

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**KPH HEALTHCARE SERVICES, INC.,
a/k/a KINNEY DRUGS INC., FWK
HOLDINGS LLC, AND CÉSAR
CASTILLO, LLC, individually and on
behalf of all those similarly situated,**

Plaintiffs,

v.

Case No. 20-2065-DDC-TJJ

**MYLAN, N.V., MYLAN
PHARMACEUTICALS INC., MYLAN
SPECIALTY L.P., PFIZER, INC., KING
PHARMACEUTICALS LLC, and
MERIDIAN MEDICAL
TECHNOLOGIES, INC.,**

Defendants.

**FINAL JUDGMENT AND ORDER OF DISMISSAL WITH
PREJUDICE UNDER FED. R. CIV. P. 54(b)
FOR THE PFIZER DEFENDANTS ONLY**

This matter came before the court on June 25, 2024, as scheduled by the Order (I) Preliminarily Approving Settlement Under Fed. R. Civ. P. 23(e)(1), (II) Appointing the Settlement Administrator, (III) Approving Form and Manner of Notice to Class Members, (IV) Scheduling a Final Fairness Hearing to Consider Final Approval of the Settlement, and (V) Granting Related Relief (“Order”) dated April 3, 2024 (Doc. 394), and on the Class Plaintiffs’ Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys’ Fees, Expenses, and Service Awards (Doc. 403) set forth in the Settlement Agreement dated October 10, 2023 (Doc. 372-2). The court finds that due and adequate notice was given to the Class as required in the Order. And, after considering all papers filed and

proceedings had herein and good cause appearing therefore, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** by the court that:

1. The court enters this Final Judgment and Order of Dismissal under Fed. R. Civ. P. 54(b). Rule 54(b) provides that when an action involves multiple claims or parties, “the court may direct entry of a final judgment [for] one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.” Fed. R. Civ. P. 54(b). The decision to grant a Rule 54(b) motion lies within the “the sound discretion of a district court,” although courts do not grant such requests “routinely.” *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 10 (1980). Before entering a Rule 54(b) judgment, the court must make two determinations: first, the “court must determine that the order it is certifying is a final order[.]” and second, the court must conclude that “there is no just reason to delay review of the final order until it has conclusively ruled on all claims presented by the parties to the case.” *Okl. Tpk. Auth. v. Bruner*, 259 F.3d 1236, 1242 (10th Cir. 2001) (citing *Curtiss-Wright Corp.*, 446 U.S. at 7–8). These two requirements are satisfied here.

First, the court’s Order (Doc. 414) granting the DPPs’s Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys’ Fees, Expenses, and Service Awards¹ (Doc. 403) is a “final order” for purposes of Rule 54(b) because it disposes of DPPs’s claims against Pfizer by approving the Settlement among just these parties. *See Curtiss-Wright Corp.*, 446 U.S. at 7 (explaining that to qualify as a “final judgment,” the disposition “must be a ‘judgment’ in the sense that it is a decision upon a cognizable claim for relief, and it

¹ Plaintiffs since have withdrawn their request for service awards for Plaintiff Class Representatives. *See* Doc. 409. The Order approving the Settlement Agreement thus didn’t extend to plaintiffs’ originally requested, but since withdrawn, request for service awards for Plaintiff Class Representatives.

must be ‘final’ in the sense that it is ‘an ultimate disposition of an individual claim entered in the course of a multiple claims action’” (quoting *Sears, Roebuck & Co. v. Mackey*, 351 U.S. 427, 436 (1956))).

Second, no reason exists for delaying review of the court’s Order approving the Settlement because: (a) the DPPs’s claims against Pfizer are separable from the claims still awaiting adjudication, and (b) the nature of the parties’ Settlement of the DPPs’s claims against Pfizer render it unlikely that an appellate court would have to decide the same issues more than once. *See id.* at 8 (“[I]n deciding whether there are no just reasons to delay the appeal of individual final judgments . . . a district court must take into account judicial administrative interests as well as the equities involved” which might involve considering “such factors as whether the claims under review were separable from the others remaining to be adjudicated and whether the nature of the claims already determined was such that no appellate court would have to decide the same issues more than once even if there were subsequent appeals.”).

The court thus enters this Final Judgment and Order of Dismissal under Fed. R. Civ. P. 54(b). This Final Judgment and Order of Dismissal with Prejudice Under Fed. R. Civ. P. 54(b) for the Pfizer Defendants Only (“Judgment”) incorporates by reference: (a) the Settlement Agreement (Doc. 372-2); (b) the Notice of Proposed Settlement of Class Action (Doc. 372-4) and Summary Notice (Doc. 372-6) (collectively, the “Notice”); and (c) the Declaration of the Settlement Administrator (Doc. 372-8) filed with this court on October 10, 2023. All terms used in this Order shall have the same meanings as set forth in the Settlement Agreement, unless otherwise set forth in this Order.

2. This court has jurisdiction over the subject matter of the Action and over all Settling Parties to the Action, including all Class Members.

