *In re Loestrin 24 Fe Antitrust Litig.*, 45 F. Supp. 3d 180 (D.R.I. 2014)

(same); *In re Lamictal Direct Purchaser Antitrust Litig*., 18 F. Supp. 3d 560 (D.N.J. 2014) (same). *See also Mylan Pharm. Inc. v. Warner Chilcott Pub. Ltd. Co.*, 838 F.3d 421 (3d Cir. 2016) (affirming summary disposition of product hop case). Some of these dismissals were affirmed in whole or part, while others were reversed.

62. Getting to a jury was no guarantee of success in these cases, either. *E.g.*, *In re Nexium (Esomeprazole) Antitrust Litig.*, 842 F.3d 34, 39 (1st Cir. 2016) (upholding jury verdict "that although the plaintiffs had proved an antitrust violation in the form of a large and unjustified reverse payment from AstraZeneca to Ranbaxy, the plaintiffs had not shown that they had suffered an antitrust injury that entitled them to damages"). *See also La. Wholesale Drug Co. v. Sanofi-Aventis*, 2009 U.S. Dist. LEXIS 77206, at *3 (S.D.N.Y. Aug. 28, 2009) (jury concluded that defendant's petitioning of FDA was not "objectively baseless").

63. The Court directly referenced the risk assumed by Class counsel in this case. The Court expressly observed in its motion to dismiss opinion that "viewed in isolation, the settlement terms do not appear anticompetitive," and warned Class counsel that "[t]o survive a motion for summary judgment, Plaintiffs will have to substantiate these allegations with evidence suggesting that the settlement agreements did, in fact, delay generic entry and that the delay had the effect of allowing Forest to complete the hard switch." ECF No. 106 at 31-32.

64. Thus, Class counsel were acutely aware not only of the inherent risks that come with prosecuting a complex antitrust case and bringing it towards trial, but also of the additional risks of litigating such a case in an area of law that is newly developing subsequent to the issuance of a landmark Supreme Court decision such as *Actavis*.

65. Plaintiffs' claims could have been dismissed in their entirety at any time, particularly in view of the rapidly-evolving law, which forced Class counsel to continuously

refine their case theories and strategies. And, absent the settlement with Forest, if a jury had found in favor of Forest at trial, Class counsel's lengthy and protracted efforts, undertaken at great time and expense on behalf of the Class, would have been for naught. Even if successful before a jury, appellate and Supreme Court risks would remain.

66. Despite the risks outlined above, Class counsel diligently prosecuted this case for almost five years. In doing so, Class counsel: (a) reviewed a voluminous amount of documents; (b) successfully defeated Forest's motions to dismiss and for summary judgment; (c) obtained collateral estoppel as to two factual issues; (d) took or defended 46 depositions (took 25 fact depositions and eight expert depositions; defended two fact depositions and 11 expert depositions); (e) consulted with and retained nine experts; (f) briefed and argued extensive discovery motions pertaining to numerous topics, most significantly, on issues pertaining to privilege; (g) obtained class certification, and survived interlocutory review; (h) prepared the case for trial including all fact witness, expert witness, and exhibit work; (i) briefed 32 motions *in limine*, prevailing on several important ones; and (j) engaged in protracted negotiations concerning the execution of a settlement agreement that embodied the parties' agreement in principle.

67. Litigating this case has involved significant effort on Class counsel's part, both in terms of time and resources spent. Class counsel had to constantly formulate and refine their theories of liability, causation and damages both in response to legal developments and in anticipation of arguments that Forest was likely to raise — and often did raise — throughout the stages of the litigation.

68. Forest has been represented by some of the country's leading law firms who have vigorously defended Forest against Plaintiffs' claims at all junctures.

69. Class counsel believe that the settlement with the Defendants represents an outstanding outcome for the Class, on a risk-adjusted basis and otherwise.

70. The following chart summarizes the aggregate time and necessary and incidental expenses of all Class counsel, as set forth in more detail in the separate firm declarations of Class counsel, appended here as Exhibits A-F:

Ex.	Firm Name	Hours	Lodestar	Expenses (Litigation Fund Contributions and Otherwise)
A	Berger & Montague, P.C.	12,470.80	$ 7,391,532.60	$ 1,091.301.87
B	Faruqi & Faruqi LLP	9,699.50	6,708,490.00	873,203.86
C	Garwin Gerstein & Fisher LLP	9,268.15	7,943,403.75	1,020,625.89
D	Heim Payne & Chorush LLP	4,243.80	2,789,083.25	951,166.79
E	Odom & Des Roches	10,135.60	6,205,356.25	940,397.65
F	Smith Segura & Raphael LLP	6,294.80	3,731,142.50	947,232.85
	TOTALS	52,112.65	$ 34,769,008.35	$ 5,823,928.91

71. The expenses paid from the litigation fund were as follows:

LITIGATION FUND DISBURSEMENTS	
Expense Category	**Amount**
Bank charges for litigation fund itself	$ 204.85
Claims/notice administration	9,079.90
Deposition transcripts	117,777.47
Drug sales data	41,963.41
Expert witnesses	4,171,257.92
Litigation support document database/processing	343,051.43
Private mediation services	40,992.00
Subpoena/summons service	5,924.00
Transcripts of in-court hearings	781.19
Trial technology vendors	148,162.39
TOTAL	$ 4,879,194.56

72. The other expenses of each firm, combined, were as follows:

FIRM DISBURSEMENTS FOR LITIGATION EXPENSES	
Expense Category	**Amount**
Experts	$ 186,642.47
Court reporter	725.00
Document database	96,406.73
Filing fees/court costs	5,339.62
Postage/air express/messengers	12,493.60

FIRM DISBURSEMENTS FOR LITIGATION EXPENSES	
Expense Category	**Amount**
Process server and subpoena expenses	20,620.50
Reproduction costs	94,872.24
Research and datasets	119,554.73
Telephone/teleconference/facsimile	7,620.69
Travel/hotel/meals	359,742.82
Trial expenses (furniture and equipment)	16,859.85
Miscellaneous	3,628.13
TOTAL	$ 924,506.38

73. There is currently a balance in the litigation fund in the amount of $20,227.97.

74. Detailed time records and expense vouchers/receipts are available to the Court *in camera* should the Court wish to examine them.

XV. THE EFFORTS OF THE CLASS REPRESENTATIVES ON BEHALF OF THE CLASS

75. The two class representatives — Smith and RDC — both made a significant contribution in prosecuting Plaintiffs' claims against Defendants for the benefit of all class members. The class representatives each actively protected the Class's interests by filing the suit on behalf of the Class and undertaking all the responsibilities involved in being a named plaintiff, including monitoring the progress of the case, and responding to discovery requests.

76. Discovery was a significant burden to the class representatives in this case. Specifically, in accordance with the ESI order, each class representative executed broad document searches and collections, based on keywords negotiated with Defendants, and the resulting document productions comprised over 50,000 pages and 130,000 lines of purchase and chargeback data.

77. Forest moved to compel more discovery from the class representatives. ECF Nos. 245-247, 254, 257, 276, 281. RDC's adequacy was challenged multiple times. ECF Nos. 640-641, 763-764.

78. Each of the class representatives also searched for and collected up to 9 years of transactional data reflecting invoice-level purchases and chargebacks.

79. These discovery efforts required that employees of the class representatives take time away from their regular job functions in order to comply.

80. Each of the class representatives was also deposed. One was fully prepared to testify on the first day of Plaintiffs' case at trial, and both were fully prepared to monitor the proceedings through verdict. Smith Drug's witness had to leave a family wedding to be prepared for his trial testimony.

81. The class representatives were required to expend time and effort that was not compensated over the several years that Class counsel pressed Plaintiffs' claims against Forest.

82. In recognition of its time and effort expended for the benefit of the Class, Class counsel request an incentive award of $150,000.00 for each of the class representatives.

I, Bruce E. Gerstein, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the above is true and correct.

Dated: March 13, 2020

/s/ Bruce E. Gerstein
BRUCE E. GERSTEIN

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA DIRECT PURCHASER ANTITRUST LITIGATION **THIS DOCUMENT RELATES TO:** **All Direct Purchaser Actions**	**Case No. 1:15-cv-07488-CM-RWL**

DECLARATION OF DAVID F. SORENSEN ON BEHALF OF BERGER MONTAGUE PC IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS

David F. Sorensen, subject to the penalties of perjury provided by 18 U.S.C. § 1746, does hereby declare as follows:

1. I am a Managing Shareholder in the law firm Berger Montague PC, attorneys for Plaintiff Rochester Drug Co-Operative, Inc. and Co-Lead Counsel for the Direct Purchaser Class in the above-captioned case. I am admitted to practice *pro hac vice* in this matter. I submit this declaration in support of Direct Purchaser Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for the Named Plaintiffs.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Direct Purchaser Class. Chief among those activities were:

- Investigating the case and helping to prepare Rochester Drug Co-Operative, Inc.'s complaint in this matter;
- Drafting sections of Plaintiffs' Motion for Collateral Estoppel and Partial Summary Judgment on Count One;
- Participating in negotiations with counsel for defendants concerning various procedural orders and stipulations in the case;
- Reviewing, analyzing, and digesting hundreds of thousands of pages of documents and data produced by defendants (and third parties), and participating

in all aspects of discovery on economic matters and damages, and relating to class certification;

- Pursuing certain third parties for discovery in this case, which involved the preparation of two motions to compel and a motion to transfer a subpoena proceeding to the Southern District of New York;
- Working with economic experts regarding the underlying theories of antitrust violation, class certification, economic impact, and assessment of damages;
- Deposing three fact witnesses and one defense expert, and defending four expert depositions (involving three experts; one expert was deposed twice);
- Drafting papers in support of the motion for class certification, responding to defendants' opposition papers, responding to questions from the Court regarding class certification, and opposing defendants' Rule 23(f) petition;
- Participating in drafting various briefs and related filings, including: the opposition to Defendants' motion for summary judgment; oppositions to *Daubert* motions; affirmative *Daubert* motions; affirmative motions *in limine*; oppositions to Forest's motions *in limine*; and briefing regarding the meaning of "large" under *FTC v. Actavis, Inc*. 570 U.S. 136 (2013);
- Selecting and preparing economic evidence for inclusion in Plaintiffs' exhibit lists, deposition designations, and other final pretrial submissions filed in January 2018, and revising those submissions in accordance with the Court's directives for re-submission in April 2019; and taking the lead role in drafting proposed jury instructions;
- Preparing direct and cross-examinations and exhibits for trial, scheduled to begin in October 2019; and
- Participating in settlement discussions with defendants through multiple rounds of mediation, which resulted in the $750 million settlement.

3. All attorneys, paralegals and staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on this case and did so.

4. The schedule below reports the time spent by my firm's attorneys, paralegals, and staff in this case from inception until the time of this motion, excluding time relating to this motion. All hourly rates are as of December 31, 2019, unless a person had left the firm previously, in which case the rate is the person's rate as of the time of departure from the firm.

Professional's Name	Position/Status	Total Hours	Hourly Rate as of Dec. 31, 2019	Total Lodestar
Sorensen, David	Managing Shareholder	1,441.90	$940	$1,355,386.00
Parker, Phyllis	Shareholder	1,878.10	$635	$1,192,593.5
Noteware, Ellen	Shareholder	1,152.30	$705	$812,371.50
Coslett, Caitlin	Shareholder	70.5	$590	$41,595.00
Curley, Andrew	Shareholder	7.3	$645	$4,708.50
Clairmont, Joy	Shareholder	0.3	$635	$190.50
Simons, Daniel	Senior Counsel	3,542.90	$640	$2,267,456.00
Schwartz, Richard	Senior Counsel	8.3	$510	$4,233.00
Urban, Nicholas	Associate	967.5	$530	$512,775.00
Ripley, Josh	Associate	15.9	$420	$6,678.00
Chaudhury, Aurelia	Associate	13.3	$400	$5,320.00
Sauder, Karissa	Former Associate (as of 1/20)	3.2	$410	$1,312.00
Listwa, Daniel	Staff Attorney	523.9	$500	$261,950.00
Bucher, Matthew	Contract Attorney	131	$360	$47,160.00
Tyson, Steven	Contract Attorney	45.3	$400	$18,120.00
Shappell, David	Former Paralegal (as of 6/19)	921.2	$310	$285,572.00
Werwinski, Diane	Paralegal	714.1	$340	$242,794.00
Arteaga, Alexandra	Paralegal	181	$310	$56,110.00
Frohbergh, Patricia	Former Paralegal (Contract Paralegal as of 5/17)	417.8	$345	$144,141.00
Kerr, Joseph	Former Paralegal (as of 7/18)	275.5	$305 (2018 rate)	$84,027.50
Matteo, Shawn	Former Paralegal (as of 7/17)	88	$330 (2017 rate)	$29,040.00
York, Elizabeth	Paralegal	22.3	$340	$7,582.00
Stein, Mark	Director of Research	13.5	$340	$4,590.00
Choe, Caroline	Paralegal	2.3	$300	$690.00
Filbert, David	Paralegal	0.7	$340	$238.00
Green, Ruben	Paralegal	3.5	$285	$997.50
Magnus, Eleanor	Legal Assistant	20.6	$160	$3,296.00
Fox, Barry	Senior Software Engineer	5	$83.49	$417.45
Rajendran, Arun	Database Analyst	1.3	$43	$55.90
McCollum, Sandy	Litigation Support Manager	2.3	$57.50	$132.25
Totals:		**12,470.80**		**$7,391,532.60**

5. My firm has also incurred a total of $1,091,301.87 in unreimbursed expenses in connection with the prosecution of the litigation. These expenses were reasonably and necessarily incurred in connection with this litigation and include:

Expense	**Amount**
Court reporter	$725.00
Document database	$96,406.73
Filing fees/court costs	$797.00
Litigation fund assessment	$848,000.00
Postage/air express/messengers	$1,752.23
Reproduction costs (outside vendor)	$59,237.27
Research and datasets	$36,612.37
Telephone/teleconference/facsimile	$517.70
Travel/hotel/meals	$47,253.57
Total:	$1,091,301.87

6. The expenses incurred in this action are also reflected on the books and records of my firm. These books and records are prepared from expense vouchers, receipts and other source material and accurately record the expenses incurred.

7. Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Executed this 6th day of March, 2020.

David F. Sorensen

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA DIRECT PURCHASER ANTITRUST LITIGATION **THIS DOCUMENT RELATES TO:** **All Direct Purchaser Actions**	**Case No. 1:15-cv-07488-CM-RWL**

DECLARATION OF PETER KOHN ON BEHALF OF FARUQI & FARUQI LLP IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS

Peter Kohn, subject to the penalties of perjury provided by 18 U.S.C. § 1746, does hereby declare as follows:

1. I am a partner in the law firm Faruqi & Faruqi LLP, attorneys for Plaintiff Rochester Drug Co-Operative, Inc. ("RDC"), and one of the firms representing the Direct Purchaser Class in the above-captioned case. I am admitted to practice *pro hac vice* in this matter. I submit this declaration in support of Class Counsel's Motion for Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for the Named Plaintiffs.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Direct Purchaser Class. Chief among those activities are:

- Investigation of the case and preparing the complaint on behalf of RDC;
- Drafting discovery requests directed to Defendants;
- Drafting subpoenas directed to third parties;
- Engaging in meet and confers with third parties regarding subpoenas;
- Drafting discovery responses and conducting document review for responsive discovery on behalf of RDC;
- Preparing for and defending the Rule 30(b)(6) deposition of RDC;

- Reviewing documents and other materials, and assisting in preparing for and taking depositions of fact witnesses, as they pertained to causation and generic entry, including Maureen Cavanaugh, Lauren Rabinovic, Jinping McCormick, and Robert Lahman;
- Assisting expert witnesses Russell Lamb, Ph.D. and Ernst Berndt, Ph.D. in connection with their expert reports;
- Preparing for and defending the depositions of Drs. Lamb and Berndt;
- Preparing for and taking the deposition of Defendants' economic expert Lona Fowdur, Ph.D.;
- Drafting and assisting in drafting briefing (1) in opposition to Defendants' motion to dismiss; (2) in opposition to Defendants' motion to disqualify Drs. Lamb and Berndt; (3) in support of Plaintiffs' motions for partial summary judgment; (4) in support of Plaintiffs' motion for class certification and in opposition to Defendants' Rule 23(f) petition; (5) in opposition to Defendants' *Daubert* motions and motion for summary judgment; (6) in support of Plaintiffs' motions *in limine*; (7) in opposition to Defendants' motions *in limine*; and (8) in support of Plaintiffs' positions in various trial briefing disputes;
- Preparing for trial, including designating deposition testimony, identifying and assembling trial exhibits, drafting proposed jury instructions, reviewing and objecting to Defendants' designated testimony and proposed trial exhibits, and preparing other materials in connection with the original and amended pretrial order; and
- Preparing for live witnesses at trial, including (1) drafting trial examinations, preparing demonstratives, and selecting trial exhibits for Dr. Berndt; and (2) drafting cross examination for Dr. Fowdur, and anticipated witnesses for the Phase 2 part of the trial, including Brenton Saunders, Lei Meng, Mark Devlin, Julie Snyder, Dr. Marco Taglietti, James Finchen, June Bray, Dr. Lu-Marie Polivka-West, Dr. Barry Rovner, William Kane, William Meury, and assisting with preparation of outlines for other witnesses.

3. All attorneys and paralegals at my firm were instructed to keep contemporaneous time records reflecting their time spent on this case, and did so.

4. The schedule below reports the time spent by my firm's attorneys and paralegals in this case from inception until the date of the within motion, excluding time relating to this motion:

Professional's Name	Position/Status	Total Hours	Hourly Rate as of 2019	Total Lodestar
Peter Kohn	Partner	1010.10	$925.00	$ 934,342.50
Joseph Lukens	Partner	2852.10	900.00	2,566,890.00
Adam Steinfeld	Partner	469.80	750.00	352,350.00
Bradley Demuth	Partner	34.20	775.00	26,505.00
Stephen Doherty	Counsel	1730.50	650.00	1,124,825.00
Neill Clark	Counsel	292.80	750.00	219,600.00
Elizabeth Silva	Former Associate	151.60	500.00	75,800.00
David Calvello	Associate	435.90	475.00	207,052.50
Kristyn Fields	Associate	2093.20	475.00	994,270.00
Andrew Coyle	Former Associate	173.00	400.00	69,200.00
Derek Behnke	Paralegal	31.70	400.00	12,680.00
Daniela Mercado	Former Paralegal	27.70	325.00	9,002.50
Michael LoBosco	Former Paralegal	23.30	325.00	7,572.50
Michelle Moyes	Former Paralegal	2.00	275.00	550.00
Anthony Aloise	Paralegal	41.50	350.00	14,525.00
Julianna Dietz	Former Paralegal	101.90	300.00	30,570.00
Timothy Thompson	Paralegal	222.80	275.00	61,270.00
Brian Giacalone	Paralegal	5.40	275.00	1,485.00
Totals:		**9,699.5**		**$ 6,708,490.00**

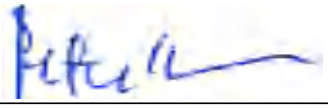
5. My firm has also incurred a total of $873,203.86 in unreimbursed expenses in connection with the prosecution of the litigation. These expenses were reasonably and necessarily incurred in connection with this litigation and include:

Expense	Amount
Filing fees/court costs	$ 1,351.00
Reproduction costs (outside vendor)	34.56
Research and datasets	3,467.63
Telephone/teleconference/facsimile	447.52
Travel/hotel/meals	19,903.15
Litigation fund assessment	848,000.00
Total:	**$ 873,203.86**

6. The expenses incurred in this action are also reflected on the books and records of my firm. These books and records are prepared from expense vouchers, receipts and other source material and accurately record the expenses incurred.

7. Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Executed this 10th day of March, 2020.



PETER KOHN

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA DIRECT PURCHASER ANTITRUST LITIGATION **THIS DOCUMENT RELATES TO:** **All Direct Purchaser Actions**	**Case No. 1:15-cv-07488-CM-RWL**

DECLARATION OF BRUCE E. GERSTEIN ON BEHALF OF GARWIN GERSTEIN & FISHER LLP IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS

I, Bruce E. Gerstein, subject to the penalties of perjury provided by 18 U.S.C. § 1746, do hereby declare as follows:

1. I am the managing partner in the law firm Garwin Gerstein & Fisher LLP ("GGF"), one of the law firms appointed as Co-Lead Counsel for the Direct Purchaser Class (the "Class") in the above-captioned case. I submit this declaration in support of Class Counsel's Motion for Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for the Named Plaintiffs. The factual matters set forth and assertions made herein are true and correct to the best of my knowledge, information and belief.

2. As Co-Lead Counsel, I have been responsible for all aspects of the above-captioned litigation starting from its inception through the negotiation of the Class's settlement with Defendants and continuing.

3. My firm worked on all aspects of the case and guided the litigation at all of its stages, including, among other things:

- Overall case management and strategy;

- Drafting discovery requests (*e.g.*, requests for production, and interrogatories) concerning all aspects of the case;

- Reviewing documents and other materials, and taking at least eight depositions of fact witnesses;

- Researching, retaining, and assisting experts Prof. Einer Elhauge, Prof. Ernst Berndt and James Bruno in preparing their expert reports;

- Preparing for and/or defending the depositions of Prof. Elhauge, and Mr. Bruno;

- Preparing for and taking the deposition of Defendants' experts, Phillip Green and Alexandra Mooney Bonelli;

- Participating in oral argument on various issues including Plaintiffs' motion for collateral estoppel and privilege disputes;

- Drafting and assisting in drafting briefing (1) in opposition to Defendants' motion to dismiss; (2) in support of Plaintiffs' motion for partial summary judgment and collateral estoppel; (3) on various discovery related issues including privilege related issues; (4) in opposition to Defendants' motion for summary judgment; (5) in support of Plaintiffs' motions *in limine*; (6) in opposition to Defendants' motions *in limine*; and (7) in support of Plaintiffs' positions in various trial briefing disputes;

- Designating deposition testimony, identifying and assembling trial exhibits, drafting proposed jury instructions, reviewing and objecting to Defendants' designated testimony and proposed trial exhibits, negotiating with Defendants and otherwise preparing other materials in connection with the original and amended pretrial order;

- Preparing for trial including (1) working with and drafting trial examinations, preparing demonstratives, and selecting trial exhibits for Profs. Elhauge and Berndt and Mr. Bruno; and (2) drafting cross examination outlines for Mr. Green and various fact witnesses; and

- All aspects of settlement.

4. All attorneys, paralegals and support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on this case, and did so.

5. The schedule below reports the time spent by my firm's attorneys, paralegals and staff in this case from inception until the date of this motion, excluding time relating to this motion:

Professional's Name	Position/Status	Total Hours	2019 Hourly Rate	Total Lodestar
Bruce E. Gerstein	Partner	1,035.75	$1,280	$1,325,760.00
Jonathan M. Gerstein	Partner	91.50	$800	$73,200.00
Kimberly M. Hennings	Partner	231.30	$800	$185,040.00
Dan Litvin	Partner	3,585.50	$800	$2,868,400.00
Joseph Opper	Partner	1,580.85	$1,125	$1,778,456.25
Noah H. Silverman	Partner	618.00	$1,050	$648,900.00
Scott Levy	Former Associate	370.75	$725.00	$268,793.75
Anna Tydniouk	Associate	311.50	$750	$233,625.00
Aakruti Vakharia	Associate	328.50	$435	$142,897.50
Claire Cimino	Paralegal	55.00	$425	$23,375.00
Rimma Neman	Legal Assistant	11.5	$275	$3,162.50
Susan Roth	Legal Assistant/Paralegal	644.50	$425	$273,912.50
Apolinar Uriarte	Paralegal	245.25	$400.00	$98,100.00
Avery Wolff	Legal Assistant	158.25	$125	$19,781.25
Totals:		**9,268.15**		**$7,943,403.75**

6. My firm has also incurred a total of $1,020,625.89 in unreimbursed expenses in connection with the prosecution of the litigation. These expenses were reasonably and necessarily incurred in connection with this litigation and include:

Expense	Amount
Court reporter	$ 1,710.94
Filing fees/court costs	$ 825.00
Litigation fund assessments	$ 848,000.00
Postage/air Express/messengers	$ 2,250.12
Process server and subpoena expenses	$ 12,156.00
Research and datasets	$ 64,662.62
Telephone/teleconference/facsimile	$ 3,822.82
Travel/hotel/meals	$ 54,333.91
Miscellaneous	$ 744.63
Reproduction costs	$ 15,260.00
Trial expenses	$ 16,859.85
Total:	**$ 1,020,625.89**

7. The expenses incurred in this action are also reflected on the books and records of my firm. These books and records are prepared from expense vouchers, receipts and other source material and accurately record the expenses incurred.

8. Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

9. Executed this 10th day of March, 2020.

/s/ Bruce E. Gerstein
Bruce E. Gerstein

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA DIRECT PURCHASER ANTITRUST LITIGATION **THIS DOCUMENT RELATES TO:** **All Direct Purchaser Actions**	**Case No. 1:15-cv-07488-CM-RWL**

DECLARATION OF RUSSELL A. CHORUSH ON BEHALF OF HEIM, PAYNE & CHORUSH, LLP IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS

I, Russell A. Chorush, subject to the penalties of perjury provided by 18 U.S.C. § 1746, do hereby declare as follows:

1. I am a partner in the law firm Heim, Payne & Chorush, LLP ("HPC"), attorneys for Plaintiff J M Smith Corporation and one of the firms representing the Direct Purchaser Class in the above-captioned case. I am admitted to practice *pro hac vice* in this matter. I submit this declaration in support of Class Counsel's Motion for Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for the Named Plaintiffs.

2. HPC is the law firm primarily responsible for patent-related issues in the above-captioned case. During the course of this litigation, HPC was involved in various activities on behalf of the Direct Purchaser Class related to patents and patent law. Chief among those activities were:

- Drafting discovery requests (*e.g.*, requests for production, and interrogatories) that involved patent issues;
- Reviewing documents and other materials, and assisting in preparing for and taking depositions of fact witnesses, as they pertained to patent issues;

- Researching, retaining, and assisting experts Mr. George Johnston, Dr. Nathan Herrmann and Dr. Lon Schneider in preparing their expert reports;
- Preparing for and defending the depositions of Mr. Johnston and Drs. Herrmann and Schneider;
- Preparing for and taking the deposition of Defendants' patent experts, Dr. Martin Farlow, Dr. Roberto Malinow, Hon. Roderick McKelvie, and Mr. David Rosen;
- Drafting and assisting in drafting briefing (1) in opposition to Defendants' motion to dismiss; (2) in opposition to Defendants' motion to disqualify Dr. Schneider; (3) in support of Plaintiffs' motions for partial summary judgment; (4) in opposition to Defendants' motion for summary judgment; (5) in support of Plaintiffs' motions *in limine*; (6) in opposition to Defendants' motions *in limine*; and (7) in support of Plaintiffs' positions in various trial briefing disputes;
- Designating deposition testimony, identifying and assembling trial exhibits, drafting proposed jury instructions, reviewing and objecting to Defendants' designated testimony and proposed trial exhibits, and preparing other materials in connection with the original and amended pretrial order; and
- Preparing for trial including (1) working with and drafting trial examinations, preparing demonstratives, and selecting trial exhibits for Mr. Johnston and Drs. Herrmann and Schneider; and (2) drafting cross examination outlines for Drs. Malinow and Farlow, Hon. Roderick McKelvie and Mr. Rosen.

3. All attorneys, paralegals and legal assistants at my firm were instructed to keep contemporaneous time records reflecting their time spent on this case, and did so.

4. The schedule below reports the time spent by my firm's attorneys, paralegals and legal assistants in this case from inception until the time of this motion, excluding time relating to this motion:

Professional's Name	**Position/Status**	**Total Hours**	**2019 Hourly Rate**	**Total Lodestar**
Russell A. Chorush	Partner	1,879.00	$865.00	$1,625,335.00
Michael F. Heim	Partner	369.75	$915.00	$338,321.25
Eric J. Enger	Partner	269.75	$650.00	$175,337.50

Professional's Name	Position/Status	Total Hours	2019 Hourly Rate	Total Lodestar
Miranda Y. Jones	Former Partner	514.70	$650.00	$334,555.00
Blaine A. Larson	Partner	161.15	$450.00	$72,517.50
Alden G. Harris	Partner	2.50	$450.00	$1,125.00
Chris M. First	Partner	3.00	$435.00	$1,305.00
Carlos R. Ruiz	Associate	21.00	$295.00	$6,195.00
Emma W. Perry	Former Associate	271.00	$275.00	$74,525.00
Carrie J. Anderson	Paralegal	56.75	$250.00	$14,187.50
Amber L. Branum	Legal Assistant/Paralegal	663.95	$210.00	$139,429.50
Natasha M. Baudoin	Legal Assistant/Paralegal	30.25	$200.00	$6,050.00
Ericka Torres	Former Legal Assistant	1.00	$200.00	$200.00
Totals:		**4,243.8**		**$2,789,083.25**

5. My firm has also incurred a total of $951,166.79 in unreimbursed expenses in connection with the prosecution of the litigation. These expenses were reasonably and necessarily incurred in connection with this litigation and include:

Expense	Amount
Payments to experts	$186,642.47
Filing fees/court costs	$1,254.08
Litigation fund assessments	$659,422.53
Postage/air Express/messengers	$4,384.89
Process server and subpoena expenses	$440.00
Reproduction costs (outside vendor)	$1,299.56

Expense	Amount
Research and datasets	$6,961.07
Telephone/teleconference/facsimile	$193.67
Travel/hotel/meals	$89,395.96
Miscellaneous	$1,172.56
Total:	**$951,166.79**

6. The expenses incurred in this action are also reflected on the books and records of my firm. These books and records are prepared from expense vouchers, receipts and other source material and accurately record the expenses incurred.

7. Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Executed this 9th day of March, 2020.

Russell A. Chorush

Russell A. Chorush

EXHIBIT E

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA DIRECT PURCHASER ANTITRUST LITIGATION **THIS DOCUMENT RELATES TO:** **All Direct Purchaser Actions**	**Case No. 1:15-cv-07488-CM-RWL**

DECLARATION OF STUART E. DES ROCHES ON BEHALF OF ODOM & DES ROCHES, LLC IN SUPPORT OF MOTION FOR APPROVAL OF THE SETTLEMENT AND MOTION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS

Stuart E. Des Roches, subject to the penalties of perjury provided by 18 U.S.C. § 1746, does hereby declare as follows:

1. I am a managing member of the law firm of Odom & Des Roches, LLC (hereinafter "the firm" or "ODR"). I submit this declaration in support of the Motion for Approval of the Settlement and the Motion for an Award of Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for the Named Plaintiffs.

Involvement in the Case

2. The firm has participated in this case as co-counsel for the Direct Purchaser Class Plaintiffs ("Class counsel").

3. The firm has been actively involved in this matter from initiation of the pre-filing investigation to the filing of the complaint; throughout fact and expert discovery;

in opposing dispositive motions; in preparing for trial; and participating in mediation sessions and reaching settlement with defendants Forest Laboratories, LLC, Actavis plc, Forest Laboratories, Inc., and Forest Laboratories, Holdings Ltd. (collectively, "Defendants" or "Forest") on behalf of the Direct Purchaser Class Plaintiffs.

4. More specifically, ODR was involved in, among other things, conducting pre-filing investigations and analysis regarding: (a) the regulatory background underlying and pertaining to branded Namenda IR and XR, and the numerous Abbreviated New Drug Applications ("ANDA" or "ANDAs") filed by generic manufacturers and naming Namenda IR as the reference listed drug; (b) the FDA approval package for Namenda XR in comparison to Namenda IR; (c) the impact of the Pediatric Exclusivity on FDA approval of the generic Namenda IR ANDAs in light of the ANDA filers' maintenance of ANDAs containing paragraph IV certifications (as opposed to switching to paragraph III certifications) after settlement with Forest of the '703 patent lawsuits; and (d) the ability and willingness of generic ANDA filers to enter the market earlier with less-expensive, AB-rated generic versions of Namenda IR "but for" the patent settlement agreements with Forest.

5. Thereafter, Burlington Drug Company, Inc. ("Burlington Drug"), filed its complaint in the United States District Court for the Southern District of New York on May 29, 2015; J M Smith Corp. d/b/a Smith Drug Co. ("Smith Drug) on September 22, 2015; and Rochester Drug C-Operative, Inc. ("RDC") on December 28, 2015.

6. In each of those complaints, all of which were filed as class actions under Fed.R.Civ.P. 23, the Direct Purchaser Class Plaintiffs challenged both (a) Forest's patent settlement agreements with the generic ANDA first-filers that were seeking to market AB-rated generic versions of Namenda IR, and (b) Forest's hard-switch product hop from Namenda IR to Namenda XR. Initially, the Direct Purchaser Class Plaintiffs challenged agreements settling patent litigation between Forest and fourteen (14) generic ANDA filers but eventually narrowed the focus to challenging the settlement agreement between Forest and Mylan, the last of the generic ANDA filers to settle and the only generic to receive compensation for both attorneys' fees and an alleged sham "side deal" relating to the marketing of an authorized generic version of Forest's branded drug Lexapro. The Direct Purchaser Class Plaintiffs alleged that the patent settlement agreement between Forest and Mylan constituted an anticompetitive "reverse payment" deal in violation of Section 1 of the Sherman Act and sought damages under Section 4 of the Clayton Act.

7. The alleged reverse payment agreement between Forest and Mylan was the primary focus of the Direct Purchaser Class Plaintiffs in that it gave rise to the largest amount of overcharge damages and was a necessary precursor to Forest's subsequent product hop from Namenda IR to Namenda XR.

8. From the outset of this case, the efforts by all Class counsel were closely coordinated and highly organized. Class counsel representing the Direct Purchaser Class Plaintiffs in this case have worked together for over 21 years on Hatch-Waxman antitrust cases alleging impaired or delayed market entry of less-

expensive generic drugs. Efforts here were generally divided according to the expertise that each firm has built over the years with each issue team interacting with other teams to ensure that overall strategies and themes were consistent throughout. All Class counsel worked together to devise and implement an overall litigation plan, and ensured that all litigation tasks were appropriately staffed, pursued, and executed in an efficient and effective manner.

9. For its part, ODR participated with co-counsel in the following litigation tasks once the pre-filing investigation was completed and the complaints were filed: (a) drafting oppositions to Forest's motions to dismiss and for summary judgment, including drafting responses to Forest's detailed statement of facts supporting its summary judgment motions and in drafting an equally detailed counter statement of uncontested facts; (b) drafting the Direct Purchaser Class Plaintiffs' motions for summary judgment and motion for collateral estoppel; (c) drafting oppositions to some of Forest's *Daubert* motions and drafting affirmative *Daubert* motions; (c) drafting numerous requests for production, interrogatories, and third-party subpoenas; (d) participating in the meet-and-confer processes with generic ANDA filers regarding their responses and objections to producing documents and deponents in response to third-party subpoenas; (e) assisting in the review of over 4 million pages of documents obtained from defendants and third parties; (f) developing a searchable database which allowed efficient and meaningful access to the above-described documents; (g) constructing a deposition strategy and identifying key witnesses associated with Forest and third-parties for deposition, and then participating in depositions; (h) working with experts and consultants in

the fields of antitrust economics, the Hatch-Waxman Act, FDA regulations and procedures, and operation of pharmaceutical companies in terms of launch processes and capabilities; (j) preparing for and attending court hearings; (k) preparing for trial; and (l) preparing for and participating in several mediation sessions and settlement discussions.

10. ODR was a core member of the Direct Purchaser Class Plaintiffs' settlement and mediation team. This work involved, among other things, drafting portions of various mediation statements, including the causation sections describing the more competitive world that would have existed "but for" the reverse payment agreement between Forest and Mylan, and thereafter participating in negotiation sessions.

11. ODR was also a member of the Direct Purchaser Class Plaintiffs' trial team. The undersigned was designated by co-counsel to serve as Lead Trial Counsel for the Direct Purchaser Class; Andrew W. Kelly of the firm was designated to lead the examination for several key witnesses including that of the Direct Purchaser Class Plaintiffs' economics expert Prof. Einer Elhauge and third party genrics; and Chris Letter was designated to help lead the trial war room. ODR's paralegals, namely Kimberly Fontenot and Amy Kennelly, were also key members of the trial team assisting in running the trial war room, preparing video-depositions to be shown at trial, preparing witness examination binders, working with computer and graphics technicians, and many additional essential tasks. These trial responsibilities required ODR to be involved in every aspect of trial preparation, such as: (a) compiling the initial Pre-Trial Order filed in January 2018 and the

later revised Pre-Trial Order filed in April 2019; (b) briefing and opposing a host of motions *in limine;* (c) moving to Manhattan in October 2019 in the lead up to the anticipated start of trial on October 28, 2019; (d) preparing for and participating in the multi-hour Final Pre-Trial Conference with the Court during which arguments were presented on Phase 1 trial exhibits; (e) selecting major trial themes and strategies; (f) selecting deposition testimony and exhibits to show to the jury; (g) deciding which fact and expert witnesses to present as well as the ordering of those witnesses; (h) creating demonstratives for the Court and jury; (i) researching the evidentiary bases for introduction of, or opposition to, key pieces of testimony and exhibits; (j) evaluating Forest's trial exhibits, deposition designations, and demonstratives for objections; (k) engaging in meet-and-confers with defense counsel regarding objections to various evidentiary and presentation issues, including attempted stipulations as to the willingness and ability of generic manufacturers to enter the market earlier; (l) preparing for the direct examination of some of plaintiffs' expert witnesses; (m) preparing for the cross-examination of some of Forest's live fact and expert witnesses; (n) preparing for the presentation of the opening statement; and (o) working with a jury consultant and preparing to pick the jury.

