UNITED STATES DISTRICT COURT
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. MYLAN N.V., MYLAN PHARMACEUTICALS INC., and MYLAN SPECIALTY L.P., Defendants.	Civil Action No. 2:20-cv-02065-DDC-TJJ

MEMORANDUM OF LAW IN SUPPORT OF CLASS PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH THE MYLAN DEFENDANTS, APPROVAL OF PLAN OF ALLOCATION, AND AWARD OF ATTORNEYS' FEES AND EXPENSES

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INTRODUCTION

After more than five years of fierce litigation, after a $50 million settlement with Pfizer in September 2023, and after exhaustive negotiations assisted by a retired federal magistrate judge, Plaintiffs KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc.; FWK Holdings, LLC; and César Castillo, LLC, on behalf of themselves and the Direct Purchaser Plaintiffs ("DPPs" or "Plaintiffs"), and Defendants Mylan N.V., Mylan Pharmaceuticals Inc., and Mylan Specialty L.P. (collectively, "Mylan"), reached a class action settlement agreement ("Settlement" or "Agreement").

In accordance with the terms of the Agreement, Mylan immediately deposited $73,500,000 into a Settlement Fund for the benefit of the Settlement Class ("Class") on December 30, 2024, none of which shall revert to Mylan.[1] Combined with the previously approved Pfizer Settlement of $50 million, the Settlement brings the total recovery for the Class to $123.5 million (plus substantial interest that has accrued to the benefit of the Class).

This Settlement was the result of hard-fought negotiations between highly experienced counsel possessing a thorough understanding of the strengths and weaknesses of the claims acquired through substantial discovery, expert analysis, numerous rulings from the Court, assisted by an experienced mediator. Mylan's counsel, Hogan Lovells US LLP and Lathrop GPM, have represented Mylan in a number of EpiPen related litigations,[2] and Co-Lead Counsel specializes in litigating pharmaceutical antitrust class actions.[3] Balancing the immediate and valuable relief

[1] Unless otherwise noted, the capitalized terms used in this Memorandum of Law have the same meanings as defined in the Settlement Agreement. *See* Settlement Agreement, ECF No. 454-2.

[2] *See, e.g.*, *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 17-MD-2785-DDC-TJJ (D. Kan.); *In re EpiPen Direct Purchaser Litig.*, No. 20-cv-827 (ECT/JFD) (D. Minn.).

[3] *See* Memorandum in Support of Motion for Appointment of Interim Co-Lead and Liaison Counsel for the Direct Purchaser Class, ECF No. 274.

made available by the Settlement against the costs, substantial risks, and delay inherent in continuing to litigate the matter through class certification, summary judgment, trial, and any potential appeals, supports a finding that the Settlement is a favorable result for the Class. Indeed, as the Court is aware, this DPP litigation, based on a unique and untested reverse payment theory, has been exceptionally complex and fraught with risk. As discussed in detail below, DPPs respectfully submit that the Settlement is fair and reasonable and that final approval should be granted.

On February 6, 2025, the Court granted preliminary approval of the Settlement, finding that the Settlement appeared fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing, and directed that notice be disseminated to the Class. Order, ECF No. 458, ¶¶ 1, 5-17. As attested in the Declaration of Tracy M. Hanson, the Court-approved Notice was timely distributed in accordance with the Court-approved Notice Plan. *See* Declaration of Tracy M. Hanson ("Hanson Decl.") ¶¶ 3-14, attached as Exhibit 4.

Class members were sent the long-form notice and claim forms on February 6, 2025, notice was also posted to the Settlement website, www.EpiPenDPPSettlement.com, that same day, and publication notice appeared in the Pink Sheet, in *Business Wire*, and in *The Wall Street Journal* on March 13, 2025. *See id.* ¶¶ 9-11. Class members who previously submitted claim forms in the Pfizer Settlement have been informed that they do not have to submit another claim form to receive a payment in the Mylan Settlement. *Id.* ¶ 15. While Class members have until April 11, 2025 to object to or opt out of the Settlement, no opt-out requests or objections to the Settlement have been received. *Id.* ¶ 16.

Consistent with the Settlement Agreement, for the exceptional results obtained for the Class and the effort required to obtain those results, Co-Lead Counsel seek an attorneys' fee award

of one-third of the Settlement Fund ($24,500,000), together with any interest earned on that amount for the same period and at the same rate as that earned on the Settlement Fund until paid, and also seek the reimbursement of previously unreimbursed additional costs and expenses in the amount of $342,614.77. As discussed more fully below, the requested fee compares favorably to attorneys' fee awards in similar cases, and is reasonable and justified given the results secured, the risky and complex nature of the case, and the resources expended by Plaintiffs' counsel in the form of 26,670.9 hours and $342,614.77 in additional costs and expenses, among other reasons. *See In re EpiPen*, 2022 WL 2663873, at *5 ("Our court consistently has recognized that a one-third fee is customary in contingent-fee cases … and well within the range typically awarded in class actions.") (internal citations and quotations omitted).

BACKGROUND AND PROCEDURAL HISTORY

I. Procedural Background

On September 21, 2021, KPH, FWK, and Castillo filed the operative complaint ("FAC", ECF No. 128) alleging that Mylan and Pfizer entered an unlawful reverse payment settlement in which: (a) Teva agreed to delay its launch of an EpiPen generic; (b) in exchange for Mylan's agreement to delay its launch of a Nuvigil generic and settle patent litigation with Teva over Mylan's Nuvigil generic. *See* ECF No. 241-1 (as corrected, ECF No. 308) at 73. Defendants responded by moving to dismiss the FAC, and on August 8, 2022, the Court granted Pfizer's motion to dismiss, concluding that Sherman Antitrust Act claims against Pfizer, an alleged co-conspirator, were barred by *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977). ECF No. 241-1 (as corrected, ECF No. 308) at 86. The Court also granted Mylan's motion to dismiss in part, dismissing Plaintiffs' claims asserted on behalf of entities who purchased generic EpiPens directly from Teva, as well as Plaintiffs' claims premised on a reverse payment involving Sandoz. *Id*.

On October 31, 2022, the Court granted Plaintiffs' motion for certification for interlocutory appeal on the issue of whether Plaintiffs' claims against Pfizer were indeed barred by *Illinois Brick*. ECF No. 305. On November 28, 2022, Mylan, despite failing to obtain certification for interlocutory appeal from the Court, cross-petitioned the Tenth Circuit for permission to appeal the question of "whether a patent settlement that transfers no value from the patent holder to the infringer other than entry before patent expiration can be a large and unjustified reverse payment under *F.T.C. v. Actavis, Inc.*, 570 U.S. 136 (2013)." *Mylan N.V. v. KPH Healthcare Servs., Inc.*, No. 22-604, ECF No. 1-2 (10th Cir. Nov. 28, 2022).

On January 23, 2023, the Tenth Circuit granted Plaintiffs' Petition to appeal the *Illinois Brick* issue. *KPH Healthcare Services, Inc. v. Mylan N.V.*, No. 23-3014, ECF No. 010110767942 (10th Cir. Jan. 23, 2023). The same day, the Tenth Circuit denied Mylan's cross petition. *Mylan N.V. v. KPH Healthcare Servs., Inc.*, et al., No. 22-604, ECF No. 010110801516 (10th Cir. Jan. 23, 2023).

On September 28, 2023—after Plaintiffs had filed their opening brief on appeal—Plaintiffs and Pfizer reached a $50,000,000, non-reversionary cash settlement agreement. The Court granted preliminary approval of the Pfizer Settlement on March 28, 2024, finding it to be "fair, reasonable, and adequate." ECF No. 394 at 4. On July 9, 2024, the Court granted Plaintiffs' motion for final approval of the Pfizer Settlement, plan of allocation, and award of attorneys' fees and expenses. ECF No. 414.

On October 31, 2023, after Plaintiffs settled with Pfizer, the stay of the action that had been in place during the pendency of Plaintiffs' appeal terminated, *see* ECF No. 376, and on December 13, 2023, the Court issued its Scheduling Order No. 3 that, among other things, allowed for depositions to begin in February 2024, ECF No. 382. Co-Lead Counsel immediately resumed

discovery efforts. Nussbaum Decl. ¶ 16. On February 20, 2024, Plaintiffs requested deposition dates for several current and former Mylan employees. *Id*. ¶¶ 3,19. In addition, Plaintiffs served second and third document requests on Mylan and a subpoena on an outside consultant retained by Mylan in connection with its 2015 citizen petition and prepared and served a list of 30(b)(6) topics, along with a detailed list of questions concerning Mylan's transactional data. *Id.* ¶¶ 20, 31, 37. A 30(b)(6) deposition was scheduled for late fall 2024. *See id.* ¶ 39. Plaintiffs and Mylan met and conferred multiple times regarding deposition dates, document requests, and the 30(b)(6) topics. *Id.* ¶¶ 19-31.

On March 4, 2024, Mylan moved for partial judgment on the pleadings, arguing that Plaintiffs had failed to plead the basic elements of a reverse payment claim under *Actavis*. *Id.* ¶ 14. While Mylan's motion for partial judgment was pending with the Court, the parties agreed to mediate and on November 15, 2024, exchanged comprehensive and detailed mediation statements with supporting documentation. *Id.* ¶¶ 14, 39-40. On November 25, 2024, the parties participated in an all-day, in-person mediation under the guidance of a retired federal magistrate judge. *Id.* ¶ 41. Although the matter was not resolved at the mediation session, the issues were narrowed. *Id.* ¶ 42. The parties continued to negotiate privately for several weeks as they continued to press their arguments and consult with their clients. *Id.* ¶ 43.

On December 9, 2024, while the parties were still negotiating, the Court denied Mylan's motion for partial judgment, holding that Plaintiffs had alleged enough facts, "clothed with the ample factual detail provided," to state a plausible antitrust claim under *Actavis*. ECF No. 452 at 22.

After numerous and lengthy subsequent negotiations, Co-Lead Counsel and counsel for Mylan reached an agreement, drafted and executed a binding term sheet on December 30, 2024,

and drafted and executed the January 15, 2025 Settlement Agreement that Co-Lead Counsel now ask the Court to finally approve. Nussbaum Decl. ¶ 44.

II. Plaintiffs Conducted Significant Discovery

During the nearly five-year course of this litigation, Plaintiffs engaged in substantial discovery involving Mylan, Pfizer, and numerous non-parties, including other generic epinephrine autoinjector manufacturers, national wholesalers, the United States Food and Drug Administration, and an outside consultant retained by Mylan in connection with its 2015 citizen petition. Nussbaum Decl. ¶¶ 36, 60. Plaintiffs have engaged in protracted negotiations regarding search terms and custodians, brought and opposed numerous motions to compel, and consulted with experts on damages, market power, and causation issues in preparation of Plaintiffs' class certification motion that was scheduled to be filed January 10, 2025. *Id.* ¶¶ 3, 6, 15, 19, 37. Discovery resulted in the production of almost 1.5 million documents, including dozens of deposition transcripts and their exhibits, dozens of interrogatories, hundreds of thousands of purchase and sales data entries, and multiple privilege logs that Plaintiffs then analyzed and arranged according to their theories in the case. *Id.* ¶ 60.

Mylan likewise engaged in substantial discovery involving Plaintiffs and numerous third parties. Mylan served its First Set of Document Requests to all Plaintiffs in April 2022 and served a Second Set of Document Requests to Plaintiff KPH in July 2022. ECF No. 180. Plaintiffs produced tens of thousands of pages of documents in response, and production of documents in response to both sets of requests remained ongoing until the parties agreed to settle the case. *See* Roberts Decl. ¶ 4; Nussbaum Decl. ¶ 15-37. Mylan also served interrogatories on all Plaintiffs in April 2022, the responses to which Plaintiffs amended and supplemented multiple times at Mylan's request, including as recently as April 2024. ECF No. 180. As for third-party discovery, Mylan served document subpoenas on numerous third parties, each of which produced documents in

response. *See* ECF Nos. 185, 186, 202, 248, 249, 295, 302, 303.

After settling with Pfizer in October 2023, Plaintiffs redoubled their discovery efforts and expert analysis as to Mylan. Plaintiffs immediately began preparing for and negotiating deposition dates for Mylan employees and served detailed production deficiency letters. Nussbaum Decl. ¶ 19. Plaintiffs served their second request for documents on Mylan on February 13, 2024, and engaged in protracted negotiations over the relevance and scope of those requests. *Id.* ¶¶ 20-26. During this time, the parties also negotiated an expert stipulation and Plaintiffs worked extensively with experts analyzing Mylan's transactional data in preparation for a Mylan 30(b)(6) deposition, class certification motions, and class and merits expert reports. *Id.* ¶ 37. Plaintiffs served a third request for documents on July 22, 2024. *Id.* ¶ 31. The following day, the Court scheduled a discovery conference, and in advance of the conference, the parties submitted position statements addressing the outstanding discovery disputes and a request by Mylan to coordinate any Mylan witness depositions with discovery in the case, *Edgar et al. v. Teva Pharmaceuticals Industries, Ltd. et al.*, No. 2:22-cv-02501-DDC-TJJ (D. Kan.).[4] *Id.* ¶ 32.

On August 1, 2024, the Court held a status conference during which it denied Mylan's request to coordinate discovery with the *Edgar* case and extended Plaintiffs' deadline to file any motions to compel to August 5, 2024. *Id.* On August 5, 2024, Plaintiffs moved to compel the production of documents responsive to certain of Plaintiffs' second requests for documents, as well as documents exchanged between Mylan and Pfizer that Mylan had withheld from a previous

[4] That case was filed in December 2022 by a different group of purchasers against Teva Pharmaceuticals, related Teva entities, and individuals in the District of Kansas concerning the role Teva played in EpiPen-Nuvigil conspiracy; plaintiffs sought damages related to their purchases of Nuvigil. *See* Second Amended Class Action Complaint, *Edgar et al. v. Teva Pharmaceuticals Industries, Ltd. et al.*, 2:22-cv-02501-DDC-TJJ (D. Kan. Oct. 29, 2024). Unlike here, Mylan is a non-party in the *Edgar* litigation.

production on privilege grounds. ECF No. 422. On August 20, 2024, the Court denied Plaintiffs' motion to compel and denied the motion without prejudice to refile with respect to the privilege log. ECF No. 433.

On September 6, 2024, Plaintiffs filed a renewed motion to compel the purportedly privileged documents, ECF No. 440, and on September 10, 2024, Plaintiffs subpoenaed documents from an outside consultant retained by Mylan in connection with its 2015 citizen petition, Nussbaum Decl. ¶¶ 35-36. Plaintiffs also scheduled and prepared for depositions of multiple Mylan witnesses, including a 30(b)(6) deposition to address Mylan's transactional data and other class certification issues, and met and conferred numerous times regarding those depositions and topics. *Id.* ¶¶ 19, 23, 25, 27-28.

As a result of the extensive discovery efforts during the litigation, Co-Lead Counsel and counsel for Mylan who negotiated the Settlement were intimately familiar with the strengths and weaknesses of their respective claims and defenses, which weighs in favor of the settlement's fairness.[5]

III. Material Terms of the Settlement Agreement with Mylan

The Settlement Class is defined in the Settlement as follows:

> All persons and entities in the United States, its territories, possessions, and the Commonwealth of Puerto Rico, who purchased EpiPen or generic EpiPen directly from Mylan or Teva, for resale, at any time during the period from March 13, 2014 until the date on which the Court enters the Preliminary Approval Order.

Settlement Agreement ("SA") ¶ 1. Excluded from the Class are the Defendants and their officers,

[5] As stated in the Settlement Agreement, Mylan expressly disclaims and denies any wrongdoing or liability related to the allegations in this Action and denies any improper conduct or violation of federal antitrust law or any other laws or regulations; it is entering into the Settlement Agreement to avoid the burden and expense of further litigation and to finally resolve all claims asserted in this case.

directors, management, employees, predecessors, subsidiaries, and affiliates, and all federal governmental entities. *Id.* This is virtually the same Class certified by the Court in the Pfizer Settlement. *See* ECF No. 394 at 4.

Pursuant to the Settlement, Mylan paid $73,500,000 into an Escrow Account (the "Settlement Fund") for the benefit of the Class on December 30, 2024, immediately after the parties entered into a binding term sheet. SA ¶ 9(a). All Administrative Expenses[6] and attorneys' fees, costs, and expenses as approved by the Court shall be paid from the Settlement Fund. SA ¶ 9(e). After these amounts are deducted, all amounts remaining in the Settlement Fund (including substantial interest that has accrued) shall be disbursed, pursuant to the Plan of Allocation, to Class members who submit timely and valid claim forms to the Settlement Administrator, or who had already timely submitted valid claim forms in the Pfizer Settlement. ECF No. 454-9. Any Class member that has already submitted a valid claim form in connection with the Pfizer Settlement will automatically be included as a valid claimant based on the claim form already submitted and given the opportunity to submit supplemental information for the longer class period than that covered by the Pfizer Settlement. *See* Notice, ECF No. 454-4.

IV. Preliminary Approval and Class Notice

Plaintiffs moved for preliminary approval of the Settlement on January 15, 2025, ECF No. 453, which the Court granted on February 6, 2025, ECF No. 458. The Court appointed A.B. Data, Ltd.—the same Settlement Administrator approved by the Court to manage the claims process for the Pfizer Settlement—as the Settlement Administrator and approved the form and proposed

[6] The Settlement defines "Administrative Expenses" to mean "disbursements for expenses associated with providing notice of the Settlement to the Class, expenses associated with administering the Settlement, and any payments and expenses incurred in connection with taxation matters relating to the Settlement and this Settlement Agreement." SA ¶ 9(b).

methods of disseminating notice to Class members, noting that they "constitute the best notice to the Class members practicable under the circumstances; are reasonably calculated, under the circumstances, to describe the terms of the Settlement and to apprise Class members of their right to object; and satisfy Fed. R. Civ. P. 23(e) and attendant principles of due process, and otherwise are fair and reasonable." *Id*. ¶ 8.

A.B. Data has successfully implemented the notice program and has: (i) sent copies of the long-form notice to identified Class members, along with a claim form, (ii) executed the approved media plan to publish notice of the Settlement on the Pink Sheet website and in *Business Wire* and the *Wall Street Journal*, and (iii) provided and managed the case-specific website, www.EpiPenDPPSettlement.com. *See* Hanson Decl. ¶¶ 3-14. The Settlement website provides information to Class members about the litigation and the Settlement, contains important case filings and Settlement documents, including the Settlement Agreement, and allows Class members to file a claim electronically. *Id.* ¶ 14. To date, at least 1,036 users have visited the Settlement website. *Id*. ¶ 14. A.B. Data timely sent a reminder notice to Class members on March 19. *Id.* ¶ 8. In addition, 46 Class members submitted valid claim forms as part of the Pfizer Settlement and will automatically be included as members of this Settlement with Mylan. *Id.* ¶ 15.

V. Response of the Class to Date

The deadline for Class members to object to or exclude themselves from the Settlement is April 11, 2025, and the deadline for Class members to file a claim is May 29, 2025. As of March 21, 2025, 48 direct purchaser claims have been filed or deemed filed as carried over from the prior Pfizer Settlement. *See* Hanson Decl. ¶ 15.

VI. Plaintiffs' Counsel Expended Significant Time and Resources Litigating the Case

Plaintiffs' counsel devoted substantial time, energy, and resources litigating this complex litigation on an entirely contingent basis before reaching a settlement agreement with Mylan. This

is supported by the accompanying Declaration of Linda P. Nussbaum, Ex. 1, and the Declarations of Michael L. Roberts, Ex. 2, and Bradley T. Wilders, Ex. 3. Plaintiffs' counsel performed substantial work from the very beginning. They researched and drafted the complaints, defended against Mylan's motions to dismiss Plaintiffs' reverse payment claims, researched and drafted an appeal to the Tenth Circuit of the Court's August 8, 2022 Order to the extent it dismissed Pfizer, successfully opposed Mylan's petition to cross-appeal, and defeated Mylan's motion for partial judgment on the pleadings. Nussbaum Decl. ¶¶ 3, 72. Meanwhile, Co-Lead Counsel oversaw and conducted substantial discovery, including serving and responding to multiple sets of written discovery, serving subpoenas on over two dozen non-parties, including generic manufacturers, the FDA, national wholesalers, and Mylan's outside consultant, bringing and opposing multiple motions to compel, requesting and preparing for depositions, and working with experts regarding class certification, patent issues, causation, and damages issues. *Id.* ¶¶ 15-37, 72.

This work did not conclude when Settlement discussions began. Co-Lead Counsel analyzed the posture of the case, relevant Tenth Circuit law, and various substantial issues having to do with damages, causation, and liability, exchanged detailed mediation statements and supporting materials with Mylan's counsel, participated in an in-person mediation session that included presentations by both parties, successfully negotiated the Settlement over the next several weeks, drafted the Settlement Agreement in coordination with Mylan's counsel, sought and obtained preliminary approval of the Settlement and certification of a Settlement Class, and prepared the pending motion for final approval of the Settlement. *Id.* ¶¶ 38-45, 49-52. Co-Lead Counsel have also communicated to Class members details of the Settlement via letter, website, and publication notice. *See* Hanson Decl. ¶¶ 3-14. Co-Lead Counsel will ensure proper distribution of the settlement proceeds pursuant to the Allocation Plan approved by the Court and to address

any issues that arise after final approval of the Settlement. Nussbaum Decl. ¶ 63.

Through March 15, 2025 Co-Lead Counsel and firms operating at their direction have expended a collective total of 26,670.9 hours of time in the prosecution of this litigation. ¶¶ 7, 65-68. All firms that did work at the request of Co-Lead Counsel agreed in advance to submit detailed time and expense reporting throughout the litigation. *Id*. Plaintiffs' Counsel also incurred additional unreimbursed costs and expenses since the settlement with Pfizer of $342,614.77. *Id*. ¶¶ 7, 69-71. In addition to counsel's costs and expenses, the Settlement Administrator, A.B. Data, has submitted an invoice for the successful implementation of the Class Notice Plan in the amount of $53,092.77.[7] Ex. E to Hanson Decl.

ARGUMENT

I. The Settlement Is Fair, Adequate, and Reasonable

In this Circuit, settlement is strongly favored as a method for resolving disputes. *See, e.g.*, *Sears v. Atchison, Topeka & Santa Fe Ry., Co*., 749 F.2d 1451, 1455 (10th Cir. 1984); s*ee also Trujillo v. State of Colo.*, 649 F.2d 823, 826 (10th Cir. 1981) (citing "important public policy concerns that support voluntary settlements"). This is particularly true in large, complex class actions such as this one. *See Big O Tires, Inc. v. Bigfoot 4x4, Inc*., 167 F. Supp. 2d 1216, 1229 (D. Colo. 2001) ("in complex cases the litigants should be encouraged to determine their respective rights between themselves") (citing Manual for Complex Litigation (2d ed.) § 23.11 (1985)).

"Rule 23(e) permits the parties to settle the claims of a certified class action, but 'only with the court's approval.'" ECF No. 414 at 2. "The court may approve a settlement only after conducting 'a hearing' and finding that the settlement is 'fair, reasonable, and adequate[.]'" *Id*.

[7] Co-Lead Counsel will provide the Court with an update as to any additional invoices from A.B. Data ahead of the Final Approval Hearing.

(quoting Fed. R. Civ. P. 23(e)(2)). Rule 23(e)(2) directs that courts must consider the following factors when determining the fairness of a class action settlement at final approval:

> (A) the class representatives and class counsel have adequately represented the class;
> (B) the proposal was negotiated at arm's length;
> (C) the relief provided for the class is adequate, taking into account:
> (i) the costs, risks, and delay of trial and appeal;
> (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> (iv) any agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).[8] Also, the Tenth Circuit has noted four factors that a district court must consider when deciding whether a Rule 23 settlement is fair, reasonable, and adequate:

> (1) whether the proposed settlement was fairly and honestly negotiated;
> (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt;
> (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and
> (4) the judgment of the parties that the settlement is fair and reasonable.

ECF No. 414 at 2-3 (citing *Rutter & Wilbanks Corp. v. Shell Oil Co*., 314 F.3d 1180, 1188 (10th Cir. 2002)). The Court preliminarily determined that the $73.5 million cash Settlement with Mylan

[8] Although the Rule 23(e) factors were not intended to replace the factors previously developed by the Tenth Circuit in evaluating the fairness of a class settlement, they were intended to codify prior practice. Fed. R. Civ. P. 23(e)(2) Advisory Committee Note on 2018 Amendments ("The goal of [the Rule 23(e)(2)] amendment is not to displace any factor, but rather to focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal."); 4 Newberg on Class Actions § 13:14 (5th ed.) (similar).

is fair, reasonable, and adequate. ECF No. 458 ¶ 6. As discussed in detail below, the Court's initial disposition was correct, as the Settlement more than satisfies each of the Rule 23(e)(2) and Tenth Circuit factors. Accordingly, Plaintiffs request the Court now grant final approval of the Settlement.

A. The Settlement Satisfies the Rule 23(e)(2) Factors

i. DPPs and Co-Lead Counsel Have Represented the Class Adequately

A class is considered adequately represented where the representative plaintiffs' interests do not conflict with the interests of the class members they seek to represent, and their counsel actively prosecute the case. *In re Motor Fuel Temperature Sales Pracs. Litig.*, 271 F.R.D. 221, 231 (D. Kan. 2010). The Court has already determined that "Plaintiff Class Representatives share the same interests and the same types of alleged injuries as other Class members. They have participated in extensive discovery, and they have adequately represented the interests of the Class." ECF No. 414 at 3.

The adequacy of counsel requirement focuses on "the actual performance of counsel acting on behalf of the class." Fed. R. Civ. P. 23(e)(2) Advisory Committee Note on 2018 Amendments; *see also Lawrence v. First Fin. Inv. Fund V, LLC*, No. 219CV00174RJSCMR, 2021 WL 3809083, at *5 (D. Utah Aug. 26, 2021) (quoting Advisory Committee Note). The Court previously held that Co-Lead Counsel had adequately represented the Class as required by Rule 23(e)(2)(A). ECF No. 414 at 3. As the Court summarized, Co-Lead Counsel's work involved investigating the claims, drafting the complaints, defending motions to dismiss, reviewing written discovery, consulting with experts, and mediating the case to resolution. *Id*. at 10. As discussed, this work did not stop upon Plaintiffs' settlement with Pfizer. Rather, Plaintiffs continued to zealously litigate the case until an agreement with Mylan was reached. *See* Nussbaum Decl. ¶¶ 16-37.

Moreover, Co-Lead Counsel have considerable experience prosecuting antitrust and

pharmaceutical class actions. Courts around the country and in this Circuit recognize the expertise and ability of Co-Lead Counsel to effectively litigate complex class actions.[9] Co-Lead Counsel achieved an all-cash Settlement of $73.5 million with Mylan, together with interest accruing, which will provide immediate relief to the Class. Nussbaum Decl. ¶ 4; *see also Rodriguez*, 2020 WL 3288059, at *3 ("a finding of adequate representation must "[b]alanc[e] the entirety of the case with the ultimate resolution.").

ii. The Settlement is the Product of Arm's Length Negotiations

The second factor under Rule 23(e)(2)(B) overlaps with the first factor considered by courts in the Tenth Circuit, assessing whether "the settlement was fairly and honestly negotiated." *In re Syngenta Ag Mir 162 Corn Litig.*, No. 14-MD-2591-JWL, 2018 WL 1726345, at *2 (D. Kan. Apr. 10, 2018). Where a settlement results from arm's-length negotiations between experienced counsel, "the Court may presume the settlement to be fair, adequate, and reasonable." *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 693 (D. Colo. 2006) (citing *Wal–Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 116 (2d Cir. 2005)); *see also McFadden v. Sprint Commc'ns, LLC*, No. 22-2464-DDC-GEB, 2024 WL 3890182, at *3 (D. Kan. Aug. 21, 2024) (factor satisfied where settlement "emerge[s] from informed, non-collusive, adversarial negotiations"); *Marcus v. Kansas Dep't of Revenue*, 209 F. Supp. 2d 1179, 1182 (D. Kan. 2002) (factor satisfied where the settlement was reached "by experienced counsel for the class").

Here, the Settlement is the product of arm's-length negotiations between the settling parties, advised by their counsel. The mediation included the exchange of extensive mediation statements and presentations by both sides. *See In re Molycorp., Inc. Sec. Litig.*, No. 12-cv 00292-

[9] *See* Memorandum in Support of Motion for Appointment of Interim Co-Lead and Liaison Counsel for the Direct Purchaser Class, ECF No. 274; *see also* Ex. 1 to the Nussbaum Decl.; Ex. 1 to the Roberts Decl.

RM-KMT, 2017 WL 4333997 at *4 (D. Colo. Feb. 15, 2017), *report and recommendation adopted*, 2017 WL 4333998 (D. Colo. Mar. 6, 2017) ("Utilization of an experienced mediator during the settlement negotiations supports a finding that the settlement is reasonable, was reached without collusion and should therefore be approved."). The parties aired their different views of the case at the in-person mediation and then continued to negotiate the unresolved issues before ultimately entering into the Settlement that Co-Lead Counsel now ask the Court to approve.

Furthermore, significant new discovery—not available in previous EpiPen litigations—was undertaken prior to settlement so the parties possessed more than sufficient evidence and knowledge to allow them to make informed decisions about the strengths and weaknesses of their respective cases. During the mediation, the relevant legal, factual, and class issues were fully presented, not only for the benefit of the mediator, but also for the settling parties to effectively evaluate liability and potential damages. As a result, the settling parties were well-informed of the strengths and vulnerabilities of the opposing party's arguments. *See In re Motor Fuel*, 258 F.R.D. at 675-76.

iii. The Relief Provided for the Class is Fair, Reasonable and Adequate

The Settlement provided for an immediate $73.5 million cash payment to the Class which was deposited into an interest-bearing Escrow Account on December 30, 2024, and has already accrued substantial interest. SA ¶ 9(a). Given the risks faced by the Class, as discussed more fully below, the Settlement represents a substantial recovery.

(1) The Settlement Is Adequate in Light of the Costs, Risks, and Delay of Future Litigation

That a Settlement is fair, reasonable, and adequate is based on the fact that the class "is better off receiving compensation now as opposed to being compensated, if at all, several years down the line, after the matter is certified, tried and all appeals are exhausted." *McNeely v. Nat'l*

Mobile Health Care, LLC, No. CIV–07–933–M, 2008 WL 4816510, at *13 (W.D. Okla. Oct. 27, 2008). Balancing the risks of continued litigation, the benefits of the Settlement, and the immediacy and certainty of the significant recovery provided by the Settlement, supports final approval. *See* ECF No. 414 at 4 ("Continued litigation of the matter involves incurring additional costs, presents risk that Class Members might secure an unfavorable outcome . . . ."); *Krant v. UnitedLex Corp.*, No. 23-2443-DDC-TJJ, 2024 WL 5187565, at *3 (D. Kan. Dec. 20, 2024) (recognizing that "immediate recovery is more valuable than a 'mere possibility' that Class Members might achieve a more favorable outcome 'after protracted and expensive litigation' that may well last 'many years in the future'") (quoting *In re Syngenta AG MIR 162 Corn. Litig.*, No. 14-md-2591, 2018 WL 1726345 at *2 (D. Kan. Apr. 10, 2018)).

As a result of the substantial discovery and motion practice completed ahead of negotiating the Settlement, as well as consultations with several experts, Co-Lead Counsel possessed the information necessary to evaluate the Settlement, considering the costs, risks, and delays associated with litigating the case through trial. While Plaintiffs strongly believe in the merits of their claims against Mylan in this litigation, Plaintiffs also recognize the substantial risks involved in continued litigation, including with regards to establishing causation and class certification, and the difficulties in proving liability on a class-wide basis through summary judgment and trial in this admittedly complex case. Co-Lead Counsel are mindful of the inherent problems of proof and the numerous factual and legal issues on which the parties intensely disagree.

First, Mylan has consistently argued that there is no evidence of an agreement that ties the EpiPen and Nuvigil settlements to each other, much less in a way that reduced competition. According to Mylan, whether viewed individually or collectively, the two settlements are each presumptively lawful "commonplace" settlements specifically blessed by *Actavis*. Mylan also

maintains that the EpiPen settlement was good for consumers because it granted Teva a license to all of Pfizer's EpiPen patents which would have otherwise not allowed Teva to enter until 2025.

Second, but for the Settlement, Plaintiffs would need to surmount numerous hurdles to establish that their injuries were caused "by reason of Mylan's alleged anticompetitive conduct" to prevail on their antitrust claims. 15 U.S.C. § 15(a). For example, Mylan maintains that Teva could not have brought its product to market any earlier because the FDA did not approve Teva's ANDA until August 2018, more than three years after the licensed entry date. Mylan argues that numerous, intractable problems in Teva's design and development of its generic EpiPen further impeded Teva's ability to obtain regulatory approval for several years. According to Mylan, it was both the FDA approval process and independent manufacturing challenges, including needle drop issues, drug impurities, and the inability to satisfy the FDA's human factors requirements, that delayed the launch of the Teva generic EpiPen until August 2018. These factual issues would ultimately have to be resolved by a jury.

Third, Mylan has indicated that it would strongly oppose class certification in the absence of a settlement, arguing that Plaintiffs will be unable to show that joinder in this case is impracticable, and that Plaintiffs will be unable to overcome supposed conflicts of interest within the class because, according to Mylan, the interests of certain absent Class members that allegedly benefited from increased EpiPen prices are potentially antagonistic to, or in conflict with, the interests and objectives of other Class members.

Fourth, Mylan has argued that Plaintiffs' claims are facially time-barred and will be subject to dismissal. Indeed, in its August 8, 2022 Memorandum and Order on Defendants' motions to dismiss, the Court acknowledged that whether to dismiss Plaintiffs' complaint as untimely was, "on the current record, . . . a close call." ECF No. 241-1 at 20. As this case proceeds to trial, the

burden will shift to Plaintiffs to show that the four-year statute of limitations on their antitrust claims was tolled, something Mylan argues Plaintiffs will be unable to do.

These complicated legal and factual questions concerning the outcome of the litigation weigh heavily in favor of settlement, "because settlement creates a certainty of some recovery, and eliminates doubt, meaning the possibility of no recovery after long and expensive litigation." *In re Quest Commuc'ns Int'l Sec. Litig.*, 625 F. Supp. 2d 1133, 1138 (D. Colo. 2009). Had the parties not settled, the Court or a jury would ultimately have to decide these issues, placing the ultimate outcome in doubt. Although DPPs believe their claims would be borne out by the evidence presented at trial, they recognize that there are significant obstacles to proving liability at summary judgment, much less at trial. For these reasons, "[t]he presumption in favor of voluntary settlement agreements is especially strong in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation." *Rothe v. Battelle Mem'l Inst*., No. 1:18-CV-03179-RBJ, 2021 WL 2588873, at *7 (D. Colo. June 24, 2021) (quoting *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 595 (3d Cir. 2010)).

(2) Immediate Recovery Is More Valuable than the Mere Possibility of a More Favorable Outcome After Continued Litigation

In light of the risks of continued litigation, as discussed above, the immediate, substantial relief offered by the Settlement outweighs the "mere possibility of a more favorable outcome after protracted and expensive litigation over many years in the future." *Syngenta*, 2018 WL 1726345, at *2; *In re Thornburg Mortg., Inc. Sec. Litig.*, 912 F. Supp. 2d 1178, 1244 (D.N.M. 2012) ("'[t]o most people, a dollar today is worth a great deal more than a dollar ten years from now'") (quoting *Reynolds v. Beneficial Nat'l Bank*, 288 F.3d 277, 284 (7th Cir. 2002)); *Grant v. Capital Mgmt. Servs., L.P.*, No. 10-CV-WQH BGS, 2014 WL 888665 at *3 (S.D. Cal. Mar. 5, 2014) ("The court shall consider the vagaries of the litigation and compare the significance of immediate recovery

by way of compromise to the mere possibility of relief in the future, after protracted and expensive litigation. In this respect, it has been held proper to take the bird in hand instead of a prospective flock in the bush.") (citations and quotations omitted).

Prosecuting this litigation to conclusion would undoubtedly be lengthy, complex, and impose significant costs on all parties. *See, e.g., In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 174 (S.D.N.Y. 2000) (recognizing that "[m]ost class actions are inherently complex and settlement avoids the costs, delays, and multitude of other problems associated with them"); *Rodriguez*, 2020 WL 3288059, at *3 (observing that "the costs and time of moving forward in litigation would be substantial"); *Lucas*, 234 F.R.D. at 694 ("If this case were to be litigated, in all probability it would be many years before it was resolved."). Continued proceedings necessary to litigate this matter to final judgment would likely include substantial motion practice concerning discovery and other non-dispositive issues, class certification proceedings, dispositive motions and, of course, a trial and appeal. Given the complex nature of the antitrust claims at issue, including significant patent, manufacturing, and regulatory issues, a battle of the experts is almost a certainty and, thus, continued proceedings would likely include substantial expert discovery and significant related motion practice. Considering the amount of money potentially at stake, any decision on the merits would likely be appealed, causing further delay, as it would require briefing and likely oral argument.