3. The Notice given to the Class was the best notice practicable under the circumstances and of the matters set forth therein, including the proposed Settlement set forth in the Settlement Agreement, to all persons entitled to such notice, and said Notice fully satisfied the requirements of the Federal Rules of Civil Procedure (including Rules 23(c)–(e)), the United States Constitution (including the Due Process Clause), the Rules of this court, and other applicable law.

4. Under Rule 23 of the Federal Rules of Civil Procedure, the court now affirms its determinations in the Order, fully and finally approves the Settlement set forth in the Settlement Agreement in all respects, and finds that:

(a) the Settlement Agreement and the Settlement contained therein, are, in all respects, fair, reasonable, and adequate, and in the best interest of the Class;

(b) there was no collusion in connection with the Settlement;

(c) the Settlement was the product of informed, arm's-length negotiations among competent, able counsel with the assistance of a third-party mediator; and

(d) the record is sufficiently developed and complete to have enabled the Plaintiff Class Representatives and Pfizer to have adequately evaluated and considered their positions.

5. The court thus authorizes and directs implementation and performance of all the terms and provisions of the Settlement Agreement, as well as the terms and provisions of this Judgment. The court hereby dismisses the Action against the Pfizer defendants only and all Plaintiffs' Released Claims against the Pfizer defendants' Released Parties with prejudice. The Settling Parties are to bear their own costs, except for and to the extent provided in the

Settlement Agreement, and any separate order(s) entered by the court deciding Class Counsel's Motion for Award of Attorneys' Fees and Expenses.

6. The Releases set forth in Section 12 of the Settlement Agreement, together with the definitions contained in the Settlement Agreement relating to it, are expressly incorporated by reference into this Order. The court thus orders that:

(a) Upon the Effective Date, and as provided in the Settlement Agreement, Plaintiff Class Representatives shall, and each of the Class Members shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all Plaintiffs' Released Claims against the Pfizer defendants' Released Parties, whether or not such Class Member shares in the Settlement Fund. Claims to enforce the terms of the Settlement Agreement are not released.

(b) Plaintiff Class Representatives and all Class Members, and anyone claiming through or on behalf of any of them, are hereby forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, asserting any of the Plaintiffs' Released Claims against any of the Pfizer defendants' Released Parties.

(c) Upon the Effective Date, and as provided in the Settlement Agreement, each of the Pfizer defendants' Released Parties shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims, except for claims relating to the enforcement of the Settlement.

7. Upon the Effective Date, any and all persons or entities shall be permanently barred, enjoined, and restrained, to the fullest extent permitted by law, from bringing, commencing, prosecuting, or asserting any and all claims, actions, or causes of action for

contribution or indemnity or otherwise against the Pfizer defendants or any of the Pfizer defendants' Released Parties seeking as damages or otherwise the recovery of all or any part of any liability, judgment, or settlement which they pay or obligated or agree to pay to the Class or any Class Member, arising out of, based upon, relating to, concerning, or in connection with any facts, statements, or omissions that were or could have been alleged in the Action.

Notwithstanding the foregoing, nothing herein shall bar any action by any of the Settling Parties to enforce or effectuate the terms of the Settlement or this Judgment.

8. No individuals have written to Class Counsel, asking to opt out of the Settlement or asserting objections to the Settlement.

9. Any Plan of Allocation and Distribution submitted by Class Counsel or any order entered deciding any attorneys' fees or expenses in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

10. Neither the Settlement Agreement nor the Settlement contained in it, nor any act performed or document executed under or in furtherance of the Settlement Agreement or the Settlement: (a) is, or may be deemed to be, or may be used as an admission of, or evidence of, the validity of any DPPs's Released Claims, or of any wrongdoing or liability of the Pfizer defendants or Pfizer defendants' Related Parties, or (b) is, or may be deemed to be, or may be used as an admission of, or evidence of, any fault or omission of any of the Pfizer defendants or Pfizer defendants' Related Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Pfizer defendants and/or Pfizer defendants' Related Parties may file the Settlement Agreement and/or this Judgment from this action in any other action that may be brought against them to support a defense or counterclaim based on

principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or any theory of claim preclusion or issue preclusion or similar defense.

11. Without affecting the finality of this Judgment in any way, this court hereby retains continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees and expenses; (d) all parties herein for the purpose of construing, enforcing, and administering the Settlement Agreement; (e) the Class members for all matters relating to the Action; and (f) other matters related or ancillary to the foregoing. The administration of the Settlement, and the decision of all disputed questions of law and fact with respect to the validity of any claim or right of any person or entity to participate in the distribution of the Settlement Fund, shall remain under the authority of this court.

12. The court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

13. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement, or the Effective Date does not occur, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation and the Settlement Fund shall be returned in accordance with the Settlement Agreement.

14. Without further order of the court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

15. The court directs immediate entry of this Judgment by the Clerk of the Court.

IT IS SO ORDERED.

Dated this 9th day of July, 2024, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge