

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

In re EPIPEN (EPINEPHRINE INJECTION,) Civil Action No. 2:17-md-02785-DDC-TJJ
USP) MARKETING, SALES PRACTICES) (MDL No: 2785)
AND ANTITRUST LITIGATION)

_____)
)
This Document Relates To:)
)
CONSUMER CLASS CASES.)
_____)

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

TO: ALL PERSONS AND ENTITIES IN THE UNITED STATES WHO PAID OR PROVIDED REIMBURSEMENT FOR SOME OR ALL OF THE PURCHASE PRICE OF BRANDED OR AUTHORIZED GENERIC EPIPENS FOR THE PURPOSE OF CONSUMPTION, AND NOT RESALE, BY THEMSELVES, THEIR FAMILY MEMBER(S), INSUREDS, PLAN PARTICIPANTS, EMPLOYEES, OR BENEFICIARIES, AT ANY TIME BETWEEN AUGUST 24, 2011, AND NOVEMBER 1, 2020 (THE “CLASS PERIOD”); AND

ALL PERSONS AND ENTITIES IN THE ANTITRUST STATES¹ WHO PAID OR PROVIDED REIMBURSEMENT FOR SOME OR ALL OF THE PURCHASE PRICE OF BRANDED EPIPENS AT ANY TIME BETWEEN JANUARY 28, 2013, AND NOVEMBER 1, 2020, FOR THE PURPOSE OF CONSUMPTION, AND NOT RESALE, BY THEMSELVES, THEIR FAMILY MEMBER(S), INSUREDS, PLAN PARTICIPANTS, EMPLOYEES, OR BENEFICIARIES.

NOTICE OF SETTLEMENT: Please be advised that Plaintiffs, on behalf of the certified Class (as defined at page 3 below), have reached a proposed settlement of the Action for \$345,000,000 in cash that will resolve all claims in the Action against the Pfizer Defendants (the “Settlement”).²

IN ORDER TO QUALIFY FOR A SETTLEMENT PAYMENT, YOU MUST TIMELY SUBMIT A PROOF OF CLAIM FORM (“PROOF OF CLAIM”) THAT IS POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE NOVEMBER 12, 2021.

THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER SOLICITATION. PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.

WHY SHOULD I READ THIS NOTICE?

This Notice is given pursuant to an order issued by the United States District Court for the District of Kansas (the “Court”). This Notice serves to inform you of the proposed settlement of the

¹ The “Antitrust States” are: Alabama, California, Florida, Hawaii, Illinois, Kansas, Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New York, North Carolina, Tennessee, and Utah.

² All capitalized terms not otherwise defined herein shall have the meaning given to them in the July 14, 2021, Stipulation of Class Action Settlement (“Settlement Agreement”).

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above-captioned class action lawsuit for \$345,000,000 in cash and the hearing (“Settlement Hearing”) to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, as set forth in the Settlement Agreement, by and between the certified Class (as defined below) and the Pfizer Defendants (which are Pfizer Inc., Meridian Medical Technologies, Inc., and King Pharmaceuticals LLC (f/k/a King Pharmaceuticals, Inc.)).

This Notice is intended to inform you how the proposed Settlement may affect your rights and what steps you may take in reaction to it. This Notice is NOT an expression of any opinion by the Court as to the merits of the claims or defenses asserted in the lawsuit or whether the Pfizer Defendants engaged in any wrongdoing.

This Notice also does not concern the resolution of the claims against other defendants in the Action, specifically Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc., Viatris Inc., or Heather Bresch (collectively, the “Mylan Defendants”). Those claims remain pending in the Court and trial of those claims is currently scheduled to commence on January 24, 2022.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:	
ACTIONS YOU MAY PURSUE	EFFECT OF TAKING THIS ACTION
SUBMIT A PROOF OF CLAIM	This is the only way to be eligible to receive a payment from the Settlement. Proofs of Claim must be postmarked (if mailed) or received (if submitted online) on or before November 12, 2021.
OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION	Write to the Court and explain why you do not like the Settlement, the Plan of Allocation, and/or the request for attorneys’ fees, expenses, or service awards. Objections must be filed with the Court and received by the parties on or before September 24, 2021.
ATTEND THE SETTLEMENT HEARING ON OCTOBER 27, 2021 AT 9:00 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR	Ask to speak in Court about the fairness of the Settlement. Requests to speak must be filed with the Court and served on the parties on or before September 24, 2021. If you submit a written objection, you may (but you do not have to) attend the hearing.
DO NOTHING	Receive no payment. You will, however, still be a Class Member, which means that you give up your right to ever be part of any other lawsuit against the Pfizer Defendants about the legal claims being resolved by this Settlement and you will be bound by any judgments or orders entered by the Court in the Action.