Attorneys' Fees and Costs/Expenses

12. Prosecution of this case was a monumental task in terms of the complex antitrust theories involved; the complexity of the pharmaceutical, regulatory, patent, Medicaid "Best Price," economic, scientific, and manufacturing issues underlying the legal theories, which required detailed analysis by lawyers and experts in

these fields; the volume of information and documents obtained, reviewed, analyzed, and synthesized for depositions, motion practice, and trial purposes; the number of fact and expert depositions; the aggressive schedule set by the Court for discovery and trial; and outstanding defense counsel.

13. Based on my twenty-seven (27) years of engaging in complex business litigation, which includes over twenty-one (21) years of handling Hatch-Waxman antitrust cases on behalf of direct purchasers, I can attest to the risk of non-recovery. Some previous Hatch-Waxman antitrust cases have been lost at the motion to dismiss, motion for summary judgment or jury trial stages, and after the expenditure of tens of thousands of work hours and millions of dollars in expenses. The risk of non-recovery here was particularly high given the hotly contested nature of the legal standard surrounding reverse payment analysis, which continues to evolve; complexity surrounding the "side deal" reverse payment made by Forest to Mylan, which implicated technical aspects of the Medicaid "Best Price" regulatory regime; patent issues surrounding the settlement agreements at issue; and the prospects of demonstrating that one or more less-expensive, generic versions of Namenda IR would have entered the market sooner "but for" the reverse payment deal between Forest and Mylan. Any one of those issues, and others, could have tripped up a jury.

14. Contained below is a chart demonstrating the time spent on this case by each ODR attorney and paralegal, and the lodestar calculation based on the firm's 2019 billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by the firm, which are available for the

Court's *in camera* inspection if necessary. Time expended in preparing the application for fees and reimbursement of expenses has not been included.

Name & Position	Hourly Rate	Total Hours	Lodestar
Stuart E. Des Roches (Partner)	$950	1619.25	$1,538,287.50
Andrew W. Kelly (Partner)	$900	533.75	$480,375.00
Chris Letter (Partner)	$750	1654.85	$1,241,137.50
Craig Glantz (Of Counsel)	$650	238.50	$155,025.00
Annie M. Schmidt (Associate)	$500	290.75	$145,375.00
Dan C. Chiorean (Associate)	$625	2044.25	$1,277,656.25
Chris Stow-Serge (Associate)	$550	1197.25	$658,487.50
John E. Fitzpatrick (Associate)	$400	237.00	$94,800.00
Amy Kennelly (Paralegal)	$250	951.50	$237,875.00
Kim Fontenot (Paralegal)	$275	1368.50	$376,337.50
		Total Hours: 10,135.60	Total Lodestar: $6,205,356.25

15. The total number of hours expended on this litigation by the firm is 10,135.60. The total lodestar for the firm is $6,205,356.25.

16. In addition to the above, ODR has incurred a total of $940,397.65 in un-reimbursed expenses in connection with the prosecution of this case. The expenses and costs incurred in this action are reflected in the firm's detailed Work-In-Progress ("WIP") Report, which is also available to the Court for *in camera* inspection upon request. The WIP Report is prepared from expense vouchers, check records and other source materials and are an accurate

recordation of the actual expenses and costs incurred. No "premium" or other additional charge has been added to these figures. The categorical breakdown of the un-reimbursed costs and expenses is as follows:

Expense	**Amount**
Consulting experts	
Court reporter	
Document database vendor	
FDA and other document fees	
Filing fees/court costs	$432.54
Litigation fund assessment	$848,000.00
Postage/air Express/messengers	$2,636.31
Process server and subpoena expenses	
Reproduction costs (outside vendor)	$8,553.55
Research and datasets	$78.30
Scientific literature fees	
Telephone/teleconference/facsimile	
Travel/hotel/meals	$80,696.95
Trial expenses (furniture and equipment)	
Total:	**$940,397.65**

Experience of ODR

17. With respect to the standing of counsel in this case, attached hereto is a brief biography of the firm. ODR has engaged in antitrust litigation for many years, including over twenty-one (21) years of litigating Hatch-Waxman antitrust cases on behalf of direct purchaser class plaintiffs. ODR was a member of the litigation team that first challenged reverse payments on behalf of the direct purchaser class starting in 1998 and later challenging for the first time other conduct that artificially delays or impairs generic drug entry, such as the filing of sham citizen petitions, product hopping, improper obtaining and enforcement of patents, and manipulation of the FDA regulatory system.

18. Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Executed this 9th day of March, 2020.

Stuart E. Des Roches

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650 POYDRAS STREET
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Firm Resume

Odom & Des Roches, LLC, engages in multi-party litigation of complex civil matters throughout the United States. The firm's clients have included local businesses, national and international companies, and private individuals.

The lawyers of Odom & Des Roches, LLC, have particular depth of experience in antitrust litigation, corporate litigation, and pharmaceutical industry litigation. The firm routinely handles complex class action cases and other matters both inside and outside the Multi-District Litigation context. The firm's members have served as lead trial counsel in national antitrust class cases that have gone to trial in various federal courts around the country or were settled on the "courthouse steps."

The firm has been intimately involved in, among others, the following national antitrust cases representing direct purchasers:

- *In re AndroGel Antitrust Litig.*, Civil Action No. 09-md-2084, N.D. Ga. (private settlements).
- *In re Buspirone Antitrust Litig.*, MDL Docket No. 1410, S.D.N.Y. (district court-approved settlement of $220,000,000).
- *In re Cardizem CD Antitrust Litig.*, MDL Docket No. 1278, E.D. Mich. (district court-approved settlement of $110,000,000).
- *In re Hypodermic Direct Purchaser Antitrust Litig.*, Civil Action No. 05-1602, D.N.J. (district court-approved settlement of $45,000,000).
- *In re K-Dur Antitrust Litig.*, MDL Docket No. 1419, D.N.J. (district court-approved settlement of $60,000,000).

- *In re Lamictal Direct Purchaser Antitrust Litig.*, Civil Action No. 2:12-cv-00995, D.N.J. (case pending).
- *In re Lidoderm Antitrust Litig.*, Civil Action No. 3:15-cv-01784, N.D. Cal. (district court approved settlement of $166,000,000).
- *In re Neurontin Antitrust Litig.*, MDL Docket No. 1479, D.N.J. (district court-approved settlement of $190,000,000).
- *In re Prograf Antitrust Litig.*, Civil Action No. 11-md-2242, D.Mass. (district court-approved settlement of $98,000,000).
- *In re Relafen Antitrust Litig.*, Master File No. 01-12239, D. Mass. (district court-approved settlement of $175,000,000).
- *In re Remeron Antitrust Litig.*, Civil Action No. 03-CV-0085, D.N.J. (district court-approved settlement of $75,000,000).
- *In re Suboxone (Buprenorphine Hydrochloride and Nalaxone) Antitrust Litig.*, MDL No. 2445, E.D. Pa. (case pending).
- *In re Terazosin Hydrochloride Antitrust Litig.*, MDL Docket No. 1317, S.D. Fla. (district court-approved settlement of $72,500,000).
- *In re TriCor Direct Purchaser Antitrust Litig.*, Civil Action No. 05-340, D. Del. (district court-approved settlement of $250,000,000).
- *King Drug of Florence, Inc., et al. v. Cephalon, Inc., et al.*, Civil Action No. 2:06-cv-01797, E.D. Pa. (district court-approved settlement of $512,000,000 and additional private settlements).
- *Meijer, Inc. et al. v. Abbott Laboratories*, Civil Action No. 4:07-cv-05985, N.D. Cal. (district court-approved settlement of $52,000,000).
- *Natchitoches Parish Hospital Service District, et al. v. Tyco International (US), et al.*, Civil Action No. 05-12024, D. Mass. (district court-approved settlement of $32,500,000).

The core of the firm's philosophy and practice is its commitment and ability to try jury cases, and its lawyers structure their strategy from the outset of an engagement with an eye towards eventual appearances in the courtroom for motion practice and jury trials. It is the firm's philosophy and experience that being prepared for the rigors of motion practice and trial maximizes the opportunities for the client to obtain favorable results. In addition to its active

jury trial practice, the firm has extensive appellate experience, and its senior partner argued and won the unanimous reversal of a federal circuit court of appeals before the United States Supreme Court. Odom & Des Roches, LLC, which is rated "AV" by Martindale-Hubbell, maintains offices in New Orleans, Louisiana and Hahira, Georgia. The firm is listed in Martindale-Hubbell's "Bar Register of Preeminent Lawyers."

MEMBERS

John Gregory Odom, PLC. Mr. Odom was born in Hahira, Lowndes County, Georgia on November 29, 1951, and was admitted to the bar of the State of Georgia in 1978, the District of Columbia in 1982, and the State of Louisiana in 1983. He is also admitted to the bars of numerous United States District Courts and Courts of Appeals throughout the country, as well as the United States Supreme Court. He practiced with a leading Savannah firm for several years, and was a business litigation partner in the second-largest firm in Louisiana for seven years before leaving to form his own firm in 1990.

Mr. Odom was educated at Yale University (B.A., cum laude, 1973); The Queen's College, Oxford University (B.A. (hons.), 1975; M.A., 1981); and the University of Virginia School of Law (J.D., 1978). He is the author of "Recent Developments in Litigation Under the Racketeer Influenced and Corrupt Organizations Act and Federal Securities Law," Manual of Recent Developments in the Law, Louisiana State Bar Association, 1987-1990, and "Creative Applications of Civil RICO," 11 Am. J. Trial Adv. 245, Fall, 1987. His regular areas of practice include corporate litigation, healthcare industry litigation, securities litigation, RICO litigation, professional liability litigation, class action litigation, and antitrust litigation.

Stuart E. Des Roches, LLC. Mr. Des Roches was born in New Orleans, Louisiana on August 12, 1966, and was admitted to the bar for the State of Louisiana in 1992. He has practiced continuously with Mr. Odom since 1992 and was made a partner in the firm in 1998. He is admitted to practice in numerous United States District Courts and Courts of Appeals throughout the country, as well as the United States Supreme Court. Mr. Des Roches was educated at the University of New Orleans (B.A., 1989), and Tulane University School of Law (J.D., 1992), and is a member of the New Orleans, Louisiana, and American Bar Associations, and the United States Supreme Court Historical Society.

Mr. Des Roches has routinely practiced antitrust law for over twenty-five years, and has particular experience in antitrust litigation relating to the Hatch-Waxman Act, the pharmaceutical industry, and medical devices. Mr. Des Roches served as the lead trial lawyer for the class of direct purchasers in *In re Tricor Direct Purchaser Antitrust Litigation* (D. Del.), which resulted in the largest settlement at that time of a Hatch-Waxman antitrust case ($250,000,000) after commencement of trial. He also served as co-lead trial counsel with the firm's partner Mr. Kelly in *Natchitoches Parish Hospital Service District, et al. v. Tyco Healthcare, et al.* (D. Mass.), which settled for $32,500,000 after three weeks of trial and on the eve of closing arguments. He has also been involved in various other litigation matters, including numerous trials, in the areas of general business and accountant's liability defense.

Andrew W. Kelly. Mr. Kelly was born in Bellefonte, Pennsylvania on December 6, 1966, and was admitted to the bar for the States of California and Louisiana in 1994. He is admitted to practice in the United States District Courts for the Eastern, Middle, and Western Districts of Louisiana, the Southern District of California, the United States Court of Appeals for the Fifth Circuit, as well as admitted *pro hac vice* in various additional federal courts. Mr. Kelly was educated at the University of California at Berkeley (B.A., 1988), and the University of San Diego School of Law (J.D., 1994). He served as law clerk to the Honorable John Minor Wisdom, of the United States Court of Appeals for the Fifth Circuit. His regular areas of practice include business litigation, class action litigation, and antitrust litigation. Along with Mr. Des Roches, Mr. Kelly served as co-lead trial counsel for the class of direct purchasers in *Natchitoches Parish Hospital Service District, et al. v. Tyco Healthcare, et al.* ($32,500,000 settlement three weeks into trial). He is also available for counseling on criminal defense matters.

Chris Letter. Mr. Letter was born in Philadelphia, Pennsylvania on August 30, 1974. He earned a J.D. from Loyola University of New Orleans School of Law in 2007 and received a Bachelor of Arts degree in history from the University of New Orleans in 1998. Mr. Letter is admitted to practice in the Louisiana Supreme Court, the several courts of the State of Louisiana, the United States District Courts in Louisiana, the Fifth Circuit Court of Appeals, as well as admitted *pro hac vice* in various additional federal courts. He actively participates in the firm's antitrust litigation practice.

ASSOCIATES

Annie M. Schmidt. Ms. Schmidt was born in New Orleans, Louisiana on May 11, 1985. She earned a J.D. from Loyola University School of Law in 2010, and received a Bachelor of Arts degree from Spring Hill College in 2007. Ms. Schmidt is admitted to practice before the Louisiana Supreme Court and the several courts of the State of Louisiana. She actively participates in the firm's antitrust litigation practice.

Dan Chiorean. Mr. Chiorean was born in Oradea, Romania in April 1980, and immigrated to the United States at the age of 11. He holds a Bachelor of Science in Industrial and Operations Engineering from The University of Michigan, where he was recognized on the Dean's List and University Honors List. Mr. Chiorean earned his *Juris Doctor* in May, 2012 from Tulane Law School, where he served on Moot Court Board. He joined Odom & Des Roches as an Associate in March, 2014 and is admitted to practice before the Louisiana Supreme Court and the several courts of the State of Louisiana, the United States District Court for the Eastern District of Louisiana, the United States District Court for the Northern District of Georgia, as well as admitted *pro hac vice* in various additional federal courts. Mr. Chiorean is a member of the Louisiana State Bar Association, the New Orleans Bar Association, and the Federal Bar Association. He actively participates in the firm's antitrust litigation practice.

Christopher Stow-Serge. Mr. Stow-Serge was born in Fort Lauderdale, Florida in February of 1985. He earned a Bachelor of Arts degree from Tulane University in 2007 and a

J.D. from Tulane Law School in 2012, where he graduated *magna cum laude*. Mr. Stow-Serge is admitted to practice law in the state courts of Louisiana as well as the U.S. District Court for the Eastern District of Louisiana, the U.S. District Court for the Western District of Louisiana, the U.S. Fifth Circuit Court of Appeals, as well as admitted *pro hac vice* in various additional federal courts. He actively participates in the firm's antitrust litigation practice.

OF COUNSEL

Thomas Maas. Mr. Maas concentrates his practice on complex litigation, antitrust, and intellectual property disputes, and he has broad litigation experience in antitrust, patent, trademark, trade secrets, securities fraud, and other complex commercial cases. He has developed particular experience in the pharmaceutical industry, including antitrust, patent/Hatch-Waxman, and contract litigation, as well as counseling in licensing and M&A transactions. Mr. Maas is highly knowledgeable on the intricacies of Food and Drug Administration (FDA) approval, exclusivity periods under Hatch-Waxman, and the antitrust implications of settlements in pharmaceutical patent litigation. Mr. Maas has represented clients in multiple billion dollar jury trials in the pharmaceutical industry, as well as in a billion dollar merger. He has also co-authored multiple successful appellate briefs before various federal appellate courts, and he is a former licensed pharmacy technician. Mr. Maas also counsels clients in the alcoholic beverage industry on a wide variety of subject matter areas, including trademark disputes and licensing, regulatory issues, financing and restructuring, and distribution and promotional agreements. He acts as lead outside counsel for a popular distilled spirits brand, and he was selected to the Executive Committee for the Distilled Spirits Council of the United States (DISCUS), the country's leading trade organization in the distilled spirits industry. Mr. Maas joined Odom & Des Roches in 2017 as Of Counsel, after ten years of practice with Katten Muchin Rosenman in Chicago.

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EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE NAMENDA DIRECT PURCHASER ANTITRUST LITIGATION **THIS DOCUMENT RELATES TO:** **All Direct Purchaser Actions**	**Case No. 1:15-cv-07488-CM-RWL**

DECLARATION OF DAVID RAPHAEL ON BEHALF OF SMITH SEGURA RAPHAEL & LEGER, LLP IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND INCENTIVE AWARDS FOR THE NAMED PLAINTIFFS

I, David C. Raphael, Jr., subject to the penalties of perjury provided by 18 U.S.C. § 1746, do hereby declare as follows:

1. I am a partner in the law firm Smith Segura Raphael & Leger, LLP, attorneys for Plaintiff J M Smith Corporation d/b/a Smith Drug Co. and one of the firms representing the Direct Purchaser Class in the above-captioned case. I am admitted to practice *pro hac vice* in this matter. I submit this declaration in support of class counsel's motion for attorneys' fees and reimbursement of expenses in connection with services rendered by Smith Segura Raphael & Leger, LLP in the above-captioned litigation. The factual matters set forth and the assertions made herein are true and correct to the best of my knowledge, information and belief.