"By contrast, the proposed settlement agreement provides the class with substantial, guaranteed relief" now. *Lucas*, 234 F.R.D. at 694; *see also In re Crocs, Inc. Sec. Litig.*, 306 F.R.D. 672, 691 (D. Colo. 2014) ("The immediate recovery in this case outweighs the time and costs inherent in complex securities litigation, especially when the prospect is some recovery versus no recovery."); *In re King Res. Co. Sec. Litig.*, 420 F. Supp. 610, 625 (D. Colo. Aug. 10, 1976) ("In

this respect, '[i]t has been held proper to take the bird in the hand instead of a prospective flock in the bush.'"); *accord Tennille v. W. Union Co.*, No. 09-cv-00938- JLK-KMT, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014), *appeal dismissed*, 809 F.3d 555 (10th Cir. 2015).

Considering the complex legal and factual issues associated with continued litigation, including issues with causation, there is an undeniable and substantial risk that—even after years of continued litigation—the Class could receive an amount significantly less than the $73.5 million in the Settlement, or even nothing at all for their claims against Mylan.

(3) The Settlement Provides an Effective Method to Distribute Relief to the Class

Under Rule 23(e)(2)(C)(ii), the Court "scrutinize[s] the method of claims processing to ensure that it facilitates filing legitimate claims" and "should be alert to whether the claims process is unduly demanding." Fed. R. Civ. P. 23 Advisory Committee Notes on 2018 Amendments. This Settlement provides a straightforward process for Class members to submit claims—if they did not already do so as part of the Pfizer Settlement—and receive their pro rata share of the settlement distribution. As demonstrated below, the proposed notice program and claims administration process are effective and were previously approved by the Court in connection with the Pfizer Settlement. ECF No. 414 at 14 ("[T]he court finds that the Plan of Allocation … and the Notice, is in all respects, fair, reasonable, and adequate and hereby approves the Plan of Allocation.") (citing *In re Sprint Corp. ERISA Litig.*, 443 F. Supp. 2d 1249, 1262 (D. Kan. 2006)).

The notice program and claim form are designed to encourage the timely filing of valid claims by Class members. All known Class members were sent direct notice of the Settlement on February 27, 2025. Hanson Decl. ¶ 5. To claim a portion of the Settlement Fund, Class members need only complete and submit a claim form and provide appropriate documentation (online or by mail). *Id.* ¶ 15. Any Class member that has already submitted a valid claim form in connection

with the Pfizer Settlement will automatically be included as a valid claimant here based on the information they have already submitted in connection with the Pfizer Settlement and given the opportunity to submit supplemental information to account for the longer Class Period here. *Id*. Claimants who have not been identified are also able to participate in the Settlement if they timely submit a valid claim form and demonstrate that they purchased during the relevant period. *Id*.

Once all the claim forms are submitted, they will be processed by A.B. Data, Ltd., the same experienced class action administrator previously approved by the Court in connection with the Pfizer Settlement. Moreover, any claimant that disagrees with the decision of A.B. Data has a further opportunity to seek review of that decision by the Court. After payment of Administration Expenses and attorneys' fees, costs, and expenses approved by the Court, the Settlement Administrator will then distribute all amounts remaining in the Settlement Fund (plus interest) to authorized Claimants on a *pro rata* basis under the Plan of Allocation, as discussed further in Section II. ECF No. 454-9 ¶ 19.

(4) The Proposed Attorneys' Fees Award is Fair and Adequate

Rule 23(e)(2)(C)(iii) addresses "the terms of any proposed award of attorney's fees, including timing of payment." The Notice provides that Co-Lead Counsel will apply to the Court for an award of attorney's fees in an amount up to one-third of the Settlement Fund, plus any interest earned on that amount at the same rate earned by the Settlement Fund until paid, as well as payment of Plaintiffs' counsel's expenses incurred in connection with the litigation. Notice ¶ 7, ECF No. 454-4. Co-Lead Counsels' fee request, as discussed more fully in Sec. III, is the same percentage of the Settlement that the Court approved in the prior Pfizer Settlement. ECF No. 414 at 12.

The Settlement Agreement further provides that Plaintiffs' fees and expenses, as awarded by the Court, shall be paid to Plaintiffs' counsel within seven calendar days of the Court entering

the judgment and an order awarding such fees and expenses. SA ¶ 13; *see In re Syngenta AG MIR 162 Corn Litig.*, No. 14-MD-2591-JWL, 2021 WL 102819, at *4 (D. Kan. Jan. 12, 2021) ("courts routinely allow the immediate payment of attorney fees") (quoting *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 479 (S.D.N.Y. 1998) (collecting cases)).

(5) The Settling Parties Have No Additional Agreement

Rule 23(e)(2)(C)(iv) requires the disclosure of any other agreement. Here, the settling parties have no additional agreements.

iv. Class Members Are Treated Equitably

The Plan of Allocation provides the same standardized method for calculating each Claimant's *pro rata* share of the Net Settlement Fund based on the Class members' purchases during the Class Period as that previously approved by the Court. ECF No. 414 at 14; Plan of Allocation ¶¶ 12-16, ECF No. 454-9. All Class members are treated alike under the Settlement.

v. The Settlement Satisfies the Remaining Factor Considered by Courts in the Tenth Circuit

The final factor the Tenth Circuit considers in evaluating a settlement for final approval is "the judgment of the parties that the settlement is fair and reasonable." *Krant*, 2024 WL 5187565 at *4 (quoting *Rutter*, 314 F.3d at 1188); *see also Rodriguez*, 2020 WL 3288059 at *2. In analyzing this factor, courts recognize that the recommendation of a settlement by experienced counsel is entitled to great weight. *Hapka v. CareCentrix, Inc.*, 2018 WL 1871449, at *5 (D. Kan. Feb. 15, 2018); *Marcus*, 209 F. Supp. 2d at 1183 ("Counsels' judgment as to the fairness of the agreement is entitled to considerable weight").

Co-Lead Counsel, each with substantial experience in complex antitrust actions such as this, agreed to settle this litigation only after extensive investigation, discovery, motion practice, and rigorous arm's-length negotiations. Co-Lead Counsel have compared the recovery that the

Class will receive from the Settlement against the delays, risks, and uncertainties of continued litigation and appeals. Upon analyzing the comparison, Plaintiffs and Co-Lead Counsel believe the Settlement is fair, adequate, and reasonable and should be approved. *See Rutter*, 314 F.3d at 1188 (that settling parties ask the court to approve the settlement suggests that "the judgment of the parties" is "that the settlement is fair and reasonable."). Thus, the Tenth Circuit's final factor—the only one not "subsumed into" the Rule 23 factors—also favors approval of the Settlement.

II. The Plan of Allocation is Fair, Adequate, and Reasonable

The standard for approval of a plan of allocation is the same as the standard for approving a settlement: whether it is "fair, reasonable, and adequate." *See Lucas*, 234 F.R.D. at 695. In making this determination, courts again give great weight to the recommendation of experienced counsel. *See id*. ("An allocation formula need only have a reasonable, rational basis, particularly if recommended by 'experienced and competent' class counsel.").

The proposed Plan of Allocation, ECF 454-9, is essentially the same as that in the Pfizer Settlement that was previously approved by the Court. ECF No. 414 at 14 ("The court thus finds that 'competent and experienced class counsel' have formulated the Plan of Allocation, and they have provided a 'reasonable, rational basis' for that Plan of Allocation." (quoting *In re Sprint Corp. ERISA Litig.*, 443 F. Supp. 2d 1249, 1262 (D. Kan. 2006)). The Plan of Allocation was prepared based on information provided by DPPs' expert economist and in consultation with the Court-appointed settlement administrator A.B. Data and details how the Net Settlement Fund is to be allocated among eligible Claimants. Each Claimant's *pro rata* share of the Net Settlement Fund shall be calculated by the Settlement Administrator, in coordination with the DPPs' expert economist, by combining each Claimant's total qualifying net purchases of brand, authorized generic, and generic EpiPen, and dividing that total by the combined total of qualifying purchases of brand, authorized generic, and generic EpiPen for all Claimants during the Class Period. ECF

No. 454-9 ¶ 13. The economist will apply a multiplier to brand purchases, and a different multiplier to generic purchases, to account for the fact that alleged damages from purchases of brand drugs are higher than those from generic drugs. ECF No. 454-9 ¶ 14. This Plan is described in the notice sent to Class members and is available for review on the Settlement website. Hanson Decl. ¶ 14, Ex. A.

Plaintiffs anticipate that all funds will be distributed to Class members pursuant to the Plan of Allocation at one time; however, the Plan provides that the Court shall instruct Plaintiffs on what to do if there is any *de minimis* amount left over following distributions. ECF No. 454-9 ¶ 18. There is no right of reversion under the Settlement and under no circumstances will any portion of the Settlement Fund be returned to Mylan once the Settlement becomes final.

Additionally, no objection has been filed to the Plan of Allocation. *In re Crocs*, 306 F.R.D. at 692 (citing *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 367 (S.D.N.Y. 2002) ("the favorable reaction of the Class supports approval of the proposed Plan of Allocation")).