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SUMMARY OF THIS NOTICE

Description of the Action and the Class

This Notice relates to a proposed Settlement of claims in a pending class action alleging that the Pfizer Defendants violated certain state antitrust and federal racketeering laws in the United States, harming competition and causing Class Members to overpay for EpiPen products. The Pfizer Defendants deny that they violated any laws and contend that their actions enhanced competition and did not cause Class Members to overpay. The Court previously certified the following Class:

All persons and entities in the United States who paid or provided reimbursement for some or all of the purchase price of Branded or authorized generic EpiPens for the purpose of consumption, and not resale, by themselves, their family member(s), insureds, plan participants, employees, or beneficiaries, at any time between August 24, 2011, and November 1, 2020; and

All persons and entities in the Antitrust States who paid or provided reimbursement for some or all of the purchase price of Branded EpiPens at any time between January 28, 2013, and November 1, 2020, for the purpose of consumption, and not resale, by themselves, their family member(s), insureds, plan participants, employees, or beneficiaries.

The “Antitrust States” are: Alabama, California, Florida, Hawaii, Illinois, Kansas, Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New York, North Carolina, Tennessee, and Utah.

Those excluded from the Class are described on pages 6-7 below. The proposed Settlement, if approved by the Court, will settle claims of the Class against the Pfizer Defendants only.

Statement of Class Recovery

Pursuant to the Settlement described herein, a \$345,000,000 settlement fund has been established (the “Settlement Amount”). The Settlement Amount together with any interest earned thereon is the “Settlement Fund.” The Settlement Fund less: (a) any Taxes and Tax Expenses; (b) any Notice and Administration Expenses; and (c) any attorneys’ fees and litigation expenses and any service awards to Plaintiff Class Representatives in connection with their representation of the Class, awarded by the Court, will be distributed to Class Members under a proposed plan of allocation and distribution (“Plan of Allocation”) if approved by the Court, as summarized on pages 7 and 8 below.

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Statement of Potential Outcome of the Case

The Settling Parties do not agree on whether Plaintiffs would have prevailed on any of their claims against the Pfizer Defendants. They also do not agree on the average amount of damages per EpiPen, if any, that would be recoverable if the Class prevailed on the claims alleged. The Pfizer Defendants deny that they have engaged in any wrongdoing as alleged by Plaintiffs, deny any liability whatsoever for any of the claims alleged by Plaintiffs, and deny that the Class has suffered any injuries or damages. The issues on which the Settling Parties disagree are many, but include: (1) whether any of the Pfizer Defendants engaged in conduct that would give rise to any liability to the Class under the RICO statute or certain state antitrust laws; (2) whether the Pfizer Defendants have valid defenses to any such claims of liability; (3) the amount of damages Plaintiffs and the Class suffered by reason of the Pfizer Defendants' alleged wrongdoing, as well as the methodology for estimating any such damages; (4) whether the Court properly certified the Class; and (5) whether the Pfizer Defendants had other meritorious defenses to the alleged claims.

Statement of Attorneys' Fees and Expenses Sought

Class Counsel (as defined on page 10 below) will apply to the Court for an award of attorneys' fees in an amount not to exceed one-third of the Settlement Amount, their expenses, and interest earned on these amounts at the same rate as earned by the Settlement Fund. Since the Court's appointment of Plaintiffs' leadership in September 2017, Class Counsel have expended considerable time and effort in the prosecution of this Action on a wholly contingent basis and have advanced the expenses of the Action in the expectation that if they were successful in obtaining a recovery for the Class they would be paid from such recovery. In addition, Plaintiffs will apply to the Court for service awards in connection with their representation of the Class.