2. My firm has been extensively involved in the development and prosecution of the Direct Purchasers' claims in the case. Chief among my firm's activities on behalf of the Direct Purchaser Class are:

- conducting research and investigation into the facts and circumstances that gave rise to this lawsuit, including compiling and analyzing public information on the defendants' Hatch-Waxman patent litigation settlements with generic ANDA filers beginning as early as mid-2010 and continuing in mid-2014;
- developing theories of antitrust liability arising from that case investigation information and the conduct of the defendants and the generic challengers from 2010 to 2014;
- monitoring key antitrust cases pending in the Second Circuit in 2014 and 2015 involving hub-and-spoke conspiracies and product hopping;
- negotiating and consummating engagement agreements with longstanding clients Burlington Drug Company and Smith Drug Company;
- communicating regularly with the principals of Smith Drug throughout the litigation to keep them informed of all developments in the case;
- preparing the initial draft of the Burlington Drug complaint;
- participating in conferences with counsel regarding strategy, liability theories, and complaint revisions;
- reviewing and analyzing defendants' initial production, including a detailed comparative analysis of all settlement and license agreements between Forest and the generic ANDA filers, as well as analyses of payments associated with the Orchid and Mylan side deals;
- participating in briefing in opposition to the defendants' motion to dismiss, including the principal drafting of the section relating to reverse payment claims under *FTC v. Actavis, Inc.*, 133 S. Ct. 2223 (2013);

- investing extensive attorney and paralegal resources reviewing, coding, and analyzing defendants' and third parties' document productions as part of the agreements team;
- deposing fact witnesses Charles Ryan, Seth Silber, Katrina Curia, Sanjay Gupta, Kapil Gupta, Goplakrishnan Venkatesan, and Diana Wilk (and assisting with the preparation for the depositions of various other witnesses, including David Solomon, Eric Agovino, Rachel Mears, and Robert Carnevale);
- managing and coordinating discovery and document production by Smith Drug and the other direct purchaser plaintiffs, including drafting responses to defendants' discovery requests by Smith Drug and the other direct purchaser plaintiffs, drafting various communications and participating in numerous meet-and-confer discussions with counsel for defendants, participating in numerous conference calls and frequently corresponding with co-counsel regarding discovery directed to direct purchaser plaintiffs, participating in briefing in opposition to defendants' discovery motions, coordinating Smith Drug's search and collection of responsive data and documents, and conducting attorney review of Smith Drug's data and documents for production;
- prepared Smith Drug witness for 30(b)(6) deposition and defended that deposition;
- assisting with the review and analysis of defendants' procompetitive justifications for the reverse payment, including analysis of Medicaid rebate liability issues;
- assisting with the preparation and review of the expert reports of James Bruno, and with the preparation for the depositions of experts James Bruno and Alexandra Bonelli;
- participating in summary judgment opposition briefing with particular emphasis on fact issues relating to inter-generic conspiracy claims;

- assisting with the preparation of pre-trial orders including designating deposition testimony and lodging objections to defendants' designations for numerous fact witnesses;
- participating in trial preparation, including the issuance of all trial subpoenas, negotiations with counsel for subpoenaed witnesses, preparation of the outline for examination of Smith Drug's witness, preparation of Smith Drug's witness for trial testimony, assistance with objections to defendants' trial exhibits, and participation in meet and confer discussions with defendants regarding deposition designations and objections for witnesses whose videos were scheduled to be played in the first week of trial; and
- participating in numerous conference calls and frequently corresponding with co-counsel regarding case management and litigation strategies.

3. All attorneys, paralegals and law clerks at my firm were instructed to keep contemporaneous time records reflecting their time spent on this case.

4. The schedule below is a summary of the amount of time spent by my firm's attorneys, paralegals and law clerks: (a) from the inception of the litigation through December 24, 2019, the date that the motion for preliminary approval of settlement was filed; and (b) time from December 24, 2019 through the date of this submission that relates to the settlement.

5. The schedule was prepared from contemporaneous, daily time records regularly prepared and maintained by my firm. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

Name	Status	Total Hours	Current Hourly Rate	Total Lodestar
David P. Smith	Partner	11.10	$800	$8,880.00
Susan C. Segura	Partner	907.30	$710	$644,183.00
David C. Raphael, Jr.	Partner	1,840.30	$710	$1,306,613.00
Erin R. Leger	Partner	2,020.10	$600	$1,212,060.00
Brian D. Brooks	Former Partner	42.20	$575	$24,265.00
Mittie J. Bolton	Former Associate	337.30	$500	$168,650.00
Olga Fort	Contract Attorney	60.40	$400	$24,160.00
Michael L. Martin	Contract Attorney	705.50	$375	$264,562.50
Nancy Blackwell	Paralegal	261.10	$225	$58,747.50
Mark Windham	Former Paralegal	37.40	$200	$7,480.00
Megan Lord	Former Paralegal	36.60	$165	$6.039.00
Donna Thompson	Paralegal	35.50	$155	$5,502.50
Totals:		**6,294.80**		**$3,731,142.50**

6. My firm has also incurred a total of $ 947,232.85 in unreimbursed expenses in connection with the prosecution of the litigation. These expenses were reasonably and necessarily incurred in connection with this litigation and include:

Expenses	Amount
Filing Fees/Court Costs	$680.00
Litigation Fund Assessments	$848,000.00
Postage/Air Express/Messengers	$1,470.05

Process Server/Subpoena Expenses	$8,024.50
Reproduction Costs	$10,487.30
Research and Datasets	$7,772.74
Telephone/Teleconference/Facsimile	$2,638.98
Travel/Hotel/Meals	$68.159.28
Total:	**$947,232.85**

7. The expenses incurred in this action are also reflected on the books and records of my firm. These books and records are prepared from expense vouchers, receipts and other source material and accurately record the expenses incurred.

8. Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Executed this 10th day of March, 2020.

/s/ David C. Raphael, Jr.
David C. Raphael, Jr.

EXHIBIT G

UNITED STATES DISTRICT COURT

IN RE:	:	01-MD-1410
BUSPIRONE PATENT	:	April 11, 2003
	:	500 Pearl Street
	:	New York, New York

TRANSCRIPT OF CIVIL CAUSE FOR SETTLEMENT AND ATTORNEY'S FEES
BEFORE THE HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For Bristol-Myers:	RICHARD STARK, ESQ. LEE BICKLEY, ESQ.
For Louisiana Wholesalers:	BRUCE GERSTEIN, ESQ. BRETT CEBULASH, ESQ.
For the Plaintiff States:	RICHARD SCHWARTZ, ESQ.
For Direct Purchaser Class:	RICHARD DRUBEL, ESQ. KIMBERLY SCHULTZ, ESQ. ERIC KRAMER, ESQ.
For the Defendants:	RICHARD STARK, ESQ.
Court Transcriber:	SHARI RIEMER TypeWrite Word Processing Service 356 Eltingville Boulevard Staten Island, New York 10312

UNITED STATES DISTRICT COURT

Proceedings recorded by electronic sound recording, transcript produced by transcription service

THE CLERK: In Re: Buspirone. All parties please state who they are for the record.

MR. STARK: Good afternoon, Your Honor. Richard Stark from Cravath, Swaine & Moore representing Bristol-Myers Squibb Company, and with me this afternoon is my associate Lee Bickley.

THE COURT: Good afternoon.

MR. GERSTEIN: Good afternoon, Your Honor. Bruce Gerstein of Garwin, Bronzaft, Gerstein & Fisher and I'm here together with my partner Brett Cebulash, and we represent Louisiana Wholesaler Drug Company, Inc. as class representative for the direct purchaser class.

MR. SCHWARTZ: Richard Schwartz, New York State Attorney General's Office on behalf of the plaintiff states. Good afternoon, Your Honor.

MR. DRUBEL: Good afternoon, Richard Drubel, Boise, Schiller & Flexner, co-lead counsel for the direct purchaser class, and with me today is my associate Kimberly Schultz.

MR. KRAMER: Good afternoon, Your Honor. My name is Eric Kramer for the steering committee for the direct purchaser class and also represent Louisiana Wholesaler.

THE COURT: Anyone else? All right. This is a hearing on the final approval of the settlement and the application for attorney's fees. So I'll

listen to the parties.

MR. GERSTEIN: Your Honor, again for the record, I'm Bruce Gerstein, Garwin, Bronzaft, Gerstein & Fisher. I together with Mr. Drubel, our co-lead counsel on behalf of the direct purchaser class, and I move this Court pursuant to Federal Rules of Civil Procedure 23(e) to approve this settlement as fair, reasonable and adequate.

For the record, we have previously provided to the Court a number of documents, including our motion, specifically with our memorandum of law supporting our application for this Court's approval of the settlement as fair, reasonable and adequate. We've also included therewith affidavits from the administrator who we retained who complied with this Court's order of January 31, 2003 which was at the preliminary approval hearing provided for notice to be provided to the class pursuant to a direct mailing which was on January 24, 2003 as well as publications on two occasions and the pink sheets which was on February 24, 2003 and March 3, 2003.

I believe the notice was sent out February 21, 2003, direct notice, and that's contained in our motion. We've also provided to this Court a joint affidavit by co-lead counsel detailing what we -- the services that we've rendered and the work that we performed in this matter and why we believe is the settlement is fair and reasonable as well as our application for attorney's fees, and we've also provided to

this Court our plan of allocation regarding how we propose that the funds shall be allocated to the various class members.

Your Honor, we divided up our argument into three parts. One is I'm going to handle the application for this Court's approval of the fairness. I have Mr. Kramer available to talk specifically as to the allocation plan and Mr. Drubel will be handling the fee request. Of course we'll all be available to answer any questions that the Court has.

Your Honor, the case law in a small thumbnail sketch really calls for various formulations on what to determine as to a fairness of a settlement, but in reality it comes down to a simple formulation and that is a way of -- the risks of future litigation versus the results obtained. Or, stated another way, is it likely that better results could be obtained with further litigation and at what cost. It's really looking or having this Court determine similarly what a private litigant would do in determining whether or not to accept this settlement. And there are three basic criteria to this settlement that we think really call for this Court to approve the settlement as fair, reasonable and adequate.

The first instance is the settlement amount. The settlement is for $220 million plus interest in an escrow fund which has been accruing, that against what is the potential damages suffered and there are

two basic criteria that we have. One is if measured during what we believe to be the full damage period, which would go out from the beginning of the class period, which is November 1997 through 2006, April 2006, which we believe the future sales are effective on certain purchases generic going forward, we've accomplished based on the work of our expert, Dr. Leitzinger, a settlement of 95 percent of that total damages. If the damages are measured just to the date of generic entry, which would be to the end of March 2001, the settlement is 157 percent of the damages suffered. Of course, there are arguments going both ways, but clearly we believe under any standard this settlement not only is a tremendous result based on the absolute magnitude of the dollars, but measured against the criteria which any litigant would be measuring and that is what's the potential recovery.

THE COURT: That's before the deduction for attorney's fees.

MR. GERSTEIN: Well, even if you take the deduction for attorney's fees, Your Honor --

THE COURT: Then it comes down to 65 percent or so.

MR. GERSTEIN: It depends on how you measure it. I'm sure Mr. Drubel will deal with this. But if it's measured at the time of generic entry, which is a strong argument, it's over 100 percent even after attorney's fees because the amount of damages to that point is about $140

million. So if you add up the additional it's even more at that point. I think that's a significant factor.

But besides the absolute amount and the fairness settlement, consider other factors which the courts look to, one of which is the response of the class members. We think this is particularly critical here. As this Court has recognized, this is a unique class. These are sophisticated businesses. The class, according to our understanding, is approximately 125 members of which three of them have a stake for about 90 percent of the overall sales and a significant part of the damages. There has not been one single objection. We have been in constant communication with the three largest class members. The settlement has been explained to them prior to the mailing of the notice as we told you at the preliminary approval. We sent separate correspondence to them and of course we reviewed in detail the specifics of the settlement. Nobody has objected to the settlement even though those entities were represented by their own counsel who was sophisticated and clearly have the ability to make an assessment and if they were unhappy clearly would have objected, which they didn't. Nobody objected.

In addition, as I've told you the last time, I had communications with counsel for Kaiser Health Plan who basically asked significant questions. They came to my office and asked questions regarding not only the analysis as to how we evaluate the settlement but also the allocation

and the allocation plan and spent considerable time doing that and they also support the settlement. Counsel happens to be in court with us as we speak. Not a single class member has --

THE COURT: Is Kaiser Health Plan one of the members of the class?

MR. GERSTEIN: Yes.

THE COURT: But not one of the big three?

MR. GERSTEIN: Right. Your Honor, it's important to note not a single member of the class has objected to the settlement and we think that that is a very critical factor to be considered by the Court particularly in this case.

Two is, besides no objection, the stage of the litigation is --

THE COURT: Well, before you leave the objectant. There are two opt outs.

MR. GERSTEIN: There's actually -- there are two opt outs. There's actually only one. One of the opt outs didn't have positive sales. We had no idea until we actually communicated with these people as to specifically whether or not everybody on the list that we had was actually a class member. There were numerous people who had products shipped who had greater returns or specifically didn't buy directly, et cetera, but there's actually one opt out who specifically has opted out and we have not been able to get in

touch with.

There's another opt out, Valley Drug Wholesaler, who is revoked. So there's that one opt out for -- I think they have sales of like $1 million over the entire period.

THE COURT: The one footnote indicated that at that time there were two opt outs for about a million. So the one opt out is still only about a million?

MR. GERSTEIN: Right. No, I think that there was -- I think one was more than --

[Pause in proceedings.]

MR. GERSTEIN: I think one was the $3 million. That was Valley. They revoked their opt out. One was for a million.

THE COURT: I thought that the papers -- that when you had submitted the papers and listed the opt outs I thought that you calculated as just about a million point five percent or something.

MR. GERSTEIN: I have to check that, Your Honor. I'm told that the entire amount --

[Pause in proceedings.]

MR. GERSTEIN: It's clearly a relatively small amount in the scheme of things, Your Honor, but I'm being told by Mr. Stark he believes it's around $230,000.00 for the one opt out.

THE COURT: Your motion at Page 12, Footnote 2 only two requests for exclusion total purchases of slightly over $1

million.

MR. GERSTEIN: The reason for that is, Your Honor, is --

THE COURT: Or .05.

MR. GERSTEIN: I understand now what the difference is. I can explain that. There is also the reference to what we consider an untimely opt out which was in addition to that. That was the Valley Drug. Valley Drug did not untimely opt out. We had thought that their opt out was untimely. Nonetheless, they opted back in. So this is still referring to the same two entities. One of them specifically had -- did not have positive purchases. It had basically greater returns than they had purchases. And the other one was that last entity, Bellamy. Our numbers seem to indicate that it's the same $1 million and Mr. Stark says that he thinks it's closer to $230,000.00. Whatever it is it's a relatively small amount.

THE COURT: Okay.

MR. GERSTEIN: But that explains -- the other disclosure happened to deal with the -- what we considered at the time an untimely opt out, but it doesn't matter because it's moot because Valley has opted back in.

THE COURT: Whether it's $230,000.00 or $1 million it's still an exceedingly small fraction of the direct Buspar purchases.

MR. GERSTEIN: That's correct, Your Honor.

In addition to considering the views of the class

members, which as I said I think are critical here, is the other factors that the courts typically look at is the stage of litigation. The lawyers who had negotiated the settlement, where they in the position to make an informed judgment in negotiating settlement. We think you have to make an assessment of what are the risks of future litigation versus how does the -- the numbers achieved relate to the damages that are out there and have to be proven, et cetera.

In this case, as we documented in our affidavit, there has been substantial, substantial, substantial work done before the settlement negotiations at risk in a very, very aggressive litigation posture. Specifically, we've documented the significant depositions that were taken. I think there were approximately thirty. The Court is aware of the extensive motion practice having decided a number of the matters yourself as well as Magistrate Judge Gorenstein who has decided numerous motions before him and I'm sure has also reported to the Court regarding the comment of counsel in those matters. So it's clear that counsel were in a strong position to be able to negotiate the settlement and I believe that as a result of the record obtained in this case it allowed us to press for the highest possible settlement possible.

As we emphasize in our papers, is that the direct purchaser class basically discovered and the Schein claim and developed it and prosecuted it and it clearly -- inure to the class' benefit which was allowing us to prosecute a claim for

damages that went from November '97 instead of a damage period that would have been starting in the year 2001, and that's rather significant -- or at least the end of 2000. That's rather significant and I think clearly inure to the benefit to the class and is reflected in the settlement.

As I said, the last factor is weighing all these matters specifically as to could a larger amount be achieved after litigation. It's our view that not only is it possible that a large amount wouldn't be achieved, but even if successful it's clear that there could be a challenge to our damage analysis, to our damage formulation, to the timing that we rely on for the damage period, et cetera, and we could have actually recovered a lot less.

Taking all that into account, we believe that the $220 million settlement is more than fair, reasonable and adequate and should be approved by the Court. Unless Your Honor has any specific questions for me, I'm going to conclude my presentation and basically if you have any questions regarding the allocation plan, I can hand that over to Mr. Kramer. If not, I will address whatever you'd like and then Mr. Drubel is prepared to speak to the fee.

THE COURT: No, fine. I'll listen to Mr. Kramer, sure.

MR. KRAMER: There are two documents that are relevant to the allocation plan. The first is the allocation plan that was submitted itself and the second is the

declaration that Dr. Leitzinger wrote and submitted. That addresses essentially two things, the aggregate for damages analysis and assumptions and then -- in calculation, and then the allocation plan itself. Dr. Leitzinger, who is a very experienced [inaudible] economist that has a lot of experience in complex litigation developed in conjunction with counsel in order to come up with a plan that would fairly and efficiently and accurately allocate damages to all claimants on a pro rated basis essentially based upon what their damages would be if calculated [inaudible].

The plan and Dr. Leitzinger, those two documents, specifically go into the damages model that Dr. Leitzinger used and employed in this case in the course of settlement discussions and that model was developed over a significant period of time. Dr. Leitzinger has been involved in several of these types of cases. So the model has been refined and developed over time and we have the benefit of this perfected model to use here in this case.

Dr. Leitzinger's affidavit not only discusses the model but then discusses the assumptions that he plugged into the model in order to come up with his aggregate damages analysis for this case. Then the declaration discusses the results of his computations from various different perspectives.

The model is designed to and does capture the total aggregate overcharged damages in the direct purchaser class.

Then with some modifications we propose to use that same model to allocate damages to individual claimants and class members.

I'd like to do here today what is most helpful to the Court. I can go through in some more detail and tell the Court and tell you and help you and help you to understand the models that we used, the assumptions that we employed and the calculation and computation that we did and then show how we modified that model to employ and use and propose an allocation plan. I can summarize that for you here. I can address any specific questions that the Court has.

THE COURT: I actually think I understand it but I'm happy to have you summarize it for me.

MR. KRAMER: That's what I'll do. I'll try to be brief. I'll first explain the aggregate damages calculation so the Court understands how we got to the $230 million number and then show how the allocation plan will be -- use the modified model in some of those assumptions in order to allocate damages to individual claimants.

THE COURT: Did you say 230?

MR. KRAMER: $230 million was the total number from November 1997 through April 2006. That was the total amount of damages throughout the entire damages period and that includes what we call the tail. It includes a period of damages that goes five years after, after generic entry. I think in Dr. Leitzinger's declaration he also gives another number. If you were to cut off damages at the end of last month so that

damages went from November 1997 through March 31, 2003, the total aggregate damages incurred as to that date would be $195 million. I think that -- since that point Dr. Leitzinger refined the analysis a little bit in numbers more like $200 million just so the Court is clear.

THE COURT: Because it's not the same as the total amount of the settlement. Yes?