III. The Requested Attorneys' Fees Are Reasonable

Federal Rule of Civil Procedure 23(h) provides that "[i]n a certified class action, the court may award reasonable attorney's fees . . . that are authorized by law or by the parties' agreement." The Supreme Court has long recognized that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." ECF No. 414 at 7 (quoting *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980)). This understanding "prevent[s] . . . inequity" by proportionately spreading payment among those who benefit from others' labor. *Boeing* at 478. The Settlement and notice to the Class provide that Co-Lead Counsel plan to seek from the Settlement Fund attorneys' fees of up to one-third of the Settlement Fund. *See* SA ¶ 13, ECF No. 454-2. Co-Lead Counsel request a fee award of one-third of the Settlement Fund, together with the interest earned on that amount for the same

period and at the same rate as that earned on the Settlement Fund until paid. To determine whether the requested fee amount is appropriate, the Court's must assess whether such amount is reasonable. Fed. R. Civ. P. 23(h). As explained in more detail below, the attorneys' fees requested are reasonable.

A. The Requested Fee Award Is a Reasonable Percentage of the Settlement Fund

"The Tenth Circuit prefers the percentage-of-the-fund method when determining the award of attorneys' fees in common fund cases." ECF No. 414 at 7 (citing *Chieftain Royalty Co. v. Enervest Energy Institutional Fund XIII-A, L.P.*, 888 F.3d 455, 458 (10th Cir. 2017)); *Gottlieb v. Barry*, 43 F.3d 474, 483 (10th Cir. 1994)); *accord Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984) (noting that "under the 'common fund doctrine,' . . . a reasonable fee is based on a percentage of the fund bestowed on the class").[10]

The percentage of the fund approach is favored by courts in the Tenth Circuit because a percentage of the common fund "align[s] the interests of Class Counsel and the Class by rewarding counsel in proportion to the results obtained." *In re: Urethane Antitrust Litig.*, 2016 WL 4060156, at *6. Unlike the lodestar approach, the percentage of the common fund approach "is less subjective[,] … matches the marketplace most closely, and is the better suited approach when class counsel were retained on a contingent fee basis." *Shaw v. Interthinx, Inc.*, No. 13-CV-01229-REB-

[10] *See also, e.g.*, *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 17-MD-2785-DDC-TJJ, 2022 WL 2663873, at *4 (D. Kan. July 11, 2022) (awarding one-third fee); *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig.*, No. 17-MD-2785-DDC-TJJ, 2021 WL 5369798, at *4 (D. Kan. Nov. 17, 2021), *judgment entered,* No. 17-MD-2785-DDC-TJJ, 2021 WL 5369815 (D. Kan. Nov. 17, 2021); *Rosenbaum v. MacAllister*, 64 F.3d 1439, 1445 (10th Cir. 1995); *Nakamura v. Wells Fargo Bank, N.A.*, No. 17-4029-DDC-GEB, 2019 WL 2185081, at *1 (D. Kan. May 21, 2019); *In re Syngenta AG MIR 162 Corn Litig.*, 357 F. Supp. 3d. 1094, 1113-14 (D. Kan. 2018); *In re Sprint Corp. ERISA Litig.*, 443 F. Supp. 2d 1249, 1269 (D. Kan. 2006); *Chieftain Royalty Co. V. Laredo Petro., Inc.*, No. CIV-12-1319, 2015 WL 2254606, at *3 (W.D. Okla. May 13, 2015).

NYW, 2015 WL 1867861, at *5 (D. Colo. Apr. 22, 2015) (quoting *Lucken Family Ltd. P'ship, LLLP v. Ultra Res., Inc*., No. 09-CV-01543-REB-KMT, 2010 WL 5387559, at *2 (D. Colo. Dec. 22, 2010) (quoting *Brown v. Phillips Petroleum Co.*, 838 F.2d 451, 484 (10th Cir. 1988))).

The requested fee award of one-third of the $73.5 million Settlement Fund is approximately $24.5 million, together with any interest earned on that amount for the same period and at the same rate as that earned on the Settlement Fund until paid. This amount is reasonable and supported by the *Johnson* factors.

B. The *Johnson* Factors Support the Requested Fee Award

The Tenth Circuit has instructed that a court making a percentage fee award in a common fund case should analyze the reasonableness of the fee award under the factors laid out in *Johnson v. Georgia Highway Express, Inc*., 488 F.2d 714 (5th Cir. 1974):

(1) the time and labor involved;
(2) the novelty and difficulty of the questions;
(3) the skill requisite to perform the legal services properly;
(4) the preclusion of other employment by the attorney due to acceptance of the case;
(5) the customary fee;
(6) any prearranged fee—this is helpful but not determinative;
(7) time limitations imposed by the client or other circumstances;
(8) the amount involved and results obtained;
(9) the experience, reputation, and ability of the attorneys;
(10) the undesirability of the case;
(11) the nature and length of professional relationship with the client; and
(12) awards in similar cases.

ECF No. 414 at 7 (citing *Johnson*, 488 F.2d 717-19). The Tenth Circuit "characterize[s] this 'percentage plus *Johnson* factors' framework as a 'hybrid' approach to attorneys' fees." *In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126, 1193 (10th Cir. 2023) (quoting *Chieftain*, 888 F.3d at 459). This hybrid approach combines "the percentage fee method with the specific factors used to calculate the lodestar" to assess whether the fee is reasonable. *Id.* "The weight given to each *Johnson* factor varies from case to case, and each factor may not always apply, particularly

in a common fund situation." ECF No. 414 at 7; *see also Law v. Nat'l Collegiate Athletic Ass'n*, 4 F. App'x 749, 752 (10th Cir. 2001) ("We have never held that a district court abuses its discretion by failing to specifically address each *Johnson* factor.") (quoting *Gudenkauf v. Stauffer Communications, Inc.*, 158 F.3d 1074, 1083 (10th Cir. 1998)). The pertinent *Johnson* factors described below support the requested one-third fee award.[11]

i. The Difficult Factual and Legal Issues Support the Fee Request

The difficulty and novelty of the factual and legal issues presented, the second *Johnson* factor, supports approval of the requested fees in this instance. "Courts emphasize the risk undertaken by counsel" in awarding fees: "complex cases justify higher fees, and simple cases lower fees." *Been v. O.K. Indus., Inc*., No. CIV-02-285-RAW, 2011 WL 4478766, at *7 (E.D. Okla. Aug. 16, 2011), *report and recommendation adopted*, No. CIV-02-285-RAW, 2011 WL 4475291 (E.D. Okla. Sept. 26, 2011). Class actions are widely regarded as "being most complex," *Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977); *see also Columbus Drywall & Installation v. Masco Corp.*, No. 1:04-cv-3066-JEC, 2012 WL 12540344, at *4 (N.D. Ga. Oct. 26, 2012) (quoting *Edmonds v. United States*, 658 F. Supp. 1126, 1137 (D.S.C. 1987)), but "antitrust class action[s are] arguably the most complex action to prosecute," *In re Motorsports Merchandise Antitrust Litig.*, 112 F. Supp. 2d 1329, 1337 (N.D. Ga. 2000). "The legal and factual issues involved are always numerous and uncertain in outcome." *Id.*; *see also Wal-Mart Stores*, 396 F.3d at 118

[11] The following *Johnson* factors are inapplicable here: (7) time limitations imposed by the client or the circumstances; and (11) the nature and length of the professional relationship with the client. *See* 5 Newberg on Class Actions § 15:77 n.15 (5th ed. 2015) (relationship with client "has little relevance in the class setting given that the 'client' is the class."); *see also, e.g.*, *In re: Motor Fuel Temperature Sales Practices Litig*., 07-MD-1840-KHV, 2016 WL 4445438, at *9 (D. Kan. Aug. 24, 2016) (noting that in class action context, nature and length of professional relationship with client did not apply); *In re Urethane Antitrust Litig*., No. 04-1616-JWL, 2016 WL 4060156, at *4 (D. Kan. July 29, 2016) (in evaluating class action settlement for approval, the seventh and eleventh *Johnson* factors did not apply).

("antitrust cases are complicated, lengthy, and bitterly fought").

As discussed in detail in Sec. I.A.iii.(1) of the Argument above, this litigation has been complex from the very beginning, based upon the unique reverse-payment factual allegations that Mylan—along with Pfizer, the owner of the EpiPen patents—entered into an illegal agreement with Teva, whereby Teva allegedly agreed to delay launching its generic EpiPen when settling its EpiPen patent litigation with Pfizer, in exchange for Mylan allegedly agreeing to delay the launch of its generic version of Teva's profitable drug Nuvigil when settling its Nuvigil patent litigation with Teva. Mylan has strenuously argued that there was no agreement to exchange one settlement for the other, that the two entry-date-only settlements could not support Plaintiffs' reverse payment claims as a matter of law, that it was Teva's persistent manufacturing delays and inability to secure FDA approval that prevented Teva from launching generic EpiPen earlier, that it would strongly oppose class certification in the absence of settlement, and that Plaintiffs' claims are subject to dismissal based on the statute of limitations.

In addition, the DPP case presented risks that were not present in the previously-settled indirect-purchaser class actions, including Mylan's argument that Plaintiffs' claims are barred by the statute of limitations, that some of the DPP's benefited from the EpiPen price increases, as well as Mylan's increased focus on causation where Mylan conducted extensive new discovery and developed new arguments that were not available in the MDL. Neither Antares nor the FDA had produced documents in the MDL. New discovery in this case greatly expanded the previous factual record concerning Teva's manufacturing setbacks and the lengths to which it went to obtain regulatory approval. Similarly, evidence from the FDA provided additional information about what factors drove the timing of Teva's approval.