Further Information

For further information regarding the Litigation or this Notice or to review the Settlement Agreement, please contact the Settlement Administrator toll-free at 1-877-221-7632, or visit the website www.EpiPenClassAction.com.

Please DO NOT Call the Court or the Pfizer Defendants with Questions About the Settlement.

Reasons for the Settlement

Plaintiffs' principal reason for entering into the Settlement with the Pfizer Defendants is the substantial benefit to the Class now, without further risk or the delays inherent in continued litigation. The cash benefit under the Settlement must be considered against the significant risk that a smaller recovery – or, indeed, no recovery at all – might be achieved after trial, and likely appeals, a process that could last several years into the future.

The Pfizer Defendants have denied and continue to deny each and all of the claims alleged by Plaintiffs in the Action. The Pfizer Defendants have expressly denied and continue to deny all

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charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action. For the Pfizer Defendants, the principal reason for the Settlement is to eliminate the burden, expense, uncertainty and risks inherent in any litigation, especially in complex cases such as this Action.

WHAT IS THIS LAWSUIT ABOUT?

The Action is currently pending in the United States District Court for the District of Kansas before the Honorable Daniel D. Crabtree (the “Court”). The initial complaint was filed in 2016. Plaintiffs filed the Consolidated Complaint (the “Complaint”) on October 17, 2017. The Complaint alleges, among other things, that the Mylan Defendants and the Pfizer Defendants are liable for violations of certain state antitrust laws and federal racketeering laws in the United States, harming competition and causing class members to overpay for EpiPen[®] (epinephrine injection, USP) 0.3 mg Auto-Injectors; EpiPen Jr[®] (epinephrine injection, USP) 0.15 mg Auto-Injectors; or Epinephrine Injection, USP Auto-Injectors (the authorized generic for EpiPen[®]) (collectively, “EpiPen” products). Defendants deny that they violated any laws and contend that their actions enhanced competition and did not cause Class Members to overpay.

This case has been vigorously litigated over four years. After Plaintiffs filed the Complaint on October 17, 2017, the parties briefed arguments raised in Defendants’ motions to dismiss. The Court granted in part and denied in part the motions to dismiss on August 20, 2018. Defendants answered the Complaint, denying all material allegations and asserting a number of defenses. Then, the parties engaged in discovery involving the Defendants, Plaintiffs, and numerous third parties, resulting in the production of over 1.75 million documents, totaling over 11 million pages, depositions of 118 parties, third parties, and experts, and depositions of 37 Plaintiffs.

Plaintiffs moved for class certification on December 7, 2018, and submitted four expert reports in support. Defendants opposed class certification and moved to exclude Plaintiffs’ experts. Defendants also submitted their own expert reports in opposition to class certification, which Plaintiffs sought to exclude. A two-day evidentiary hearing was held on Plaintiffs’ motion for class certification from June 11-12, 2019. On February 27, 2020, the Court granted in part and denied in part Plaintiffs’ motion for class certification, certified the Class defined above, appointed Plaintiffs as Class Representatives, and appointed Warren T. Burns, Paul J. Geller, Lynn Lincoln Sarko, Elizabeth C. Pritzker, and Rex A. Sharp as Class Counsel.

The Court also denied all parties’ motions to exclude experts. Defendants then filed a petition for appellate review of that class certification decision with the United States Circuit Court of Appeals for the Tenth Circuit on March 12, 2020, which Plaintiffs opposed. The Tenth Circuit denied review on May 26, 2020.

On October 13, 2020, the Court approved the form and manner of notice to the certified Class, which commenced on November 1, 2020, and ended on January 15, 2020. A total of 1,423 persons and entities excluded themselves from the Class.

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On July 15, 2020, the Pfizer Defendants and the Mylan Defendants separately moved for summary judgment, which Plaintiffs opposed. The parties also moved to exclude certain expert opinions.

