

UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS

NOTICE OF PENDENCY OF CLASS ACTION

**Purchased an EpiPen®, EpiPen Jr®, and/or their Authorized Generics?  
A Class Action Lawsuit May Affect Your Rights.**

*This Notice is being provided by Order of the U.S. District Court.*

*It is not a solicitation from a lawyer. You are not being sued.*

- A lawsuit is pending in the United States District Court for the District of Kansas (the “Court”) against defendants Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc., and Mylan’s current CEO Heather Bresch (collectively, “Mylan”), Pfizer Inc., King Pharmaceuticals, Inc. (now known as King Pharmaceuticals LLC), and Meridian Medical Technologies, Inc. (collectively, “Pfizer” and with Mylan, “Defendants”).
- Plaintiffs in the lawsuit claim that Defendants violated certain state antitrust 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.
- On February 27, 2020, the Court determined that certain claims in this case could proceed as a class action. Your legal rights and options are explained below.
- The Court has not decided whether Defendants did anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are affected, and you have a choice to make now.
- **PLEASE NOTE: This is NOT a recall, safety, or other similar notice. No one is claiming that EpiPen products are unsafe or ineffective. This notice is only for purposes of advising you of certain rights in litigation.**

**CERTIFIED CLASS**

The Classes certified by the Court (hereinafter referred to as the “Class”) include the following persons and entities:

- **Nationwide RICO Damages Class (“RICO 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
- **State Antitrust Damages Class (“State Antitrust Class”)**: 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.

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>	
<b>DO NOTHING</b>	This option means that you remain part of the Class and you keep the possibility of getting money or benefits that may come from a trial or a settlement, and will be bound by any judgment for or against Defendants. But you give up all rights to be part of any other lawsuit that asserts claims related to the allegations or claims against Defendants in this case.
<b>EXCLUDE YOURSELF FROM THE CLASS</b>	This option allows you to exclude yourself from the Class and retain the right to file a lawsuit against Defendants asserting the claims relating to the allegations in this case. If you exclude yourself, you will not be bound by any judgment for or against Defendants, and will not share in any money or benefits obtained for the Class. The exclusion deadline is January 15, 2021.

## BASIC INFORMATION ABOUT THE LAWSUIT

### 1. What is the lawsuit about?

Plaintiffs in this lawsuit claim that Defendants violated certain state antitrust and federal racketeering laws in the United States, harming competition and causing class members to overpay for EpiPen products. Defendants deny that they violated any laws and contend that their actions enhanced competition and did not cause Class Members to overpay. The litigation is proceeding and, at this point, no court has found that Defendants engaged in any wrongdoing.

### 2. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” The Class Representatives who sued—and all the Class Members like them—are called the Plaintiffs. The companies and people they sued (in this case, Mylan, Pfizer, and Ms. Bresch) are called Defendants. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

### 3. Why is this lawsuit a class action?

The Court decided that certain claims in this lawsuit can move toward a trial as a class action because they meet the requirements of the relevant Federal Rules of Civil Procedure, which govern class actions in United States courts.

### 4. What is the current status of the lawsuit?

The lawsuit is currently pending in the United States District Court for the District of Kansas before United States District Judge Daniel D. Crabtree. The case name is *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, and the civil action number is 2:17-md-02785-DDC-TJJ. Defendants have moved for summary judgment and dismissal of all remaining claims in the lawsuit, which Plaintiffs have opposed. The court has not yet determined whether a trial is required in this case. But, if the case proceeds to trial, the court has scheduled a trial to begin on April 13, 2021 in the United States District Court, District of Kansas, located at 500 State Avenue, Kansas City, KS 66101. Any changes to the date or location of the trial will be posted to the website [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com). Plaintiffs will have to prove their claims a trial. There is no guarantee that Plaintiffs will win or obtain money for the Class.

### 5. Is there any money available now?

No money or benefits are available now because the case is not resolved. There is no guarantee that money or benefits ever will be obtained. If they are, you will be notified about how to ask for a share. If the litigation is resolved, and you have not excluded yourself pursuant to this Notice, you may not be given another opportunity to do so.