The novelty and complexity of these undecided issues supports the requested fee award.

ii. The Results Obtained Benefit the Class

The results obtained on behalf of the Class—perhaps the most important factor in determining an appropriate fee (factor 8)—weighs in favor of the requested fee award. ECF No. 414 at 7-8 ("The court finds that the result-obtained factor here deserves greater weight than the other *Johnson* factors."); *see also Farrar v. Hobby*, 506 U.S. 103, 114 (1992) ("[T]he most critical factor in determining the reasonableness of a fee award is the degree of success obtained.") (citation and internal quotation marks omitted); *Koehler v. Freightquote.com, Inc.*, No. 12-2505-DDC-GLR, 2016 WLF 3743098, at *7 (D. Kan. July 13, 2016) (Settlement "avoids the uncertainty and rigors of trial and produces a favorable result for plaintiffs. This factor favors approval of the fee award.").

Plaintiffs' chances of recovering from Mylan have always been highly uncertain. Mylan litigated this case for five years. Even had Plaintiffs successfully moved the Court to certify a class—a proposition that Mylan strongly contested—and survived summary judgment, any case like this would necessarily involve a battle of experts, addressing highly complex economic theories, and an unusual fact pattern for a reverse payment case, making it "impossible to predict with any certainty which arguments would find favor with the jury." *Ressler v. Jacobson*, 822 F. Supp. 1551, 1554 (M.D. Fla. 1992); *see also, e.g.*, *In re HIV Antitrust Litig.*, No. 3:19-cv-02573-EMC, ECF No. 2057 (N.D. Cal. June 30, 2023) (jury returned verdict for defendants after six-week antitrust trial following plaintiffs' successful class certification and survival of summary judgment).

Under these circumstances, the $73.5 million non-reversionary cash Settlement Fund created by the Settlement represents an excellent result for the Class. It is larger than the $50 million Pfizer Settlement and combined reflects a significant recovery for the class despite the legal and factual risks. The difficulty and risk attendant to this litigation, plus counsel's skill and

effort in reaching the result on behalf of the Class, justify the requested fee award. *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1204–05 (S.D. Fla. 2006) ("Factors indicating 'exceptional success' include success achieved under unusually difficult or risky circumstances and the size of plaintiffs' recovery.")

iii. The Contingency of the Fee and Significant Risk Undertaken by Counsel Support the Requested Fee Award

The contingent nature of Plaintiffs' counsels' fee and undesirability of the case, the sixth and tenth *Johnson* factors, further justify the requested fee award. "[T]he results obtained may be given greater weight when . . . the trial judge determines that the recovery was highly contingent and that the efforts of counsel were instrumental in realizing recovery on behalf of the class." *See Brown*, 838 F.2d at 456; *Kanawi v. Bechtel Corp*., No. C 06-05566 CRB, 2011 WL 782244, at *2 (N.D. Cal. Mar. 1, 2011) ("It is an established practice to reward attorneys who assume representation on a contingent basis with an enhanced fee to compensate them for the risk that they might be paid nothing at all.") (citing *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1299 (9th Cir. 1994)).

"Such a practice encourages the legal profession to assume such a risk and promotes competent representation for plaintiffs who could not otherwise hire an attorney." *Id.*; *see also Been*, 2011 WL 4478766, at *8 ("Fees that are contingent on success present definite risks. Payment, if any, is deferred, and there is always a risk, often a substantial risk, that there may be no payment . . . . [R]isk demands a premium. And, as a general rule, the greater the uncertainty of payment the greater the premium should be.") (quoting *In re Superior Beverage/Glass Container Consol. Pretrial*, 133 F.R.D. 119, 127 (N.D. Ill. 1990)).

Co-Lead Counsel brought the case against Mylan knowing that "there would be no fee without a successful result and that such a result would be realized only after lengthy and difficult

effort." *Cecil v. BP Am. Prod. Co.*, No. 16-CV-00410-KEW, 2018 WL 8367957, at *8 (E.D. Okla. Nov. 19, 2018) ("Courts consistently recognize the risk of receiving little or no recovery is a major factor in considering an award of attorneys' fees.").[12] The assumption of this risk deserves to be compensated, and courts have held that "[l]awyers who are to be compensated only in the event of victory expect and are entitled to be paid more when successful than those who are assured of compensation regardless of result." *Jones v. Diamond*, 636 F.2d 1364, 1382 (5th Cir. 1981) (*en banc*). This is because "[t]he contingent fee nature of the representation . . . supports the requested award [as it] shifts the risk of loss from plaintiff to plaintiff's counsel." *Freebird, Inc. v. Merit Energy Co.*, No. 10-1154-KHV, 2013 WL 1151264, at *4 (D. Kan. Mar. 19, 2013).

Co-Lead Counsel zealously pursued the Class's claims against Mylan without any guarantee of payment whatsoever. Co-Lead Counsel successfully opposed Mylan's petition to the Tenth Circuit seeking to cross-appeal the question of whether entry-date-only patent settlements could ever support a reverse payment under *F.T.C. v. Actavis, Inc.*, 570 U.S. 136 (2013) and defeated Mylan's motion for partial judgment on the pleadings based on the same argument. ECF No. 452. Co-Lead Counsel aggressively pursued additional discovery from Mylan and non-parties alike, serving additional requests for documents and non-party subpoenas, scheduling and preparing for depositions, and filing motions to compel with the full understanding that there was no guarantee that there would be any recovery for the Class or compensation for counsel, as years of vigorous litigation—discovery, class certification, dispositive motion practice, and more—stood

[12] *See also In re: Urethane Antitrust Litig*., No. 04-1616-JWL, 2016 WL 4060156, at *4 (D. Kan. July 29, 2016) (recognizing that when liability is less than certain, a case presents "a great deal of risk, as counsel was required to advance all expenses and attorney time to litigate a hard-fought case against highly experienced opposing counsel hired by a defendant with ample resources"); *In re Ocean Power Techs., Inc*., No. 3:14-CV-3799, 2016 WL 6778218, at *28 (D.N.J. Nov. 15, 2016) ("Courts across the country have consistently recognized that the risk of receiving little or no recovery is a major factor in considering an award of attorneys' fees.").

between them and trial, where again, there was no guarantee of success. In continuing to prosecute the claims against Mylan, Co-Lead Counsel "assumed a significant risk of non-payment or underpayment." *Gevaerts v. TD Bank*, No. 1:14-CV-20744-RLR, 2015 WL 6751061, at *13 (S.D. Fla. Nov. 5, 2015) ("Numerous cases recognize such a risk as an important factor in determining a fee award."). In short, considering the riskiness of success to the Class's recovery and Co-Lead Counsels' compensation, these factors support the reasonableness of the requested fee award.

As the Court explained when granting final approval to the Pfizer Settlement, "the risk of huge expenditures on a contingent basis and a substantial risk of no recovery favor[ed] the requested one-third fee award." ECF No. 414 at 9; *see also id*. ("case was 'less than desirable (factor 10)' when 'plaintiffs' counsel risk[ed] huge expenditures on a contingent basis, with a substantial risk of no recovery'") (quoting *In re Syngenta*, 357 F. Supp. 3d at 1110)).

iv. The Requested Fee Award Is Comparable to Fees Awarded in Similar Cases in This Circuit and in Contingent Fee Cases Nationwide

The requested one-third fee here is consistent with fees awarded in similarly complex class actions—the twelfth *Johnson* factor. "In this Circuit and District, courts typically award one-third of the fund as payment for attorneys' fees in complex class action cases[.]" *In re Hill's Pet Nutrition, Inc. Dog Food Prods. Liab. Litig.*, No. 19-MD-2887-JAR-TJJ (D. Kan. July 30, 2021), ECF No. 132 ¶ 9 (citations omitted); *see, e.g.*, *In re EpiPen*, 2022 WL 2663873, at *4 (awarding one-third of the settlement fund in attorneys' fees); *In re Syngenta AG MIR 162 Corn Litig.*, 357 F. Supp. 3d at 1110 (same); *In re: Urethane Antitrust Litig*., 2016 WL 4060156, at *8 (same); *Hershey v. ExxonMobil Oil Corp.*, No. 07-1300-JTM, 2012 WL 5306260, at *1, 7-8 (D. Kan. Oct. 26, 2012) (same).