As trial in the Action approached, Plaintiffs and the Pfizer Defendants engaged an experienced and neutral third-party mediator, former United States District Court Judge for the Western District of Oklahoma, Layn R. Phillips, and held pre-mediation discussions and direct settlement discussions. On June 10, 2021, Plaintiffs agreed to settle the Action with the Pfizer Defendants in return for a cash payment of \$345,000,000 for the benefit of the Class.

On June 23, 2021, after the Pfizer Defendants settled with Plaintiffs, the Court issued a Memorandum and Order on the Mylan Defendants' motion for summary judgment and motion to exclude experts, denying the Mylan Defendants' motion for summary judgment as to Plaintiffs' antitrust claims based on generic delay, but granting summary judgment as to Plaintiffs' remaining claims, and granting in part and denying in part the Mylan Defendants' motions to exclude Plaintiffs' experts. The remaining claims against the Mylan Defendants will be tried in a trial scheduled to commence on January 24, 2022.

THE COURT HAS NOT RULED AS TO WHETHER DEFENDANTS ARE LIABLE TO PLAINTIFFS OR TO THE CLASS. THIS NOTICE IS NOT INTENDED TO BE AN EXPRESSION OF ANY OPINION BY THE COURT WITH RESPECT TO THE TRUTH OF THE ALLEGATIONS IN THE ACTION OR THE MERITS OF THE CLAIMS OR DEFENSES ASSERTED. THIS NOTICE IS SOLELY TO ADVISE YOU OF THE PROPOSED SETTLEMENT OF THIS ACTION AS TO THE PFIZER DEFENDANTS AND YOUR RIGHTS IN CONNECTION WITH THAT SETTLEMENT.

HOW DO I KNOW IF I AM A CLASS MEMBER?

If you are a person or entity in the United States who paid or provided reimbursement for some or all of the purchase price of Branded or authorized generic EpiPens for the purpose of consumption, and not resale, by yourself, your family member(s), insureds, plan participants, employees, or beneficiaries, at any time between August 24, 2011, and November 1, 2020, and did not exclude yourself from the Class during the initial notice period, you are a Class Member. As set forth in the Settlement Agreement, excluded from the Class are:

- a. Defendants and their officers, directors, management, employees, subsidiaries, and affiliates;
- b. Government entities, other than government-funded employee benefit plans;
- c. Fully insured health plans (*i.e.*, plans that purchased insurance that covered 100% of the plan's reimbursement obligations to its members);

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- d. “Single flat co-pay” consumers who purchased EpiPens or generic EpiPens only via a fixed dollar co-payment that is the same for all covered devices, whether branded or generic (*e.g.*, \$20 for all branded and generic devices);
- e. Consumers who purchased or received EpiPens or authorized generic equivalents only through a Medicaid program;
- f. All persons or entities who purchased branded or generic EpiPens directly from defendants;
- g. The judges in this case and members of their immediate families;
- h. All third-party payors who own or otherwise function as a Pharmacy Benefit Manager or control an entity who functions as a Pharmacy Benefit Manager; and
- i. Individual consumers whose only purchases of an EpiPen occurred before March 13, 2014 (the Generic Start Date).

PLEASE NOTE: Receipt of this Notice does not mean that you are a Class Member or that you will be entitled to receive a payment from the Settlement. If you are a Class Member and you wish to participate in the distribution of proceeds from the Settlement, you are required to submit a Proof of Claim available on the Settlement website and, if necessary, any required supporting documentation as set forth therein postmarked (if mailed) or submitted online on or before November 12, 2021.

WHAT IS THE MONETARY VALUE OF THE PROPOSED SETTLEMENT?

The Settlement, if approved, will result in the creation of a cash settlement fund of \$345,000,000. This fund, plus accrued interest and minus the costs of this Notice and all costs associated with the administration of the Settlement, including Taxes and Tax Expenses, as well as attorneys’ fees and expenses, and any service awards to Plaintiffs in connection with their representation of the Class, as approved by the Court (the “Net Settlement Fund”), will be distributed to eligible Class Members pursuant to the Plan of Allocation that is described in the next section of this Notice.

WHAT IS THE PROPOSED PLAN OF ALLOCATION AND DISTRIBUTION?

If the Settlement is approved by the Court, the Net Settlement Fund will be distributed to eligible Class Members who timely submit valid Proofs of Claim in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve. Class Members who do not timely submit valid Proofs of Claim will not share in the Net Settlement Fund, but will otherwise be bound by the Settlement. The Court may approve the proposed Plan of Allocation,

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or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the Settlement website, www.EpiPenClassAction.com.

The Plan of Allocation is intended to partially compensate Class Members who purchased or provided reimbursement for EpiPens during the Class Period and were allegedly damaged thereby.

ALLOCATION OF THE NET SETTLEMENT FUND

The Net Settlement Fund will be allocated into two pools, one for individual consumer Class Members and one for third-party payor (“TPP”) Class Members. This allocation, which tracks the estimated overall amount of damages suffered by individual consumer and TPP Class Members as a result of the Settled Claims, will be twenty percent (20%) for the individual consumer Class Member pool and eighty percent (80%) for the TPP Class Member pool.

Within each pool, a Class Member’s actual recovery will be a proportion of that pool determined by that Class Member’s allowed claim(s) compared to the total allowed claims of all Class Members in the same pool who submit acceptable and timely Proofs of Claim.

If the distributions in only one pool would result in all Class Members in that pool receiving more than all of their allowed claim amounts, and the second pool lacks sufficient funds to pay all Class Members in that pool all of their claims, then any excess funds remaining in the first pool after distribution will be reallocated to the second pool.

For more detailed information about the Plan of Allocation and the calculation of your claim, please visit the Settlement website at www.EpiPenClassAction.com.

ADDITIONAL PROVISIONS

Distributions will be made to Class Members after all claims have been processed, after the Court has finally approved the Settlement, and after any appeals are resolved. If there is any balance remaining in the Net Settlement Fund after a reasonable amount of time from the initial date of distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), the Settlement Administrator shall, if feasible, reallocate such balance among Class Members, who successfully received and deposited, cashed or otherwise accepted a Distribution Amount and who would receive a distribution of at least \$5.00, in an equitable and economic fashion. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is no longer economically feasible to distribute to Class Members. Thereafter, any *de minimis* balance which still remains in the Net Settlement Fund shall be donated to: (a) Allergy and Asthma Foundation of America; (b) Allergy and Asthma Network; and (c) Allison Rose Foundation, if approved by the Court.

Please contact the Settlement Administrator or Class Counsel if you disagree with any determinations made by the Settlement Administrator regarding your Proof of Claim. If you are dissatisfied with the determinations, you may ask the Court, which retains jurisdiction over all

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Class Members and the claims administration process, to decide the issue by submitting a written request.

The Court has reserved jurisdiction to allow, disallow, or adjust the claim of any Class Member on equitable grounds.

DO I NEED TO CONTACT CLASS COUNSEL TO PARTICIPATE IN DISTRIBUTION OF THE SETTLEMENT FUND?

No. If you have received this Notice and timely submit your Proof of Claim to the designated address, you need not contact Class Counsel. If your address changes, please contact the Settlement Administrator at:

EpiPen Settlement
c/o A.B. Data, Ltd.
P.O. Box 173113
Milwaukee, WI 53217
Email: info@EpiPenClassAction.com
www.EpiPenClassAction.com
Telephone: 1-877-221-7632

THERE WILL BE NO PAYMENTS IF THE SETTLEMENT AGREEMENT IS TERMINATED

The Settlement Agreement may be terminated under several circumstances outlined in it. If the Settlement Agreement is terminated, the Action will proceed against the Pfizer Defendants as if the Settlement Agreement had not been entered into.

WHAT ARE THE REASONS FOR SETTLEMENT?

The Settlement was reached after years of contested litigation, including at the motion to dismiss, class certification, and summary judgment stages. The parties also completed substantial document and deposition discovery. Nevertheless, a jury has not rendered any verdict in connection with Plaintiffs' claims against the Pfizer Defendants. Instead, Plaintiffs and the Pfizer Defendants have agreed to this Settlement, which was reached with the substantial assistance of a highly respected mediator. In reaching the Settlement, the parties have avoided the cost, delay, and uncertainty of further litigation.