MR. KRAMER: That is correct. The total amount of the settlement is $220 million and the total amount of damages throughout the entire class period is $230 million. If we were to cut off damages as of March 31st, as I said, the damages would be about $200 million.

THE COURT: Okay.

MR. KRAMER: The model, as I said, was developed not only by Dr. Leitzinger in conjunction with counsel but also involved Dr. Steven Scholermeyer who is one of the country's foremost experts in the field of pharmaceutical economics. The model draws upon governmental studies, including those of the Food and Drug Administration, and the Congressional Budget Office. The government has been substantially involved in trying to determine what the effects are in pharmaceutical markets of generic entry and then what the effects are of delaying or preventing that generic entry. The government has a significant involvement in trying to figure out what that is in conjunction with the Hatch-Waxman Act and other policy efforts to bring generic drugs onto the market. So there is --

the government has designed and developed a model to do that and our model is based in part on what the government has done.

There's also substantial published economic literature that the model is developed from. Dr. Leitzinger cites in a footnote two pieces. One by Vovowski and Vernon [Ph.] and another by Rosen and Berkowitz. Both of pieces address specifically the effects of delaying and preventing generic entry into markets that were formally dominated by a brand name drug. It looks specifically -- if the Court were to read the Rosen and Berkowitz study, it is almost a one-to-one correspondence between analysis done in that published economic literature and type of analysis that we did here. In fact, we refined it further than what's done in that public work. But I just want to give the Court an idea as to the detail and analysis and refinement that has gone into the model that we've used here. Finally --

THE COURT: The model has never been tested at trial I take it?

MR. KRAMER: That is correct, it has never been tested at trial though in past litigation it has been tested under cross-examination of Dr. Leitzinger, but it has not been tested at trial, that's correct.

That's why I think, Your Honor, I'm trying to explain -- trying to show some of the bona fides of the model. This is not something that was just devised out of thin air. It is something that is built upon published work by the

government, published studies by distinguished economists and thirdly, pharmaceutical company, internal documents and analyses. Pharmaceutical companies themselves, Bristol-Myers, generic companies have an interest in trying to determine what the effects on their own profits, sales, volumes, prices of generic entry or delaying generic entry. So, in this case we have seen a number of documents, internal industry -- pharmaceutical company documents which run through a similar type of analysis that we've employed here.

THE COURT: But part of your argument for the approval of the settlement is that the model is not so bullet proof that it would necessarily prevail at trial.

MR. KRAMER: I think what the argument actually is -- and that's true, but I think more specifically our argument is that some of the assumptions that we plugged into the model may not hold up at trial. For example, the five-year period after generic entry. That may be something that would not hold up at trial and other particular aspects of the assumptions that go into the model. I think the model itself would hold up at trial most likely. But I think where some of the real litigation risks might be is what the Court might say or what the jury might say in evaluating some of the assumptions that we plugged into the model because those are based on evidence we've gathered in this case. They're based on constructing a but for world which by its very nature includes a lot of uncertainty. Nobody knows precisely what would have happened

in a world in which there was no shine agreement. It involves hypothesizing about something that would have happened that didn't actually happen. So there are a lot of unknowns in putting that together.

THE COURT: BMS argued to me that -- on the class action motion that the big three would have done better, that they weren't harmed at all.

MR. KRAMER: Well, I think that is a significant factor. In fact, I think that is something that BMS would argue at trial. That is that big chunk -- I think one of their arguments would be that a large portion of the class did not suffer any damages at all. Now, we disagree obviously with that. We think the damages need to be measured as the overcharge and lost sales which was part of BMS' argument does not come into that, but obviously that's a risk. If that argument were to have prevailed at trial, damages would have been reduced to near zero or, in fact, damages would be negative because part of what BMS was arguing was that the big three not only did not -- was not damaged by delayed generic entry but that the big three actually profited by delayed generic entry. That was a big part of their argument.

So I think they could continue to make that argument at trial and at the very least it might have an effect on what a jury might do. So that's something to consider and that is our -- our model is based upon our view of what the overcharge damage is and how it should be measured and that is something

that has not been tested, you're right, and that is something that could have resulted in a pure victory at trial.

THE COURT: Go ahead.

MR. KRAMER: The model is essentially what's called a but for analysis. It compares a world, the actual world or as is world to a but for world, a hypothetical world that we must create using two different sources of information. We use actual volumes of prices that exist after generic entry, the model what would have happened had the generic entry early and then we use benchmarks, other drugs, other areas where there has been a certain type of generic entry and what happened in those particular markets in particular situations. We used the combination of those two things, benchmarks and actual data in order to evaluate what the total value is worth here.

I think I'll -- I think it's explained very well in the papers and I'll skip over for this moment, but Dr. Leitzinger in Paragraphs 8 through 17 of the declaration describes the three different damage elements that are separately calculated in the aggregate damages model and also would be separately calculated in the allocation plan. The brand, generic damages or substitution damages are the main form of damages, the brand brand damages and the generic generic damages, and move to some of the assumptions that we employed in -- plugged into the model for purposes of calculating what the total damages are here and then also for purposes of allocating those damages to class members.

The first assumption and probably the most important assumption is trying to determine what the hypothetical but for world would look like, when would generics enter in that world. What we did was we assumed that absent a Schein agreement, if there was no Schein agreement that Watson or predecessors to Watson would have entered the market on a license from Bristol-Myers Squibb. We assumed that both Watkins and Bristol-Myers would have had an incentive to engage in such a license agreement because it would allow them an alternative to continuing litigation which could have resulted in a validation of the patent and competition, more competition for both BMS and the Watson predecessors.

So a licensing agreement is a way that brand and generic companies often resolve patent disputes. It is an arguably a pro-competitive way to resolve disputes whereas a reverse payment like the Schein agreement is inarguably an anti-competitive way to resolve a patent dispute. So we modelled the world in which Watson would have been able after solving some production and other issues that it had with its product to come onto the market in December 1996.

The second part of the but for world then assumes that as of November 2000 the additional generics would have come on the market. It assumes that Bristol-Myers would not have engaged in investing the time, money and energy in developing and then listing a 365 patent if they already lost a significant share of the Buspirone market. By our calculation,

about 65 percent of the market by that time. So there never would have been a 365 patent. It would not have been listed and then the additional generics would come on the market as they actually did in March 2001. They'd come on five months earlier. So you have a licensing portion of this but for world and then what we've called the unfettered generic entry portion of the but for world.

So those are model -- the licensing portion, a model based on benchmarks of other license situations and then this unfettered generic entry portion of the but for world is a model based on the actual data. We did that because we had no -- there was no actual license. So we had to look elsewhere. We couldn't use the actual data reflecting an unlicensed world to model one-to-one the licensed world. It looked like in some of these benchmarks for that. We used three benchmarks and were able to triangulate those benchmarks and come up with what we think would have happened during that licensing period and then for the unfettered entry period we just shifted what actually happened back five months and then were able to create the but for world that way.

To describe the -- to just give some of the numbers I think Mr. Gerstein went through them. The aggregate calculation was a $230 million total through April 2006. The number was about $200 million through March 2003 and $140 million through March 2001. We point that out to the Court because there is a possibility, we don't think a likely

possibility, but certainly there's a risk at trial in going further that the Court might say that damages test, the time that generics actually were on the market are not the proper form of damages or a jury might conclude that. So we point out to the Court that the $140 million may be all that was possible as a result of carrying this case further. So, there's a risk there.

One thing that Mr. Gerstein pointed out was the additional benefit that the Schein agreement or litigating the Schein agreement and pushing that part of the case forward vis-a-vis merely looking at the 365 claim which was five months of delay as opposed to the Schein agreement which had years of delay. We did a calculation and if we had litigated merely based on the 365 claim alone the total damages would have been somewhere south of $85 million and that includes damages all the way through 2006. And another thing to point out about the 365 claim is that that provides much more heavily on damages after the period that generics were actually on the market. So if the Court or a jury were in the future to determine that those were not a valid form of damages that $85 million number would shrink to about $40 million.

So the direct purchaser class by discovering and prosecuting the Schein agreement added a substantial amount of value to this case over and above the value that was added by prosecuting the 365 claim.

The allocation plan is a modification of the

aggregate damages model. It calls for breaking up the damages, total damages net settlement amount that's available for class members into three pools according to the three forms of damages that are separately calculated under the model and then essentially breaks up the world into three different periods and evaluate what the individual claimant damages would have been in those periods that uses volumes, amount of purchases as a proxy for what -- for damages and asks that claimants put forward -- provides for the plan's administrator to purchase data and that can be used to determine what the actual damages of individual claimants are.

I can go into that in more detail, but I think it's described in detail in both the allocation plan and in Dr. Leitzinger's declaration. I could tell the Court that we're involved right now, and Dr. Leitzinger is specifically involved in allocating damages in the Cardizem case and a similar methodology is being used and we were able to --

THE COURT: I think that's what I -- go ahead.

MR. KRAMER: We were able to use our experience, some of the problems that we had allocating the damages there, not major problems, but issues with getting some of the data from the claimants, and so in Buspar here we narrowed the type and data that we're asking the class they wish to produce and we've learned from some of the -- not mistakes, but some of the issues and concerns that came up in terms of allocating the damages in the Cardizem case. So I think we can assure the

Court that we've learned from what we've done, had experience doing it, and I think we've gone above and beyond what is typically done in large class settlements where the allocation is turned over almost entirely to the settlement administrator and they're asked to follow a somewhat simple formula whereas here we are actually involving and paying Dr. Leitzinger and his staff of economists to compute damages for each individual claimant. I think we needed to do that because we wanted to use our model. We think it's the fairest most efficient and best way to allocate damages and it can't merely be done by a settlement administrator who wasn't involved in designing the model and executing the model. So that's what we've done here.

Ultimately, what the model does is allows us to distribute damages to class members based on their pro rata share of what their overcharges would be if we were to calculate their individual benefits.

THE COURT: This plan really requires that you wait until all of the potential claimants have submitted their claims, all of their information, you make all of the detailed calculations based on the allocation plan and then come up with what each of them get. It's a non-reversion plan. BMS has placed the money in escrow and it will be divided up among the class based on the complicated allocation plan. Is that the way in which it's being done in Cardizem also?

MR. KRAMER: Yes.

THE COURT: Other than Cardizem, is that being done

in other cases? It's different from an individual overcharge based on purchases or an individual difference if it were an alleged stock fraud case, for example.

MR. KRAMER: Yes, it is. It is different than that and that's why we decided that it was important to use -- to involve Dr. Leitzinger and his staff in the allocation process because they are the people who know the model, built the model and are doing it in the Cardizem case.

THE COURT: Other than Cardizem, is it being done in other cases?

MR. KRAMER: We hopefully will do it in other cases but we have not yet.

THE COURT: Is Cardizem the only kind of sort of cap non-reversionary total fund wait for everyone to put in their claims and then based on the allocation -- based upon the complicated allocution formula you decide how much each one -- each claimant will get?

MR. KRAMER: No, I don't think there's anything particularly unusual about non-reversionary plan that waits until all of the information is supplied and then a pro rated share of that -- if you're giving up pro rata shares that requires that you wait for all of the information and all the calculations. So that type of allocation is what is typically done in large complex anti-trust settlements. I think what is -- what we could have done here is what typically happens, which is there is some determination that the overcharge on the

product was ten percent and what the -- ten percent or fifteen percent and then break up among subcategories of the classes and then what the claimants do is submit their purchase data and depending upon their volume and their purchases that gets multiplied by ten percent and then a pro rata number is determined and that is distributed in that fashion.

So the only thing that is different here in Cardizem is that we're trying to be more fair and accurate to individual class members. I think that's in part because the class is of manageable size. This is not a class of thousands of mom and pop stores or hundreds of millions of claimants, individuals. This is a class of 124, 125 sophisticated businesses that have staffs with the ability to put things on computer and submit that into the claims administrator. So I think we designed a plan with a particular class in mind.

I can tell Your Honor that we have been involved, and I personally have been involved in the process of dealing with the allocation in the Cardizem case and I've talked to probably thirty or forty individuals class members about the types of data that we need to reassure them about the dates and other information. So we've been in contact with the same entities that are going to be putting in claims in this case.

THE COURT: The members of the Cardizem class are the direct purchasers in the Cardizem class?

MR. KRAMER: Precisely. There's not a one-to-one correlation between the class here and the class in Cardizem,

but it's very close. The only difference is that Bristol-Myers may have sold to a couple of different entities than dentists, pharmaceuticals sold Cardizem to, but the class of Cardizem is about 80 individual entities. The class here is about 125 individual entities and I would imagine that nearly all of those 80 Cardizem class members are in the -- certainly all of the significant substantial class members are the same, the same counsel and the same people involved in the allocation.

So unless Your Honor has any other questions or issues.

THE COURT: Who are -- if you can say, who are the counsel for the three major participants?

MR. KRAMER: The main counsel that we're dealing with for Cardinal Healthcare is a lawyer named Tom Long. He is with the firm of Baker & Hosteffor. The main counsel that we deal with in Makeser [Ph.] is a man -- a lawyer named Peter Houston from Latham & Watkins in San Francisco, and the counsel for Amerisource Bergen is Howard Scheer at McKenna & Ingersoll in Philadelphia, and we've been in constant contact with them throughout this litigation and the Cardizem litigation in explaining the settlement as Mr. Gerstein said and going through the allocation plan and working with them to try to make sure that they were satisfied with the result. Bruce was correct. They are extremely pleased with the result.

THE COURT: Okay.

MR. KRAMER: Thank you, Your Honor.

MR. DRUBEL: Good afternoon, Your Honor. Richard Drubel. I'd like to address for a minute or two the -- our application for attorney's fees and expenses in this case.

I think based upon what Your Honor has heard this afternoon and is reflected in our papers we believe this settlement is among the top tier of class action recoveries as measured against a percentage of recoverable damages. Your Honor addressed some of the different ways to measure this recovery. I think one of the most relevant ones is one Mr. Gerstein mentioned and Mr. Kramer alluded to in passing and that is the damages calculated by Mr. Leitzinger for the period that generic competition was kept off the market. This is, after all, the essence of this case is a denial, prevention of generic competition.

So the period of recoverable damages measured from November of 1997 through the time in which generic competition first came on the market at the end of March, I think it's March 28, 2001, is a very relevant time period. Now, I will hasten to say and -- I don't want Mr. Kramer to jump out of his chair at me. The damages beyond that time period we certainly have pled and we would argue for and we think we're entitled to, but it is -- I think it would be unrealistic not to recognize that the damages in the so-called tail period after generics come on the market may well be harder to get the jury to award or a court to allow than damages during the period which generics were kept off the market.

One juror or judge might very well ask, as I believe Your Honor did at our preliminary approval hearing, how do you explain how you get damages based upon denial of generic entry after generics had entered. So if one looks at this core damage period of November of 1997 through March of 2001, Dr. Leitzinger estimates that the damages for that period are $140,459,820.00. If you measure the settlement achieved in this case, $220 million in cash with no reversion to the defendants, that represents 156 percent of that -- of those recoverable damages during the period that generics were kept off the market. Net of the requested attorney fees and expenses the settlement fund is $146,920,542.00 which is still over 104 percent of these core overcharged damages.

In other words, class counsel, Your Honor, in this case were sufficiently successful that the entire attorney fee and expenses requested in this case can be paid out of the excess of the overcharge during this core period.

Now, I think there are not many class action recoveries, certainly not by way of settlement which can make that kind of a claim and that is perhaps one of the reasons why in this class, which is comprised of businesses -- we are not talking about widows and orphans here. We're talking about businesses several of which are very large sophisticated businesses. You heard some of the law firms that are representing the big three. They're very -- these folks can afford to and regularly employ lawyers. Not one of them has

objected to the attorney's fees.

Now, we addressed in our moving papers, Your Honor, the role of class counsel in this case and achieved as a result which was no accident. I mean we described that in detail in our fee affidavit, our joint affidavit which is Exhibit 1 of the fee petition. We believe that the settlement here was the result of hard work, creativity and skill of class counsel and was achieved despite the very skilled and determined efforts of one of the best corporate defense firms in the country sitting across the table from you right now, Cravath, Swaine & Moore representing -- defending BMS. It was achieved despite the fact -- despite the lack of any governmental prosecution or proceeding to prepare the way.

As we described in our affidavit, it was direct purchaser class counsel that independently discovered the secret illegal 1994 Schein agreement which opened this case up to a much larger case than had been envisioned when it was originally filed. The direct purchaser class counsel filed the first complaint alleging violations of Section 1 and 2 of the Sherman Act based upon the Schein agreement which was soon followed by others. The purchaser class counsel worked diligently to address both the complexity of the anti-trust patent and FDA law presented in this case which can be horrific. It's one of the, in fact, the complexity, the legal complexity involved in an intersection of patent, anti-trust and FDA law. I think it's one of the most difficult areas of

the law as well as mastering the substantial causation defenses presented by Bristol-Myers Squibb who respect to the Schein agreement certainly had a number of respectable arguments that, in fact, Schein wouldn't' have been able to come on the market, at least not when we said they would. Maybe not at all.

The result of what we believe is our hard work, preparation and skill is the $220 million cash settlement that's before you today. In light of the results obtained, we think, Your Honor, an award of fees and expenses of 33-1/3 percent of the settlement fund is fair and reasonable. The courts in this Circuit have awarded fees ranging between 15 percent and 50 percent of the settlement fund. That's noted in the Mailey [Ph.] case at 186 F.Supp. 370 that we cite in our brief. Last year, of course, this Court awarded 33-1/3 percent fee on a $58 million settlement in the Deutsche Bank case.

The Kirzweil [Ph.] case, another Southern District of New York case, awarded a fee of 30 percent on $123.8 million recovery. That case is also cited in our brief as well as other cases cited at Pages 15 and 16 of our brief.

Courts have awarded comparable percentage fees to what we are requesting on recoveries almost as large or in fact larger than ours. I would just draw to the Court's attention three of those. First, the Rite-Aid case out of the Eastern District of Pennsylvania cited in our brief in which the District Court awarded a 25 percent fee on $193 million recovery plus additional costs. In our case, of course, we are

asking for one-third of the settlement fund to cover both fees and expenses.

In the Vitamin case, Your Honor, a case cited out of the District of Columbia, it's a case that was not cited in our brief but should have been especially since my firm was co-lead counsel in that case and I would appreciate it if you wouldn't mention that to Mr. Boise. In that case, the District Court awarded us 34 percent of $359 million, and the cite on that case is 2001 U.S. District Lexis 25067.

Finally, the In re: Brand Name Prescription Drug litigation out of the Northern District of Illinois. It's a case in which the District Court awarded 25 percent fee on $696 million.