## DETERMINING IF YOU ARE A MEMBER OF THE CLASS

### 6. I purchased a branded/authorized generic EpiPen Auto-Injector. How do I know if I am a member of the Class?

You are a member of the Class if:

- You 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.
- The following are **NOT** members of the Class:
  - Defendants and their officers, directors, management, employees, subsidiaries, and affiliates;
  - Government entities, other than government-funded employee benefit plans;

- Fully insured health plans (*i.e.*, plans that purchased insurance that covered 100% of the plan’s reimbursement obligations to its members);
- “Single flat co-pay” consumers who purchased EpiPens or authorized 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);
- Consumers who purchased or received EpiPens or authorized generic equivalents only through a Medicaid program;
- All persons or entities who purchased branded or authorized generic EpiPens directly from Mylan;
- The judges in this case and members of their immediate families;
- All third-party payors who own or otherwise function as a Pharmacy Benefit Manager or control an entity that functions as a Pharmacy Benefit Manager; and
- Individual consumers whose only purchases of an EpiPen occurred before March 13, 2014.

**IF YOU DO NOTHING**

**7. What happens if I do nothing at all?**

If you do nothing, you will be bound by the outcome of the case, whether a judgment is rendered for or against Defendants. Unless you exclude yourself, you will not be able to file a lawsuit or be part of any other lawsuit asserting claims against Defendants concerning or relating to the claims and factual allegations that were or could have been raised in this action.

**EXCLUDING YOURSELF FROM THE CLASS**

**8. What does it mean to request to be excluded from the Class?**

If you do not want to be part of the Class and want to keep your right to sue Defendants relating to the allegations concerning the alleged anticompetitive or racketeering conduct described in this Notice, then you must take steps to remove yourself from the Class. This is called excluding yourself, or “opting out” of the Class. If you exclude yourself, you will not be eligible to receive any payment from future settlements or judgments in this lawsuit, and you will not be bound by any judgment rendered for or against Defendants.

**9. How do I exclude myself from the Class?**

To exclude yourself from the Class, you must send a letter by mail stating that you wish to be excluded from the Class in *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, No. 17-md-02785. Be sure to include your name, address, telephone number, and signature. You cannot exclude yourself over the telephone. You must mail your Request for Exclusion, postmarked no later than January 15, 2021, to:

EpiPen Class Action  
 Attn: Exclusions  
 c/o A.B. Data Ltd.  
 P.O. Box 173001  
 Milwaukee, WI 53217

You may also email your exclusion request to [info@EpiPenClassAction.com](mailto:info@EpiPenClassAction.com) or submit your exclusion request on the case website at [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com). Any email or website exclusion requests must also be submitted no later than January 15, 2021.

**10. If I don’t exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue Defendants for the claims in this case. You must exclude yourself from the Class to be able to bring your own, separate lawsuit(s) against Defendants. Remember, the exclusion deadline is January 15, 2021. In the event the Action resolves, you may not be given another opportunity to exclude yourself from the Class.

**THE LAWYERS REPRESENTING YOU**

**11. As a member of the Class, do I have a lawyer representing my interests in this Class Action?**

Yes. The Court has appointed lawyers to represent the members of the Class. These lawyers are called Class Counsel. The following lawyers are lead counsel in representing the Class:

<b>CO- LEAD CLASS COUNSEL</b>	
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 5301 W. 75 <sup>th</sup> Street Prairie Village, KS 66208	

**12. How will the lawyers be compensated? Will the named Plaintiffs receive a service award?**

In the event of a judgment against Defendants after trial or by settlement, Class Counsel will ask the Court to approve and award attorneys' fees and expenses. They also may ask for service awards for the Class Representatives. The amount of these fees, costs, and awards, if any, will ultimately be determined by the Court.

**13. Should I get my own lawyer?**

You do not need to hire your own lawyer because Class Counsel is working on behalf of the Class. If you hire your own lawyer, he or she must file a Notice of Appearance. If you hire your own lawyer, you will have to pay for that lawyer on your own.

**GETTING MORE INFORMATION**

**14. Where do I get more information?**

This Notice contains a summary of relevant Court papers. You can review relevant Decisions and Orders and additional information about this action on the case website at [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com). You may also contact the above-named Administrator by mail, email, or 877-221-7632. Complete copies of all public pleadings, Court rulings, and other filings are available for review by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.ksd.uscourts.gov>, or visiting the office of the Clerk of the Court for the United States District Court for the District of Kansas, 500 State Avenue, Kansas City, KS 66101, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS CASE.

DATED: NOVEMBER 1, 2020

BY ORDER OF THE UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS, DANIEL D. CRABTREE