As in any litigation, Plaintiffs and the Class would face an uncertain outcome if they did not agree to a Settlement. If Plaintiffs succeeded at trial, the Pfizer Defendants would likely file appeals that would postpone final resolution of the case. Continuation of the Action against the Pfizer Defendants could result in a judgment greater than this Settlement. Conversely, continuing the case could result in no recovery at all or a recovery that is less than the amount of the Settlement.

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Plaintiffs and Class Counsel believe that this Settlement is fair and reasonable to the Class for several reasons. Specifically, if the Settlement is approved, the Class will receive a certain and immediate monetary recovery. Additionally, Class Counsel believe that the significant and immediate benefits of the Settlement, when weighed against the significant risk, delay and uncertainty of continued litigation, are a very favorable result for the Class.

The Pfizer Defendants are entering into this Settlement because it would be beneficial to avoid the burden, inconvenience, and expense associated with continuing the Action, and the uncertainty and risks inherent in any litigation. The Pfizer Defendants have determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in the Settlement Agreement.

WHO REPRESENTS THE CLASS?

The following attorneys are co-lead counsel for the Class:

Elizabeth C. Pritzker
PRITZKER LEVINE LLP
1900 Powell Street, Suite 450
Emeryville, CA 94608

Warren T. Burns
BURNS CHAREST LLP
900 Jackson Street, Suite 500
Dallas, TX 75202

Paul J. Geller
ROBBINS GELLER RUDMAN
& DOWD LLP
120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432

Lynn Lincoln Sarko
KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101

Rex A. Sharp
SHARP LAW, LLP
4820 West 75th Street
Prairie Village, KS 66208

If you have any questions about the Action, or the Settlement, you are entitled to consult with Co-Lead Counsel by contacting counsel at an address listed above.

You may obtain a copy of the Settlement Agreement by contacting the Settlement Administrator at:

EpiPen Settlement
c/o A.B. Data, Ltd.
P.O. Box 173113
Milwaukee, WI 53217
Email: info@EpiPenClassAction.com
www.EpiPenClassAction.com
Telephone: 1-877-221-7632

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HOW WILL CLASS COUNSEL BE PAID?

Class Counsel will file a motion for an award of attorneys' fees and expenses that will be considered at the Fairness Hearing. Class Counsel will apply for an attorneys' fee award on behalf of all Plaintiffs' counsel in the amount of up to one-third of the Settlement Amount, plus payment of Plaintiffs' counsel's expenses incurred in connection with this Action, plus interest earned on these amounts at the same rate as earned by the Settlement Fund. In addition, Plaintiffs will apply for service awards in connection with their representation of the Class to be approved by the Court. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

The attorneys' fees and expenses requested will be the only payment to Plaintiffs' counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. The Court will decide what constitutes a reasonable fee award and may award less than the amount requested by Class Counsel.

CAN I OBJECT TO THE SETTLEMENT, THE REQUESTED ATTORNEYS' FEES, THE REQUESTED PAYMENT OF EXPENSES, AND/OR THE PLAN OF ALLOCATION?

Yes. If you are a Class Member and did not exclude yourself from the Class during the notice period, you may object to the terms of the Settlement. Whether or not you object to the terms of the Settlement, you may also object to the requested attorneys' fees and expenses, Plaintiffs' request for service awards for representing the Class, and/or the Plan of Allocation. For any objection to be considered, you must file a written statement, accompanied by proof of Class membership, with the Clerk of Court **by September 24, 2021**, at United States District Court for the District of Kansas, 500 State Avenue, Kansas City, KS 66101. You must also mail a copy of your objection to the following counsel representing the Settling Parties:

Rex A. Sharp
SHARP LAW, LLP
4820 West 75th Street
Prairie Village, KS 66208

Raj S. Gandesha
WHITE & CASE LLP
1221 Avenue of the Americas
New York, NY 10020

Counsel must also receive your objection by September 24, 2021.