These percentages, the percent of 33-1/3 that we are seeking, Your Honor, are consistent with the studies cited in our brief by the Federal Judicial Center, a 1996 study which found that most of the awards were between 20 to 40 percent of the settlement. Also, the Mirror Study, shareholder class actions which they found the fee awards --

THE COURT: If I averaged out those percentages I would probably come closer to 30 than 33-1/3.

MR. DRUBEL: Well, I guess, Your Honor, it depends on how you weight them. Between 20 and 40 percent and 32 percent --

THE COURT: No, no. You gave me 25 percent on $193 million, 34 percent on $359 million and 25 percent on $696

million. I realize that there's a range. Whether you say it's between 15 and 50 or 20 and 40, there's a range.

MR. DRUBEL: Absolutely. There is a range, Your Honor, and I think what it comes down to in our case is we feel that given the extraordinary result compared to the -- measured against provable damages or recoverable damages given the statute of limitations that we have on us, that this -- that really this is just an extraordinary settlement and deserves an extraordinary fee.

I will also point out to Your Honor that the Rite-Aid Corp. as cited in our brief, 146 F.Supp 2d at 735, 736 mentions that on average, the average percentage fee in settlements between $100 and $200 million is 28.1 percent. We do not think this is an average settlement, Your Honor. We think it is a very much above average settlement.

The requested fee moreover in this case is consistent with what the market would pay for such a result in a comparable non-class case. We've cited a number of cases, Your Honor, in which the courts take that into consideration. There are, of course, Judge Posner, Judge Estabrook's opinion in Sinthroid [Ph.] and Continental. There's also the Mailey case in the Southern District of New York, and also Judge Sweet's opinion in the Lloyd's case all look at as one of the relevant factors what the market would bear -- would pay for a comparable result in a comparable case.

We have put forward to Your Honor evidence showing

that class counsel -- we've submitted affidavits from some of us attesting to the fact that they have made such contracts at 33-1/3, between 33-1/3 and 50 percent even in non-class classes for fees in comparable commercial litigation. I think that Your Honor can also take notice of the fact as we point out at Pages 18 and 19 of our brief that attorneys regularly contract for contingent fees between 30 and 40 percent in non-class commercial litigation.

Importantly also in this case, Your Honor, Exhibit 16 is an affidavit from the class representative client in this case in which -- Louisiana Wholesalers in which they attest to the fact that they would have been willing to enter into a one-third contingent fee contract in this case if the fee had not been set by the Court. They support, as do all the other class members that we're aware of, including all the large ones, they support our request for the fee in this case.

In terms of the Loadstar multiplier, Your Honor, the requested fee represents an 8.46 multiplier which is certainly within the range of multipliers --

THE COURT: Certainly at the high end.

MR. DRUBEL: It certainly is at the high end, Your Honor. We make no apologies for that. We think our settlement is in the high end. In fact, again, as measured against recoverable damages we think it's among the highest. Judge Sweet --

THE COURT: I'm sorry. You say your percentage

recovery is among the highest.

MR. DRUBEL: Yes.

THE COURT: You're not saying that your multiplier is among the highest.

MR. DRUBEL: No, Your Honor.

THE COURT: What does that work out to be for an hourly fee?

MR. DRUBEL: There are so many -- there are different hourly -- there are different hourly rates. We could divide the total by the total number of hours if Your Honor would like us to do that.

THE COURT: You must have done that.

MR. DRUBEL: We've not done that, Your Honor.

THE COURT: $73 million divided by 28,000 hours, isn't it?

MR. DRUBEL: We have 28,727 hours. It looks to be about $2,500.00.

Now, if we compare the multiplier here to some of the multipliers that have been approved including, for example, Judge Sweet in the Lloyds of America Trust Fund litigation, he cited a number of cases in which multipliers of eight or more have been awarded including the Cosgrow case, Your Honor, from the Southern District of New York at 759 F.Supp. 166, a 1991 case in which this Court approved a 8.74 multiplier for plaintiff's counsel.

The Rite-Aid case from the Eastern District of

Pennsylvania approved multipliers ranging from 4.5 to 8.5 in making its percentage fee award in that case, and in RJR Nabisco, another case from the Southern District of New York, the Court approved a percentage award over objections that the amount constituted a multiplier of 6.

So, in each of these cases, Cosgrow, Rite-Aid, we have a situation in which the multipliers in those cases approved by the Court are greater than what we have here.

We address, Your Honor, on Pages 22 and 23 of our brief the Golberger factors relating to the reasonableness of the fee, but as Goldberger notes the quality of representation is best measured by result. We think that the extraordinary result in this case, Your Honor, justifies the award of fee and expenses requested.

MR. GERSTEIN: Your Honor, one further point. We've also sought court approval for a request for the main plaintiff, an incentive award of $25,000.00. I just wanted to bring that to the attention of the Court. We specifically addressed cases on that point from Pages 40 to 41 of our brief and if you want I can address them, but I think it's something routine. The plaintiff here not only stepped forward, but was actively involved from the beginning of the case, was deposed and has clearly executed its role in supervising and doing its role as a class representative. We think that it's appropriate and we ask the Court to also approve that request.

THE COURT: All right. Thank you, Mr. Gerstein. Mr.

Stark.

MR. STARK: Your Honor, I have nothing to add really to what the three gentlemen preceding me said. We certainly commend the settlement with the Court's approval as being imminently fair and adequate and we have no objection to the fees requested.

THE COURT: All right. Does anyone else wish to be heard?

[No response.]

THE COURT: First of all, I'll approve the settlement as fair, reasonable and adequate. I have the proposed order and final judgment which makes the recitations with respect to the fair, reasonable and adequate nature of the settlement as well as the adequacy of the notice that's been submitted and circulated, and all of that is plainly true. Measured against the standards for the approval of a class action settlement, this settlement is plainly fair, reasonable and adequate to the members of class. Applying the variety of factors, it is apparent that the settlement was arrived at in good faith after extensive arm's length negotiations.

It was arrived at after there had been significant discovery, both deposition discovery and documentary discovery, thirty depositions, a million pages of documentary discovery. It was arrived at when there were various issues that had yet to be resolved in discovery, including various attorney-client privilege issues which were being vigorously contested, but

it's plain that there was sufficient discovery in order to be able to arrive at a conclusion with respect to the adequacy and fair and reasonable nature of the settlement.

The lawyers in the case are experienced in this type of litigation. The lawyers on both sides have vigorously contested the litigation and all lawyers asked me to approve the settlement.

The settlement class is a relatively small class of about 125 people. There are no objections. There are many sophisticated members of the class with large stakes involved in the litigation. The fact that no one has objected to the settlement is an important factor in explaining the -- in supporting the fairness and reasonableness and adequacy of the settlement. The fact that there's only one opt out with only about .05 percent of the purchases of Buspar also underlines the fact that the members of the class wish to participate in this settlement even though by participating in the settlement they finally resolve any claims that they have relating to the subject matter of the litigation.

Applying the Grinnell standards this is a very complex litigation with numerous complex issues of fact and law. While the plaintiffs believe that they have a strong case, they similarly understand that there are significant risks of litigation which could substantially reduce their recovery even if they were able to succeed ultimately at trial. As I've noted, the reaction of the class to the settlement

certainly supports the settlement. The stage of the proceedings supports the settlement because there has been sufficient discovery to allow the analysis of the settlement, but there remains a significant amount of work yet to be done in the case if the case were to go forward. There's expert discovery, which has not been completed in the case. There are issues relating to attorney-client privilege with respect to the documents. There would be substantial litigation with respect to dispositive motions. If the case survived dispositive motions, the case would go forward to extensive motions in limine, a joint pretrial order and what would be a lengthy trial.

So settling at this point saves the cost and expenses of the future litigation but at the same time can be based upon a more than adequate record.

With respect to the risks of establishing liability, there are risks involved in the case. There are significant legal issues involved and even though the Court has resolved some of the issues in the way that the Court believed was correct, those are issues which would still be subject to appeal.

With respect to the risks of establishing damages, damages depend upon various expert calculations and expert models and upon some assumptions which have certainly been questioned by BMS experts and whether the plaintiffs' damages models would eventually succeed would certainly be a risk,

which is also one of the risks of maintaining the action through trial although it is unlikely that there would be a decision that the class could not survive as a class through trial.

Another Grinnell factor is the ability of the defendant to withstand a greater judgment which is not a significant factor in this case given the amount of the settlement even though it's plain that the defendant could pay a higher judgment, or at least the papers do not dispute that.

Perhaps most importantly the reasonableness of the settlement against possible recovery and factoring in the risks of litigation the amount of the settlement both absolutely and judged against possible, the possible recovery in the case is very high. There's no question that this is a real settlement with a substantial amount of recovery for the class and that the various damages models suggest that it is a substantial percentage recovery for the class.

So taking all of the factors into account, there's no question that the settlement is fair, reasonable and adequate.

With respect to the issue of attorney's fees, the one-third percentage that is sought in this case satisfies the various criteria that are set out in the cases for approving a reasonable attorney's fee. I've looked at the calculations, studied the calculations, including the Loadstar calculations as a means of checking the percentage fee in terms of hours and rates that went into the Loadstar, and I'll come back to the

Loadstar in a moment.

The fee of one-third falls within the range of rates that have been approved in other class actions. Determining then whether the percentage fee is a reasonable fee in this case applying the traditional standards it's clear for the reasons that I already said in approving the settlement that this is a very large and complex litigation. There is always risk involved in the litigation. The fee that's being sought is a completely contingent fee. The case was taken on plainly on a contingent fee basis and that is entitled to greater weight than simply an hourly rate because the lawyers could have walked away having done substantial work with no recovery. This is not a case where the ground was substantially plowed before. While issues were raised with respect to the 365 patent, they remained to be litigated and there were substantial issues which had to be decided in this case with respect to whether there could be recovery over the allegations relating to the 365 patent, and those were issues which had not even -- have not been tested on appeal.

The Schein agreement was developed -- the arguments with respect to the Schein agreement and recovery with respect to the Schein agreement were developed completely in this case so that the attorneys were able to establish a basis for recovery which benefitted the class. The quality of representation was very high. The case was vigorously litigated on both sides and the quality of the lawyers in the

case was excellent.

The requested award in relationship to the settlement, the plaintiff's counsel are correct that the settlement is a very good settlement for the class. It is a high percentage of possible recovery for the class and the percentage fee is within the range of reasonableness for other contingent fees. There is certainly a public policy favoring the pursuit of anti-trust litigation on the part of consumers.

Looking at the Loadstar as a check on the one-third requested contingent fee suggests that this fee is at the high end because the relationship between the Loadstar and the fee indicates a multiplier of 8.46 and plainly results in a very -- in a high hourly rate. That is mitigated to some degree in the case in my view because the case has settled before a substantial amount of additional work has been done which would have to be done if the case went forward to complete discovery, substantive, motions, pretrial preparations and trial, to say nothing of appeal.

During all of that period the number of hours spent would have significantly increased. So the Loadstar would have gone up and the multiplier would have gone down. Without any reason to believe that the ultimate recovery would have been any greater for the class and the use of the Loadstar has been criticized in some cases as not being a very useful measure because it encourages unproductive work and excessive hours without any assurance that the results will be better for the

class -- I've looked at the rates and the hours and the rates and the hours appear to be reasonable. So that the beginning Loadstar -- the beginning for the Loadstar calculation is a wholly reasonable beginning and given the stage in the litigation and the possibility that hours would have to be substantially increased without any assurance that there would be any additional money for the class leads to me think that the Loadstar is less useful here as a measure of reasonableness than the one-third contingent fee, which is what ultimately is being sought, one-third fee to include expenses.

Ultimately, one of the most important factors in my judgment as to the reasonableness of the fee is the reaction of the class. The defendant doesn't object to the fee, but of course the defendant has no interest in the size of the fee in this case because the settlement is a non-reversionary settlement which has been put up by the defendant and whether that amount of money goes to increase somewhat what the class gets or increase somewhat what the class' lawyers get is of no economic consequence to the defendant. But the members of the class have a significant interest in determining whether this is a reasonable fee because any of the members of the class could have come forward with objections to the size of the fee and raised any of the issues with respect to the Loadstar or the number of hours or the ultimate hourly rates for the lawyers.

The class in this case is a relatively small class, a

sophisticated class represented by sophisticated lawyers who with the best interests of their clients looked at the fee request and made a determination not to object to the fee request even though had there been an objection to the fee request and the Court had to decide that request that amount of money could have only benefitted the class. But having looked at all of the factors that go into account for determining the reasonableness of a fee, the class decided not to raise any objections to the fee. So that is a very important factor in assessing the reasonableness of the fee sought in this case.

So one reason that I go through this is it's a matter of some concern that other fee requests in other cases get cited back without any differentiation for what went on in the fee applications in the individual cases. It makes a difference, for example, whether there is as plaintiff's counsel pointed out a class of very small consumers who may not have the incentive to and the wherewithal to be heard on the issue of fees. The nature of the class makes a difference. In Bucksbaum, which is also cited to me, there were sophisticated investors who also could have been heard on the nature of the fee. That cautions against simply looking at the amounts involved and the ranges involved in other cases in an undifferentiated case in a undifferentiated way.

So looking at all of the factors in this case that I've gone through at the end I will grant the fee request for a one-third contingent fee and expense and the $25,000.00

incentive payment for the individual plaintiff that was sought which is a wholly reasonable amount and perfectly consistent with other cases.

There are only -- I've gone over the proposed judgment. As I've said, I will -- unless anyone wants to be heard before I sign the order and final judgment. No.

I haven't heard anything from the states today. Just watching?

MR. SCHWARTZ: We're just monitoring the proceedings, Your Honor. Thank you.

THE COURT: All right. I've signed the order and final judgment. I will see that it's entered. If you choose to wait a moment, we would probably make a copy for you of what's been signed if you wish. Otherwise it will appear in the normal course.

Anything else? No. All right. Good evening all. It's good to see you all. Have a good weekend. Let my clerk know if you want a copy before you leave.

* * * * *

I certify that the foregoing is a court transcript from an electronic sound recording of the proceedings in the above-entitled matter.

Shari Riemer

Dated: 4/23/03

EXHIBIT H

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September 11, 2017

VIA CLASS COUNSEL
Hon. Denise Casper
United States District Court for the District of Massachusetts
1 Courthouse Way
Boston, MA 02210

Re: *In re Asacol Antitrust Litigation*, 15-cv-12730-DJC

Dear Judge Casper:

I write on behalf of AmerisourceBergen Drug Corporation ("ABDC") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

ABDC, an absent class member, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding ABDC's claim for recovery from the Settlement Fund in this case will be one of the three largest claims made by any class member.

Class Counsel have fully informed ABDC of the facts and circumstances of the case, and the legal hurdles and other risks involved from its inception and through settlement. ABDC is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of 1/3 of the settlement amount is appropriate in this case. In addition to the value of the $15 million settlement achieved on behalf of the class, this fee award is justified by the time and expense that Class Counsel put into prosecuting and favorably resolving this complex litigation. It is also justified by the fact that many of the same Counsel have worked diligently developing the law in this area in other cases but, on occasion, have received no compensation.

For these reasons, ABDC asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

David Schumacher

David A. Schumacher

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September 15, 2017

Hon. Denise Casper
United States District Court for the District of Massachusetts
1 Courthouse Way
Boston MA 02210

Re: *In re Asacol Antitrust Litigation*, Case No. 1:15-cv-12730-DJC

Dear Judge Casper:

I write on behalf of Cardinal Health, Inc. ("Cardinal Health") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the direct purchaser litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that Cardinal Health's claim for recovery from the settlement will be one of the three largest claims made.

Class Counsel have, through me, informed Cardinal Health of the general facts and circumstances of the case, the legal hurdles, and other risks involved in the case, as well as of the terms of the settlement. Based upon the information provided by Class Counsel, Cardinal Health is satisfied the proposed settlement is fair and adequate. Cardinal Health is also satisfied that the proposed attorneys' fee award is acceptable in this case.

For these reasons, Cardinal Health asks the Court to approve the settlement and has no objection to Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named Plaintiffs in this case.

Sincerely,

Robert J. Tucker

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October 26, 2017

VIA U.S. MAIL

The Honorable Denise J. Casper
United States District Court
District of Massachusetts
John Joseph Moakley U.S. Courthouse
1 Courthouse Way
Courtroom 11, 5th Floor
Boston, MA 02210

Re: *In re Asacol Antitrust Litigation*
Civil Action No. 1:15-cv-12730 (DJC) (D. Mass.)

Dear Judge Casper:

I write on behalf of McKesson Corporation ("McKesson") in support of class counsel's pending motion seeking final approval of the proposed settlement and fee award in the above-captioned case.

McKesson is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the United States. McKesson has concluded the proposed settlement is fair and adequate and the proposed attorney's fee award of one-third of the settlement is appropriate.

For these reasons, McKesson asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursements of costs.

Very truly yours,

Steven Winick for
Blaxter | Blackman LLP

Buchanan Ingersoll & Rooney PC

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January 2, 2018

Hon. Arenda L. Wright Allen
United States District Court for the
Eastern District of Virginia
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510

Re: *In re Celebrex (Celecoxib) Antitrust Litig.*, Case No. 2:14-cv-00361-AWA-DEM

Dear Judge Allen:

I write on behalf of my client, AmerisourceBergen Drug Corporation ("ABDC"), in support of the proposed settlement and Class Counsel's request for attorneys' fees.

ABDC is a class member in this litigation and one of the largest prescription drug wholesalers in the country. It is my understanding that my client's claim to recovery in this case will be substantial.

Lead Class Counsel has, through me, informed ABDC of the facts and circumstances of the case, including the legal issues and risks involved. ABDC is satisfied that the proposed settlement is fair and adequate, that the proposed attorneys' fees of one-third of the net recovery (the gross recovery less litigation expenses) is appropriate in this case, and that the proposed service award to each class representative is appropriate.

ABDC respectfully asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees, reimbursement of costs, and service awards to the three class representatives.

Respectfully submitted,

David Schumacher

David A. Schumacher

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December 26, 2017

Hon. Arenda L. Wright Allen
United States District Court for the
Eastern District of Virginia
Walter E. Hoffman
United States Courthouse
600 Granby Street
Norfolk, VA 23510

Re: *American Sales Company, LLC v. Pfizer, Inc., et al.*, No. 2:14-cv-361

Dear Judge Allen:

I write on behalf of Cardinal Health, Inc. ("Cardinal Health") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the direct purchaser litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that Cardinal Health's claim for recovery from the settlement will be one of the three largest claims made.

Class Counsel have, through me, informed Cardinal Health of the general facts and circumstances of the case, the legal hurdles, and other risks involved in the case, as well as of the terms of the settlement. Based upon the information provided by Class Counsel, Cardinal Health is satisfied the proposed settlement is fair and adequate. Cardinal Health is also satisfied that the proposed attorneys' fee award is acceptable in this case.