To comment or object, you must send a signed letter saying that you wish to comment on or object to the proposed Settlement in the *In re EpiPen Marketing, Sales Practices and Antitrust Litigation*. Any objection must: (i) state the name, address, and telephone number of the objector and must be signed by the objector even if represented by counsel; (ii) state that the objector is objecting to the proposed Settlement, Plan of Allocation, or application for attorneys' fees or expenses in this Action; (iii) state the objection(s) and the specific reasons for each objection, including any legal and evidentiary support the objector wishes to bring to the Court's attention; (iv) state whether the objection applies only to the objector, to a subset of the Class, or to the entire Class; (v) identify all class actions to which the objector and his, her, or its counsel has previously objected; (vi)

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include documents sufficient to prove the objector's membership in the Class, such as the number of EpiPens purchased, acquired, or paid for during the Class Period, as well as the dates and prices of each such purchase, acquisition, or payment; (vii) state whether the objector intends to appear at the Fairness Hearing; (viii) if the objector intends to appear at the Fairness Hearing through counsel, state the identity of all attorneys who will appear on the objector's behalf at the Fairness Hearing; and (ix) state that the objector submits to the jurisdiction of the Court with respect to the objection or request to be heard and the subject matter of the Settlement of the Action, including, but not limited to, enforcement of the terms of the Settlement. Any Class Member who does not make his, her, or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Settlement Agreement, to the Plan of Allocation, or to the award of fees and expenses to Class Counsel or any service awards to Plaintiffs, unless otherwise ordered by the Court. Class Members submitting written objections are not required to attend the Fairness Hearing, but any Class Member wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and expenses must file and mail a written objection and indicate in the written objection their intention to appear at the hearing and to include in their written objections the identity of any witnesses they may call to testify and copies of any exhibits they intend to introduce into evidence at the Fairness Hearing. Class Members do not need to appear at the Fairness Hearing or take any other action to indicate their approval.

WHAT ARE MY RIGHTS AND OBLIGATIONS UNDER THE SETTLEMENT?

If you are a Class Member and did not exclude yourself from the Class during the initial notice period, you may receive the benefit of, and you will be bound by, the terms of the Settlement described in this Notice, upon approval by the Court.

HOW CAN I GET A SETTLEMENT PAYMENT?

To qualify for a Settlement payment, you must timely complete and return the Proof of Claim. A Proof of Claim is available at www.EpiPenClassAction.com. Read the instructions carefully; fill out the Proof of Claim; sign it; and mail or submit it online so that it is **postmarked (if mailed) or received (if submitted online) no later than November 12, 2021**. If you do not submit a timely Proof of Claim with all of the required information, you will not receive a payment from the Settlement Fund. Unless you already expressly excluded yourself from the Class, you will still be bound in all other respects by the Settlement, the Judgment, and the release contained in them.

WHAT CLAIMS WILL BE RELEASED BY THE SETTLEMENT?

If the Settlement is approved by the Court, the Court will enter a Judgment. If the Judgment becomes Final pursuant to the terms of the Settlement Agreement, all Class Members shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all of the Pfizer Defendants' Released Persons from all Plaintiffs' Released Claims.

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- “Pfizer Defendants’ Related Parties” means each of a Pfizer Defendants’ past, present and future parents, subsidiaries, divisions, sister companies, affiliates, related entities, stockholders, officers, directors, insurers, general or limited partners, principals, employees, agents, attorneys and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing). For the avoidance of doubt, expressly excluded from Pfizer Defendants’ Related Parties are Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc., Viatrix Inc., or Heather Bresch, or any related entity.
- “Pfizer Defendants’ Released Persons” shall collectively refer to the Pfizer Defendants and the Pfizer Defendants’ Related Parties.
- “Plaintiffs’ Released Claims” means all claims, demands, actions, causes of action, allegations, rights, obligations, costs, losses, and damages arising in whole or in part from or in connection with acts or omissions of any of the Pfizer Defendants’ Released Parties, of every kind or nature, whether known or unknown, suspected or unsuspected, asserted or unasserted, whether in law or in equity, in tort or contract, or arising under any statute or regulation, including without limitation any state or federal RICO statute, state antitrust laws or any other federal or state or common law doctrine relating to antitrust or unfair competition, fraud, unjust enrichment, or consumer protection, relating to Class Member’s purchases of or reimbursements for EpiPen during the Class Period or otherwise relating in any way to the causes of action described which were asserted or could have been asserted in the Action, except for claims relating to the enforcement of the Settlement. However, nothing herein shall be construed to release any claims relating to personal injury or product liability. The relevant Release Period is that specified in the definitions of “Class” above. In conjunction with final approval of the Settlement, dismissal of all claims asserted by Plaintiffs against Pfizer Defendants is with prejudice. For the avoidance of doubt, the Plaintiffs’ Released Claims does not extend to or include Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc., Viatrix Inc., or Heather Bresch. The Release shall be given by Plaintiffs and each member of the Class, on behalf of themselves and their respective legal representatives, heirs, executors, administrators, predecessors, successors in interest, transferees and assignees, in their capacities as such.
- “Plaintiffs’ Released Persons” means the Plaintiff Class Representatives and Class Members and the Plaintiffs’ Related Parties.

THE FAIRNESS HEARING

The Court will hold a Fairness Hearing on October 27, 2021, at 9:00 a.m. Central Time, before the Honorable Daniel D. Crabtree at the United States District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas 66101, Courtroom 643, for the purpose of determining whether: (1) the Settlement as set forth in the Settlement Agreement for \$345,000,000

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in cash should be approved by the Court as fair, reasonable and adequate; (2) the Judgment as provided under the Settlement Agreement should be entered; (3) to award Class Counsel attorneys' fees and expenses out of the Settlement Fund and, if so, in what amount; (4) to award Plaintiffs service awards in connection with their representation of the Class out of the Settlement Fund and, if so, in what amount; and (5) the Plan of Allocation should be approved by the Court. The Court may adjourn or continue the Fairness Hearing without further notice to Members of the Class.

Any Class Member may appear at the Fairness Hearing and be heard on any of the foregoing matters; provided, however, that no one shall be heard unless his, her, or its objection is made in writing and is filed, together with proof of membership in the Class and with copies of all other papers and briefs to be submitted by him, her, or it with the Court no later than **September 24, 2021**. The same documentation must be received by Counsel by **September 24, 2021**, as described above.

Unless otherwise directed by the Court, any Class Member who does not make his, her or its objection in the manner provided shall be deemed to have waived all objections to this Settlement and shall be foreclosed from raising (in this or any other proceeding or on any appeal) any objection and any untimely objection shall be barred.

If you hire an attorney (at your own expense) to represent you for purposes of objecting, your attorney must serve a notice of appearance on counsel listed above and file it with the Court (at the address set out above) by no later than **September 24, 2021**.

INJUNCTION

The Court has issued an order enjoining all Class Members from instituting, commencing, maintaining or prosecuting any action in any court or tribunal that asserts Plaintiffs' Released Claims against any of the Pfizer Defendants' Released Persons, pending final determination by the Court of whether the Settlement should be approved.

HOW DO I OBTAIN ADDITIONAL INFORMATION?

This Notice contains only a summary of the terms of the proposed Settlement. The records in this Action may be examined and copied at any time during regular office hours, and subject to customary copying fees, at the Clerk of the United States District Court for the District of Kansas. For a fee, all papers filed in this Action are available at www.pacer.gov. In addition, all of the Settlement documents, including the Settlement Agreement, this Notice, the Proof of Claim and proposed Judgment may be obtained by contacting the Settlement Administrator at:

EpiPen Settlement
c/o A.B. Data, Ltd.
P.O. Box 173113
Milwaukee, WI 53217
Email: info@EpiPenClassAction.com

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Telephone: 1-877-221-7632

In addition, you may contact the Settlement Administrator if you have any questions about the Action or the Settlement.

DO NOT WRITE TO OR TELEPHONE THE COURT FOR INFORMATION

DATED: AUGUST 4, 2021

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

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