For these reasons, Cardinal Health asks the Court to approve the settlement and has no objection to Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for service awards for the three class representatives.

Sincerely,

Robert J. Tucker

Blaxter | Blackman LLP

Steven H. Winick
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San Francisco, CA 94111

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January 4, 2018

The Honorable Arenda L. Wright Allen
United States District Court
Eastern District of Virginia
United States Courthouse
600 Granby Street
Norfolk, VA 23510

Re: *In re Celebrex (Celecoxib) Antitrust Litigation*
Lead Case No. 2:14-cv-00361-AWA-DEM

Dear Judge Wright Allen:

I write on behalf of McKesson Corporation ("McKesson") in support of class counsel's pending motion seeking final approval of the proposed settlement and fee award in the above-captioned case.

McKesson is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the United States. McKesson has concluded the proposed settlement is fair and adequate and the proposed attorney's fee award of one-third of the net settlement recovery (gross recovery minus litigation expenses) is appropriate.

For these reasons, McKesson asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursements of costs.

Very truly yours,

Steven Winick for
Blaxter | Blackman LLP

Baker Hostetler

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December 19, 2012

The Honorable Anita B. Brody
United States District Court for the Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 7613
Philadelphia, PA 19106-1712

Re: *In re Flonase Antitrust Litigation, American Sales Co., Inc. v. SmithKlineBeecham*, 08-cv-03149 (E.D. Pa.)

Dear Judge Brody:

I write on behalf of our client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the United States. As a result, it is our understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest claims.

Based on information from Class counsel, our firm has fully informed Cardinal Health on an ongoing basis of the facts and circumstances of the case, the legal hurdles, and other risks involved in this case. Cardinal Health is satisfied that the proposed settlement is fair and adequate and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the settlement achieved on behalf of the class, this award is justified by the time and expense Class counsel incurred in prosecuting and favorably resolving part of this complex litigation.

For these reasons, Cardinal Health respectfully asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, as well as Class counsel's request for incentive award for the representative plaintiff in this case.

Sincerely,

Robert J. Tucker

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File Number: 020X-158877

February 13, 2013

The Honorable Anita B. Brody
U.S. District Court
for the Eastern District of Pennsylvania
601 Market Street, Room 7613
Philadelphia, PA 19106-1797

Re: In re Flonase Antitrust Litigation, American Sales Co., Inc. v. SmithKlineBeecham
Case No. 08-cv-03149 (E.D.P.A

Dear Judge Brody:

I write on behalf of my client, McKesson Corporation ("McKesson"), in support of final approval of the proposed settlement and fee award in the above-captioned litigation.

McKesson is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that McKesson's claim to recovery in this case will be one of the largest by any class member.

Class counsel have, through me, fully informed McKesson of the facts and circumstances of the case, and the legal issues and risks involved. McKesson is satisfied that the proposed settlement is fair and adequate.

McKesson respectfully asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

Steven Winick
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:407711965.1

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August 7, 2017

VIA CLASS COUNSEL
Hon. Stanley R. Chesler
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Courtroom No. 2
Newark, NJ 07101

Hon. Cathy Waldor
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Room 4040
Newark, NJ 07101

Re: *In re K-Dur Antitrust Litigation*, No. 2:01-cv-01652-SRC-CLW, MDL No. 1419

Dear Judge Chesler and Judge Waldor:

I write on behalf of AmerisourceBergen Drug Corporation ("ABDC") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

ABDC, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding ABDC's claim for recovery from the Settlement Fund in this case will be one of the three largest claims made by any class member.

Class Counsel have, through me, fully informed ABDC of the facts and circumstances of the case, and the legal hurdles and other risks involved from its inception and through settlement. ABDC is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of 1/3 of the settlement amount is appropriate in this case. In addition to the value of the $60.2 million settlement achieved on behalf of the class, this fee award is justified by the time and expense that Class Counsel put into prosecuting and favorably resolving this complex litigation. It is also justified by the fact that many of the same Counsel have worked diligently developing the law in this area in other cases but, on occasion, have received no compensation.

For these reasons, ABDC asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

David A. Schumacher

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August 9, 2017

Hon. Stanley R. Chesler
United States District Court for the
District of New Jersey
Martin Luther King Building &
U.S. Courthouse
50 Walnut Street, Courtroom No. 2
Newark, NJ 07101

Hon. Cathy Waldor
United States District Court for the
District of New Jersey
Martin Luther King Building &
U.S. Courthouse
50 Walnut Street, Room 4040
Newark, NJ 07101

Re: *In re K-Dur Antitrust Litigation*, No. 2:01-cv-01652-SRC-CLW, MDL No. 1419

Dear Judge Chesler and Judge Waldor:

I write on behalf of Cardinal Health, Inc. ("Cardinal Health") in support of the pending motions seeking final approval of the proposed settlement between the direct purchaser class and Defendants, and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the direct purchaser litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that Cardinal Health's claim for recovery from the settlement will be one of the three largest claims made.

Co-Lead Counsel have, through me, informed Cardinal Health of the general facts and circumstances of the case, the legal hurdles, and other risks involved in the case, as well as of the terms of the settlement. Based upon the information provided by Co-Lead Counsel, Cardinal Health is satisfied the proposed settlement is fair and adequate and believes the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case.

For these reasons, Cardinal Health asks the Court to approve the settlement and has no objection to Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named Plaintiff in this case.

Sincerely,

Robert J. Tucker

Blaxter | Blackman LLP

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475 Sansome Street, Suite 1650
San Francisco, CA 94111

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August 21, 2017

Hon. Stanley R. Chesler
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Courtroom No. 2
Newark, NJ 07101

Hon. Cathy Waldor
United States District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Room 4040
Newark, NJ 07101

Re: *In re K-Dur Antitrust Litigation*, No. 2:01-cv-01652-SRC-CLW, MDL No. 1419

Dear Judge Chesler and Judge Waldor:

I am outside legal counsel to McKesson Corporation. McKesson is an absent class member in the current litigation and one of the largest wholesale distributors of pharmaceuticals in the United States. I understand McKesson's claim for recovery in this case will be one of the largest.

McKesson supports final approval of the proposed settlement and class counsel's requested fee award. McKesson has concluded the proposed settlement is fair and adequate, the proposed attorneys' fees of one-third of the settlement amount are appropriate in this case, and the proposed service award to the representative plaintiff is appropriate.

McKesson respectfully asks the Court to approve the settlement and class counsel's application for attorneys' fees, reimbursement of costs, and service award to the representative plaintiff.

Respectfully,

Steven Winick for
Blaxter | Blackman LLP

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June 19, 2014

The Honorable Faith S. Hochberg, U.S.D.J.
United States District Court for the District of New Jersey
United States Post Office & Courthouse Building
50 Walnut Street
Newark, NJ 07101

Re: *In re Neurontin Antitrust Litigation*, MDL No. 1479 (FSH) (PS)

Dear Judge Hochberg:

I write on behalf of my client, AmerisourceBergen Corporation ("ABC"), in support of final approval of the proposed settlement and fee award in the above-captioned litigation.

ABC is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that our client's claim to recovery in this case will be one of the largest by any class member.

Class Counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal issues and risks involved. ABC is satisfied that the proposed settlement is fair and adequate, that the proposed attorneys' fees of one-third of the settlement amount is appropriate in this case, and that the proposed service awards to each representative plaintiff are appropriate.

ABC respectfully asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, and service awards to the representative plaintiffs.

Respectfully,

Donald W. Myers

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June 18, 2014

The Honorable Faith S. Hochberg, U.S.D.J.
United States District Court for the District of New Jersey
United States Post Office & Courthouse Building
50 Walnut Street
Newark, NJ 07101

Re: *In re Neurontin Antitrust Litigation*, MDL No. 1479 (FSH) (PS)

Dear Judge Hochberg:

I write on behalf of our client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the United States. As a result, it is our understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest.

Based on information from Class Counsel, our firm has fully informed Cardinal Health on the facts and circumstances of the case, the legal hurdles, and other risks involved in the case. Cardinal Health is satisfied the proposed settlement is fair and adequate and the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the settlement achieved on behalf of the class, this award is justified by the time and expense class counsel incurred in prosecuting and favorably resolving this complex litigation well over more than a decade.

For these reasons, Cardinal Health asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and

reimbursement of costs, as well as Class Counsel's request for incentive awards for the named plaintiffs in this case.

Sincerely,

Robert J. Tucker

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June 16, 2014

The Honorable Faith S. Hochberg, U.S.D.J.
United States District Court
for the District of New Jersey
United States Post Office & Courthouse Building
50 Walnut Street
Newark, NJ 07101

Re: In re Neurontin Antitrust Litigation, MDL No. 1479 (FSH) (PS)

Dear Judge Hochberg:

I write on behalf of my client, McKesson Corporation ("McKesson"), in support of final approval of the proposed settlement and fee award in the above-captioned litigation.

McKesson is an absent class member in the current litigation, and one of the three largest pharmaceutical distributors in the United States. I understand that McKesson's claim for recovery in this case will be one of the largest by any class member.

Class counsel have, through me, fully informed McKesson of the facts and circumstances of the case, and the legal issues and risks involved. McKesson has concluded the proposed settlement is fair and adequate, the proposed attorneys' fees of one-third of the settlement amount are appropriate in this case, and the proposed service awards to each representative plaintiff are appropriate.

Accordingly, McKesson respectfully asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs and service awards to the representative plaintiffs.

Very truly yours,

Steven Winick
for SHEPPARD, MULLIN, RICHTER & HAMPTON llp

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January 19, 2011

Honorable Richard J. Leon
United States District Judge
United States District Court
for the District of Columbia
333 Constitution Avenue N.W.
Washington D.C. 20001

Re: ***In Re Nifedipine Antitrust Litigation; Civil Action No. 1:03-MS-223 (RJL)***

Dear Judge Leon:

I write on behalf of our client, AmerisourceBergen Corporation ("ABC"), in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation, and service awards to the representative plaintiffs.

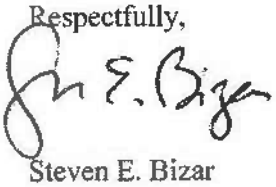
ABC is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that it is likely that our client's claim to recovery in this case will be one of the three largest claims made by any class member.

Class counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal hurdles and other risks involved in the case. ABC is satisfied that the proposed settlement is fair and adequate, that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case, and that the proposed service awards of $60,000 to each representative plaintiff are also appropriate in this case. In addition to the value of the overall, $35 million settlement achieved on behalf of the class, the requested fee award is justified by the time and expense that class counsel expended in prosecuting and favorably resolving this complex litigation.

EXHIBIT 1

For this reason, ABC asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, and service awards to the representative plaintiffs.

Respectfully,



Steven E. Bizar

SEB/rtb

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January 19, 2011

Honorable Richard J. Leon
United States District Judge
United States District Court
for the District of Columbia
333 Constitution Avenue N.W.
Washington D.C. 20001

Re: In Re Nifedipine Antitrust Litigation; Civil Action No. 1:03-MS-223 (RJL)

Dear Judge Leon:

I write on behalf of my client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation, and service awards to the representative plaintiffs.

Cardinal Health is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that it is likely that our client's claim to recovery in this case will be one of the three largest claims made by any class member.

Class counsel have, through me, fully informed Cardinal Health of the facts and circumstances of the case, and the legal hurdles and other risks involved in the case. Cardinal Health is satisfied that the proposed settlement is fair and adequate, that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case, and that the proposed service awards of $60,000 to each representative plaintiff are also appropriate in this case. In addition to the value of the overall, $35 million settlement achieved on behalf of the class, the requested fee award is justified by the time and expense that class counsel expended in prosecuting and favorably resolving this complex litigation.

EXHIBIT 2

For this reason, Cardinal Health asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, and service awards to the representative plaintiffs.

Respectfully,

Thomas L. Long

/lam

McKesson Corporation
LAW DEPARTMENT
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415.983.8300 Tel
415.983.9369 Fax

[redacted]

McKESSON
Empowering Healthcare

Richard Ardoin
Associate General Counsel
Direct Dial: 415-983-9129

January 14, 2011

Honorable Richard J. Leon
United States District Judge
United States District Court
for the District of Columbia
333 Constitution Avenue N.W.
Washington D.C. 20001

Re: In Re Nifedipine Antitrust Litigation; Civil Action No. 1:03-MS-223 (RJL)

Dear Judge Leon:

I write on behalf of my client, McKesson Corporation ("McKesson"), in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation.

McKesson is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that it is likely that our client's claim to recovery in this case will be one of the largest claims made by any class member.

Class counsel have, through me, fully informed McKesson of the facts and circumstances of the case, and the legal hurdles and other risks involved in the case. McKesson is satisfied that the proposed settlement is fair and adequate, that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case, and that the proposed service awards to each representative plaintiff are also appropriate in this case.

For this reason, McKesson asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, and service awards to the representative plaintiffs.

Respectfully,

Richard A. Ardoin
RAA/sa

EXHIBIT 3

Bcc: David Sorensen

Baker Hostetler

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May 5, 2011

The Honorable Claudia Wilken
United States District Court
for the Northern District of California
1301 Clay Street
Oakland, CA 94612

Re: *Meijer, Inc., et al. v. Abbott Laboratories*, Case No. C 07-5985 CW (N.D. Cal.)

Dear Judge Wilken:

I write on behalf of my client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest claims made.

Class Counsel have, through me, fully informed Cardinal Health of the facts and circumstances of the case, the legal hurdles and other risks involved in the case from its inception through trial and ultimately settlement. Based on the information provided by Class Counsel and Cardinal Health's own assessment of the facts and legal issues, Cardinal Health is satisfied the proposed settlement is fair and adequate. Based on the value of the settlement and the time and expense which Class Counsel invested on behalf of the class members in prosecuting and resolving this matter, Cardinal Health is also satisfied the proposed attorney fee award of the settlement amount is appropriate.

Cardinal Health respectfully requests the Court to approve the settlement and further supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

Thomas L. Long

McKesson Corporation
[illegible]

McKESSON
Empowering Healthcare

Richard Ardoin
Associate General Counsel
Direct Dial: 415-983-9129

May 4, 2011

The Honorable Claudia Wilken
United States District Court for the Northern District of California
1301 Clay Street
Oakland, CA 94612

Re: *Meijer, Inc., et al. v. Abbott Laboratories*,
Case No.: C 07-5985 CW (N.D. Cal.)

Dear Judge Wilken:

I am Associate General Counsel for McKesson Corporation ("McKesson") in charge of Litigation, and I am writing in support of the pending motions seeking final approval of the proposed settlement and fee award in the above-captioned case.

McKesson, which is headquartered in San Francisco, is an absent class member in the current litigation. We are one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that our claim to recovery will be one of the three largest claims made to the Settlement Fund in this case.

During the entire course of this matter, including through trial, Class Counsel have kept McKesson well informed of the facts and circumstances of the case, and the legal hurdles and other risks involved. McKesson is satisfied that the proposed $52 million cash settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $52 million settlement achieved on behalf of the class, McKesson believes that this award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, McKesson asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

Richard Ardoin

Buchanan Ingersoll & Rooney PC
Attorneys & Government Relations Professionals

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May 9, 2011

The Honorable Claudia Wilken
United States District Court
for the Northern District of California
1301 Clay Street
Oakland, CA 94612

Re: *Meijer, Inc., et al. v. Abbott Laboratories*,
Case No. C 07-5985 CW (N.D. Cal.)

Dear Judge Wilken:

I write on behalf of my client, AmerisourceBergen Corporation ("ABC"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

ABC, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding our claim for recovery from the Settlement Fund in this case will be one of the three largest claims made by any class member.

Class Counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal hurdles and other risks involved from its inception and through trial and settlement. ABC is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $52 million settlement achieved on behalf of the class, this fee award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, ABC asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

Donald W. Myers

DWM/scm
cc: Elizabeth Campbell, Esquire

Buchanan Ingersoll & Rooney PC
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November 10, 2010

Honorable Sidney H. Stein
United States District Judge
United States District Court
for the Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: In re OxyContin Antitrust Litigation
MDL Docket No. 1603 (SHS)

Dear Judge Stein:

I write on behalf of our client, AmerisourceBergen Corporation, in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation.

ABC, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that it is likely that our client's claim to recovery in this case will be one of the three largest claims made by any class member.

Class counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal hurdles and other risks involved in the case. ABC is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $16 million settlement achieved on behalf of the class, this award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For these reasons, ABC respectfully asks the Court to approve the settlement. ABC also supports class counsel's application for attorneys' fees and reimbursement of costs.

Respectfully yours,

Steven E. Bizar

SEB/rtb
cc: Elizabeth Campbell, Esquire

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November 10, 2010

Thomas L. Long
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Honorable Sidney H. Stein
United States District Judge
United States District Court
for the Southern District of New York
500 Pearl Street.
New York, NY 10007-1312

Re: ***In re OxyContin Antitrust Litigation***
MDL Docket No. 1603 (SHS)

Dear Judge Stein:

I write on behalf of my client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation.

Cardinal Health is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that it is likely that our client's claim to recovery in this case will be one of the three largest claims made to any class member.

Class counsel have, through me, fully informed Cardinal Health of the facts and circumstances of the case, and the legal hurdles and other risks involved in the case. Cardinal Health is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $16 million settlement achieved on behalf of the class, the requested fee award is justified by the time and expense that class counsel expended in prosecuting and favorably resolving this complex litigation.

For this reason, Cardinal Health asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

/s/ Thomas Long

Thomas L. Long

McKesson Corporation
LAW DEPARTMENT
One Post Street
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415.983.7507 Tel
415.983.9369 Fax

[redacted]

McKESSON
Empowering Healthcare

Richard Ardoin
Associate General Counsel
Direct Dial: 415-983-9129

November 15, 2010

Honorable Sidney H. Stein
United States District Judge
United States District Court
for the Southern District of New York

Re: ***In re OxyContin Antitrust Litigation***
MDL Docket No. 1603 (SHS)

Dear Judge Stein:

I write on behalf of my client, McKesson Corporation ("MCK"), in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation.

MCK is an absent class member in the above-described litigation and is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that MCK's claim in this case will be one of the three largest claims.

Class counsel has, through me, fully informed MCK of the facts and circumstances of the case, and the legal hurdles and other risks it involves. MCK is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this complex case.

For this reason, MCK asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

Richard A. Ardoin

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December 10, 2014

The Honorable Judge Avern Cohn
United States District Court for the Eastern District of Michigan
Theodore Levin U.S. Courthouse
231 West Lafayette Boulevard
Detroit Michigan 48226

Re: *In re Prandin Direct Purchaser Antitrust Litig.*
Case No. 2.10-cv-12141-AC-DAS (E.D. Mich.)

Dear Judge Cohn:

I write on behalf of Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest claims made.

Class Counsel have, through me, informed Cardinal Health of the general facts and circumstances of the case, the legal hurdles and other risks involved in the case, and the settlement. Based on the information provided by Class Counsel and Cardinal Health's own assessment of the facts and legal issues, Cardinal Health is satisfied the proposed settlement is fair and adequate. Based on the value of the settlement and the time and expense which Class Counsel invested on behalf of the class members in prosecuting and resolving this matter, Cardinal Health is also satisfied the proposed attorney fee award of the settlement amount is appropriate.

Cardinal Health respectfully requests the Court approve the settlement and further supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Sincerely,

Robert J. Tucker

Buchanan Ingersoll & Rooney PC
Attorneys & Government Relations Professionals

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December 11, 2014

VIA OVERNIGHT MAIL
The Honorable Judge Avern Cohn
United States District Court for the Eastern District of Michigan
Theodore Levin U.S. Courthouse
231 West Lafayette Boulevard
Detroit, MI 48226

Re: *In re Prandin Direct Purchaser Antitrust Litig.*,
Case No. 2.10-cv-12141-AC-DAS (E.D. Mich.)

Dear Judge Cohn:

I write on behalf of AmerisourceBergen Corporation ("ABC") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

ABC, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding our claim for recovery from the Settlement Fund in this case will be one of the three largest claims made by any class member.

Class Counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal hurdles and other risks involved from its inception and through trial and settlement. ABC is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $19 million settlement achieved on behalf of the class, this fee award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, ABC asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Respectfully submitted,

David A. Schumacher

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Our File Number: 020X - 158877

December 16, 2014

VIA EMAIL

The Honorable Judge Avern Cohn
United States District Court for the Eastern District of Michigan
Theodore Levin U.S. Courthouse
231 West Lafayette Boulevard
Detroit, MI 48226

Re: *In re Prandin Direct Purchaser Antitrust Litig.*
Case No. 2.10-cv-12141-AC-DAS (E.D. Mich.)

Dear Judge Cohn:

I write on behalf of McKesson Corporation ("McKesson") in support of the pending motions seeking final approval of the proposed settlement and fee award in the above-captioned case.

McKesson, which is headquartered in San Francisco, is an absent class member in the current litigation. We are one of the three largest pharmaceutical distributors in the country, and I understand our claim will be one of the three largest claims made to the Settlement Fund in this case.

During the entire course of this matter Class Counsel have kept McKesson well informed of the facts and circumstances of the case and the legal hurdles and other risks involved. McKesson is satisfied the proposed $19 million cash settlement is fair and adequate and the proposed attorneys' fee award of one-third of the settlement amount is appropriate. In addition to the value of the $19 million settlement, McKesson believes this award is justified by the time and expense class counsel put into prosecuting and favorably resolving this complex litigation.

SheppardMullin

For these reasons, McKesson asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs.

Respectfully,

Steven H. Winick

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:435594085.1

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April 1, 2015

VIA OVERNIGHT MAIL
The Honorable Rya W. Zobel
United States District Court
District of Massachusetts
1 Courthouse Way
Boston, MA 02210

Re: *In re Prograf Antitrust Litigation*,
No. 11-mdl-02242-RWZ (D. Mass.)

Dear Judge Zobel:

I write on behalf of AmerisourceBergen Corporation ("ABC") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

ABC, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding ABC's claim for recovery from the Settlement Fund in this case will be one of the three largest claims made by any class member.

Class Counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal hurdles and other risks involved from its inception and through trial and settlement. ABC is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $98 million settlement achieved on behalf of the class, this fee award is justified by the time and expense that Class Counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, ABC asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Respectfully submitted,

David A. Schumacher /PG

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April 2, 2015

The Honorable Judge Rya W. Zobel
United States District Court for the District of Massachusetts
1 Courthouse Way
Boston, MA 02210

Re: *In re Prograf Antitrust Litig.*
Case No. 11-mdl-02242-RWZ (D. Mass.)

Dear Judge Zobel:

I write on behalf of Cardinal Health, Inc. ("Cardinal Health") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest claims made.

Class Counsel have, through me, informed Cardinal Health of the general facts and circumstances of the case, the legal hurdles and other risks involved in the case, and the settlement. Based on the information provided by Class Counsel, Cardinal Health is satisfied the proposed settlement is fair and adequate. Based on the value of the settlement and the time and expense that Class Counsel invested on behalf of the class members in prosecuting and resolving this matter, Cardinal Health is also satisfied the proposed attorney fee award of the settlement amount is appropriate.

Cardinal Health respectfully requests the Court approve the settlement and further supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Sincerely,

Robert J. Tucker

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Our File Number: 020X - 158877

April 2, 2015

The Honorable Rya W. Zobel
United States District Court
District of Massachusetts
1 Courthouse Way
Boston, MA 02210

Re: In re Prograff Antitrust Litigation
No. 11-mdl-02242-RWZ (D. Mass.)

Dear Judge Zobel:

I write on behalf of McKesson Corporation ("McKesson") in support of the pending motions seeking final approval of the proposed settlement and fee award in the above-captioned case.

McKesson is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the United States. I understand McKesson's claim for recovery in this case will be one of the largest by any class member.

Class counsel have kept McKesson well informed of the facts and circumstances of the case and the legal issues and risks involved. McKesson has concluded the proposed settlement is fair and adequate and the proposed attorney's fee award of one-third of the settlement is appropriate.

For these reasons, McKesson asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs.

Very truly yours,

Steven H. Winick
for Sheppard, Mullin, Richter & Hampton LLP

SMRH:436882388.1

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September 11, 2015

VIA CLASS COUNSEL
The Honorable Mitchell S. Goldberg
United States District Court for the Eastern District of Pennsylvania
James A. Byrne U.S. Courthouse, Room 7614
601 Market Street
Philadelphia, Pennsylvania 19106-1797

Re: *King Drug Co. of Florence, Inc. v. Cephalon, Inc., et al.*,
No. 06-cv-1797-MSG (E.D. Pa.)

Dear Judge Goldberg:

I write on behalf of AmerisourceBergen Corporation ("ABC") in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

ABC, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding ABC's claim for recovery from the Settlement Fund in this case will be one of the three largest claims made by any class member.

Class Counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal hurdles and other risks involved from its inception and through settlement. ABC is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of 27.5% of the settlement amount is appropriate in this case. In addition to the value of the $512 million settlement achieved on behalf of the class, this fee award is justified by the time and expense that Class Counsel put into prosecuting and favorably resolving this complex litigation. It is also justified by the fact that many of the same Counsel have worked diligently developing the law in this area in other cases but, on occasion, have received no compensation.

For these reasons, ABC asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Respectfully submitted,

David A. Schumacher

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September 14, 2015

The Honorable Mitchell S. Goldberg
United States District Court for the Eastern District of Pennsylvania
7614 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: *King Drug Co. of Florence, et al. v. Cephalon, Inc., et al.,*
E.D. Pa. Case No. 2:06-cv-1797

Dear Judge Goldberg:

I write on behalf of Cardinal Health, Inc. ("Cardinal Health") in support of the pending motions seeking final approval of the proposed settlement between the direct purchaser class and Cephalon, Inc., Teva Pharmaceutical Industries, Ltd., Teva Pharmaceuticals USA Inc., and Barr Pharmaceuticals, Inc. (collectively the "Cephalon Defendants"), and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the direct purchaser litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that Cardinal Health's claim for recovery from the settlement with the Cephalon Defendants will be one of the three largest claims made.

Class Counsel have, through me, informed Cardinal Health of the general facts and circumstances of the case, the legal hurdles and other risks involved in the case, and the settlement with the Cephalon Defendants. Based on the information provided by Class Counsel and Cardinal Health's own assessment of the facts and legal issues, Cardinal Health is satisfied the proposed settlement is fair and adequate.

Moreover, based on the value of the settlement and the time and expense Class Counsel invested on behalf of the class members in prosecuting and resolving this matter, Cardinal Health is also satisfied the proposed attorney fee award of 27.5% of the settlement amount is appropriate. It is my understanding that aside from this matter, Class Counsel has worked on a number of similar matters to develop the law in

this area, including cases where they were unsuccessful and unable to recover any fee award.

Cardinal Health respectfully requests the Court approve the settlement and further supports Class Counsel's application for attorneys' fees and reimbursement of costs.

Sincerely,

Robert J. Tucker

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File Number: 020X-158877

September 11, 2015

The Honorable Mitchell S. Goldberg
Judge of the US District Court
Eastern District of Pennsylvania
601 Market Street
Philadelphia, PA 19106-1797

Re: *King Drug Company of Florence, Inc. v. Cephalon, Inc., et al.*
Civil Action No. 2:06-CV-1797 (E.D. Pa.)

Dear Judge Goldberg:

I write on behalf of my client McKesson Corporation ("McKesson") in support of final approval of the proposed settlement and class counsel's application for a 27.5% proportionate fee award in the above captioned case.

McKesson is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. I understand McKesson's claim for recovery in this case will be one of the largest by any class member.

During the course of this matter class counsel have kept McKesson well informed of the fact and circumstances of the case and the legal hurdles and risks involved. McKesson is satisfied the proposed $512 million cash settlement is fair and adequate and the proposed attorneys' fee award of 27.5% of the settlement amount is appropriate.

McKesson respectfully asks the Court to approve the settlement and supports class counsel's fee application.

Very truly yours,

Steven H. Winick
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:473003869.1

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September 27, 2011

The Honorable Gregory M. Sleet
United States District Court
844 North King Street
Wilmington, DE 19801

Re: *In re: Metoprolol Succinate Direct Purchaser Antitrust Litigation*, C.A. No. 06-052 GMS

Dear Chief Judge Sleet:

I write on behalf of my client, AmerisourceBergen Co. ("AmerisourceBergen"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

AmerisourceBergen, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that our claim for recovery from the settlement in this case will be one of the three largest claims made.

Class Counsel have, through me and other counsel for the company, on an ongoing basis fully informed AmerisourceBergen of the facts and circumstances of the case, the legal hurdles and other risks involved in the matter. AmerisourceBergen is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $20 million settlement achieved on behalf of the class, this award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, AmerisourceBergen asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named plaintiffs in this case.

Respectfully,

Donald W. Myers

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September 27, 2011

The Honorable Gregory M. Sleet
United States District Court for the District of Delaware
844 North King Street
Wilmington, DE 19801

Re: In re: Metoprolol Succinate Direct Purchaser Antitrust Litigation, C.A. No. 06-052 GMS

Dear Chief Judge Sleet:

I write on behalf of our client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the United States. As a result, it is our understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest claims.

Based on information from Class Counsel, our firm has fully informed Cardinal Health on an ongoing basis of the facts and circumstances of the case, the legal hurdles, and other risks involved in the case. Cardinal Health is satisfied the proposed settlement is fair and adequate and the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $20 million settlement achieved on behalf of the class, this award is justified by the time and expense that class counsel incurred in prosecuting and favorably resolving this complex litigation.

For these reasons, Cardinal Health asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named plaintiffs in this case.

Respectfully,

Thomas L. Long

McKesson Corporation
One Post Street
San Francisco, CA 94104
415 983 8300

McKESSON
Empowering Healthcare
Richard A. Ardoin
Associate General Counsel
Direct Tel.: 415-983-9129

October 3, 2011

The Honorable Gregory M. Sleet
United States District Court
844 North King Street
Wilmington, DE 19801

RE: *In re: Metoprolol Succinate Direct Purchaser Antitrust Litigation*, C.A. No. 06-052 GMS

Dear Chief Judge Sleet:

I am Associate General Counsel for McKesson Corporation ("McKesson") and head of the Litigation Group within the company's Law Department. I write in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

McKesson, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that our claim for recovery from the settlement in this case will be one of the three largest claims made.

Class Counsel have, through me and other McKesson counsel, fully informed McKesson on an ongoing basis of the facts and circumstances of the case, the legal hurdles and other risks involved in the matter. McKesson is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $20 million settlement achieved on behalf of the class, this award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, McKesson asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named plaintiffs in this case.

Respectfully,

Richard Ardoin

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Empowering Healthcare
Richard A. Ardoin
Associate General Counsel
Direct Tel.: 415-983-9129

October 3, 2011

Hon. Lawrence F. Stengel
U.S. District Court for the
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 15613
Philadelphia, PA 19106-1776

Re: ***Wellbutrin SR Antitrust Litig., No. 2:04-cv-5525***

Dear Judge Stengel:

I am Associate General Counsel for McKesson Corporation ("McKesson") and head of the Litigation Group within the company's Law Department. I write in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

McKesson, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that our claim for recovery from the settlement in this case will be one of the three largest claims made.

Class Counsel have, through me and other McKesson counsel, informed McKesson of the facts and circumstances of the case, the legal hurdles and other risks involved in the matter. McKesson is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $49 million settlement achieved on behalf of the class, this award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, McKesson asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named plaintiffs in this case.

Respectfully,

Richard Ardoin

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September 27, 2011

Hon. Lawrence F. Stengel
U.S. District Court for the
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 15613
Philadelphia, PA 19106-1776

Re: ***Wellbutrin SR Antitrust Litig., No. 2:04-cv-5525***

Dear Judge Stengel:

I write on behalf of my client, AmerisourceBergen Co. ("AmerisourceBergen"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

AmerisourceBergen, an absent class member in the current litigation whose principal place of business is in this judicial district, is one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that our claim for recovery from the settlement in this case will be one of the three largest claims made.

Class Counsel have, through me and other counsel for the company, informed AmerisourceBergen of the facts and circumstances of the case, the legal hurdles and other risks involved in the matter. AmerisourceBergen is satisfied that the proposed settlement is fair and adequate, and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $49 million settlement achieved on behalf of the class, this award is justified by the time and expense that class counsel put into prosecuting and favorably resolving this complex litigation.

For this reason, AmerisourceBergen asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named plaintiffs in this case.

Respectfully,

Donald W. Myers

Baker Hostetler

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September 27, 2011

Hon. Lawrence F. Stengel
U.S. District Court for the Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 15613
Philadelphia, PA 19106-1776

Re: Wellbutrin SR Antitrust Litig., No. 2:04-cv-5525

Dear Judge Stengel:

I write on behalf of our client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motions seeking final approval of the proposed settlement and an attorneys' fee award for Class Counsel in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the United States. As a result, it is our understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest claims.

Based on information from Class Counsel, our firm has informed Cardinal Health of the facts and circumstances of the case, the legal hurdles, and other risks involved in the case. Cardinal Health is satisfied the proposed settlement is fair and adequate and the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the $49 million settlement achieved on behalf of the class, the attorneys' fee award is justified by the time and expense class counsel incurred in prosecuting and favorably resolving this complex litigation.

For these reasons, Cardinal Health asks the Court to approve the settlement and supports Class Counsel's application for attorneys' fees and reimbursement of costs, as well as Class Counsel's request for incentive awards for the named plaintiffs in this case.

Respectfully,

Thomas L. Long

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October 22, 2012

The Honorable Mary A. McLaughlin
United States District Court for the Eastern District of Pennsylvania
601 Market Street, Room 13614
Philadelphia, PA 19106-1797

Re: *In re Wellbutrin XL Antitrust Litigation,* Case No. 2:08-cv-2431 (E.D. Pa.)

Dear Judge McLaughlin:

I write on behalf of our client, Cardinal Health, Inc. ("Cardinal Health"), in support of the pending motion seeking final approval of the proposed settlement and fee award in the above-captioned litigation.

Cardinal Health, an absent class member in the current litigation, is one of the three largest pharmaceutical distributors in the United States. As a result, it is our understanding that Cardinal Health's claim for recovery from the settlement in this case will be one of the three largest claims.

Based on information from Class counsel, our firm has fully informed Cardinal Health on an ongoing basis of the facts and circumstances of the case, the legal hurdles, and other risks involved in this case. Cardinal Health is satisfied that the proposed settlement is fair and adequate and that the proposed attorneys' fee award of one-third of the settlement amount is appropriate in this case. In addition to the value of the settlement achieved on behalf of the class, this award is justified by the time and expense Class counsel incurred in prosecuting and favorably resolving part of this complex litigation.

For these reasons, Cardinal Health respectfully asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, as well as Class counsel's request for incentive award for the representative plaintiff in this case.

Sincerely,

Robert J. Tucker

cc: Thomas L. Long, Esq. (via electronic mail)

SheppardMullin

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October 17, 2012

The Honorable Mary A. McLaughlin
U.S. District Court
for the Eastern District of Pennsylvania
601 Market Street, Room 13614
Philadelphia, PA 19106-1797

Re: In re Wellbutrin XL Antitrust Litigation, Case No. 2:08-cv-2431 (E.D. Pa.)

Dear Judge McLaughlin:

I write on behalf of my client, McKesson Corporation ("McKesson"), in support of final approval of the proposed settlement and fee award in the above-captioned litigation.

McKesson is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that McKesson's claim to recovery in this case will be one of the largest by any class member.

Class counsel have, through me, fully informed McKesson of the facts and circumstances of the case, and the legal issues and risks involved. McKesson is satisfied that the proposed settlement is fair and adequate, that the proposed attorneys' fees of one-third of the settlement amount is appropriate in this case, and that the proposed service award to the representative plaintiff is appropriate.

McKesson respectfully asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, and a service award to the representative plaintiff.

Respectfully,

Steven Winick
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:407175829.1

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October 10, 2012

The Honorable Mary A. McLaughlin
United States District Court
for the Eastern District of Pennsylvania
601 Market Street, Room 13614
Philadelphia, PA 19106-1797

Re: *In re Wellbutrin XL Antitrust Litigation*, Case No. 2:08-cv-2431 (E.D. Pa.)

Dear Judge McLaughlin:

I write on behalf of my client, AmerisourceBergen Corporation ("ABC"), in support of final approval of the proposed settlement and fee award in the above-captioned litigation.

ABC is an absent class member in the current litigation and one of the three largest pharmaceutical distributors in the country. As a result, it is my understanding that our client's claim to recovery in this case will be one of the largest by any class member.

Class counsel have, through me, fully informed ABC of the facts and circumstances of the case, and the legal issues and risks involved. ABC is satisfied that the proposed settlement is fair and adequate, that the proposed attorneys' fees of one-third of the settlement amount is appropriate in this case, and that the proposed service award to the representative plaintiff is appropriate.

ABC respectfully asks the Court to approve the settlement and supports class counsel's application for attorneys' fees and reimbursement of costs, and a service award to the representative plaintiff.

Respectfully submitted,

Donald W. Myers

DWM/