As this Court has recognized, class actions have "become more complex and riskier" since 2015 and that "increased complexity and risk has led to requests for higher percentages" for

attorneys' fees, resulting in some awards exceeding one-third and reaching 40% of the settlement fund. *Nakamura*, 2019 WL 2185081, at *2 (internal quotations and citations omitted). This Court held that "in our court, an attorneys' fee award of one-third is consistent with fees awarded in comparably high-risk, high potential damage, complex class actions resulting in creation of a common fund, such as here." *In re EpiPen*, at *5. Thus, the twelfth *Johnson* factor supports the requested fee award.

v. A One-Third of the Fund Award is Customary in Complex Class Actions Such as This

The fifth *Johnson* factor asks whether the requested fee award is customary. "In contingent-fee cases, a one-third fee is customary." *In re Syngenta*, 357 F. Supp. 3d. at 1113-14. This Court has consistently recognized that an award of one-third of the fund as payment for attorneys' fees is customary in contingency fee cases and "well within range typically awarded in class actions." ECF No. 414 at 8 (quoting *Nieberding,* 129 F. Supp. 3d at 1250); *see also In re Syngenta*, 357 F. Supp. 3d. at 1113-14 ("In contingent-fee cases, a one-third fee is customary."); *Nakamura*, 2019 WL 2185081, at *3 ("33% is within the range of customary fees awarded in similar cases"); *In re: Urethane Antitrust Litig.*, 2016 WL 4060156, at *5 ("The Court agrees with counsel that a one-third fee is customary in contingent-fee cases[.]"); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, 1 J. Empirical Legal Stud. 27 (2004), at 35 ("Substantial empirical evidence indicates that a one-third fee is a common benchmark in private contingency fee cases."). This factor also supports the requested fee award.

vi. The Novel and Difficult Litigation Required Highly Experienced Counsel Who Have Zealously Represented the Class

The skill required and the experience, reputation, and ability of the attorneys (factors 3 and 9) further support Co-Lead Counsel's requested fee award. This Court has acknowledged that "[c]lass actions have a well-deserved reputation as being most complex and an antitrust class

action is arguably the most complex action to prosecute[.]" ECF No. 414 at 9.

In assessing these factors, courts analyze whether the litigation "required great skill in a highly specialized field . . . , against highly skilled opposing counsel, and [whether] plaintiffs' attorneys, . . . demonstrated great skill throughout." *See In re: Urethane Antitrust Litig*., 2016 WL 4060156, at *4. Courts also consider the experience and skill of opposing counsel. *See, e.g.*, *Chieftain Royalty Co.*, 2018 WL 2296588 at *5 ("[T]he fact that Class Counsel litigated such difficult issues against the vigorous opposition of highly skilled defense counsel and obtained a significant recovery for the Settlement Class further supports the fee request in this case.").

As discussed, this five-year-old, complex antitrust litigation raised challenging questions of fact and law sufficient to warrant an interlocutory appeal to the Tenth Circuit before the litigation had even proceeded to class certification. Plaintiffs have successfully faced multiple motions to dismiss with extensively researched and articulated oppositions, as well as amendments to the complaints on behalf of the Class. Nussbaum Decl. ¶¶ 3, 6, 15-16, 59-60, 72. Plaintiffs have successfully moved to compel Defendants to produce hundreds of documents that they contended were wrongfully classified under the common-interest privilege. *See* ECF No. 252. Plaintiffs further persuaded the Tenth Circuit not to accept Mylan's petition to appeal the Court's ruling on Plaintiffs' reverse payment claim and then successfully defended against Mylan's motion for partial judgment on the pleadings on the same issue. *Id.* ¶ 14; *Mylan N.V. v. KPH Healthcare Servs., Inc.*, No. 22-604 (10th Cir. Jan. 23, 2023), ECF No. 010110801516. These challenging issues have required Plaintiffs' counsel to rely on their combined decades of experience in antitrust class actions and other complex litigation and their histories of successfully resolving cases on behalf of classes. *Id.* ¶¶ 5, 61; *see also* Memorandum in Support of Motion for Appointment of Interim Co-Lead and Liaison Counsel for the Direct Purchaser Class, ECF No. 274; Nussbaum

Decl. Ex. 1; Roberts Decl. Ex. 1. Furthermore, Mylan's counsel has skillfully defended Mylan in a number of EpiPen related litigations. That Co-Lead Counsel obtained a favorable settlement against such well-represented and well-funded defendants confirms the reasonableness of the requested fee award. ECF No. 414 at 10 ("The court has observed the skill and zeal Class Counsel has applied to prosecute this case, and it finds that they are experienced, have good reputations, and have performed exceptional legal work on behalf of their clients and the Class. These factors strongly support the requested fee.").

vii. Counsel Dedicated Significant Time and Resources to the Litigation

The time and resources counsel dedicated to the litigation, often at the expense of other opportunities, factors 1 and 4, also support the requested fee award. A fee is justified where the engagement required extensive time and resources such that it "precluded or reduced [the attorneys'] opportunity for other employment." *Brown*, 838 F.2d at 455. "This guideline involves the dual consideration of otherwise available business which is foreclosed because of conflicts of interest which occur from the representation, and the fact that once the employment is undertaken the attorney is not free to use the time spent on the client's behalf for other purposes." *Johnson*, 488 F.2d at 718; *see also* ECF No. 414 at 11 ("When an attorney is spending time on one case, he is not spending the same time on another case.") (citation omitted).

In this case, the factual and legal issues required significant commitment from counsel in terms of time and resources, especially in light of the risks involved, as discussed above and in the attached declarations. Specifically, Plaintiffs' counsel have dedicated a total of 26,670.9 hours to the litigation. Nussbaum Decl. ¶¶ 7, 65, 68. Plaintiffs' counsel have crafted multiple complaints, fended off multiple attempts at dismissal by Defendants, and pursued an appeal to the Tenth Circuit. *Id.* ¶¶ 3, 6, 14. Co-Lead Counsel have litigated through discovery, filing motions to compel and defending against motions to compel and to quash, and spending significant resources drafting

discovery correspondence, preparing for depositions, and meeting and conferring with Defendants. *Id.* ¶¶ 15-37. Plaintiffs have consulted with experts and prepared for class certification. *Id.* ¶¶ 6, 37, 62. The time and resources dedicated to this case has meant that Plaintiffs' counsel were forced to forgo other engagements. *See, e.g.*, *id.* ¶ 73.

Based on these facts, these factors weigh in favor of the requested fee award.[13]

IV. The Requested Costs and Expenses Are Reasonable

Co-Lead Counsel also request that the Court award the reasonable expenses incurred in prosecuting and resolving this litigation since the approval of the Pfizer Settlement. Rule 23(h) authorizes the reimbursement of counsel for "non-taxable costs that are authorized by law or by the parties' agreement." Fed. R. Civ. P. 23(h). The Settlement Agreement provides that Co-Lead Counsel "intend to seek, solely from the Settlement Fund, . . . the reimbursement of reasonable costs and expenses incurred in the prosecution" of their action against Mylan. SA ¶ 13, ECF No. 454-2. "Reasonable costs and expenses incurred by an attorney who creates or preserves a common fund are reimbursed proportionately by those class members who benefit by the settlement." *Yarrington v. Solvay Pharmaceuticals, Inc.*, 697 F. Supp. 2d 1057, 1067 (D. Minn. 2010) (quotations omitted); *see also Vaszlavik v. Storage Tech. Corp.*, No. 95-B-2525, 2000 WL 1268824, at *4 (D. Colo. Mar. 9, 2000) ("[A]n attorney who creates or preserves a common fund for the

[13] This Court previously observed that the first factor—time and labor—"guides the lodestar analysis in a statutory fee-shifting case, but has minimal importance in a percentage of the common fund case." ECF No. 414 at 10 (citing *Nakamura*, 2019 WL 2185081, at *3); *see also id*. ("In fact, a lodestar analysis (or crosscheck) is neither required nor needed to assess reasonableness in a percentage of the fund determination."); *Chieftain Royalty Co.*, 2018 WL 2296588 at *3 (E.D. Okla. Mar. 27, 2018) (neither lodestar analysis nor lodestar cross-check is required). Nonetheless, if the Court requires a lodestar crosscheck, counsel is prepared to submit that information to the Court.

benefit of a class is entitled to receive reimbursement of all reasonable costs incurred . . . in addition to the attorney fee percentage.").

Although Plaintiffs' Counsel were awarded reimbursement of their costs and expenses as part of the Pfizer Settlement, Plaintiffs' Counsel have incurred an additional $342,614.77 in reasonable costs and expenses since that time. Nussbaum Decl. ¶¶ 7, 69-71. Courts determine whether the requested costs are reasonable by analyzing whether the costs are the type typically billed by attorneys to paying clients in the marketplace. *See In re Bank of America Wage and Hour Employment Litig.*, No. 10-md-2138-JWL, 2013 WL 6670602, at *4 (D. Kan. Dec. 18, 2013) (awarding costs and expenses that are "typically borne by clients in non-contingent fee litigation") (citing *Case v. Unified Sch. Dist. No. 233*, 157 F.3d 1243, 1257 (10th Cir. 1998)). The unreimbursed costs and expenses incurred by counsel in litigating this action consist of such items, including expert costs, filing fees, electronic research, and photocopying, among other costs. Nussbaum Decl. ¶ 70. All the costs and expenses were directly related and necessary to Co-Lead Counsel's prosecution of the litigation and are typical of complex class actions such as this. *Id.* Plaintiffs' counsel that have advanced or incurred these expenses maintained careful records to document them, and these records have been reviewed and approved by Co-Lead Counsel and Liaison Counsel. *Id.* ¶ 71; Wilders Decl. ¶ 4. A summary of the expenses is included in the Nussbaum Decl. ¶ 69, and each firm's declaration includes a more detailed summary of incurred costs and expenses. *See* Exhibits 1-3.

Plaintiffs therefore respectfully request that the Court approve fully an award reimbursing Co-Lead Counsel's additional costs and expenses in the amount of $342,614.77.

CONCLUSION

For the foregoing reasons and those set forth in the supporting declarations, Plaintiffs

respectfully request that the Court grant Class Plaintiffs' Motion for Final Approval of Settlement, Approval of Plan of Allocation, and Award of Attorneys' Fees and Expenses.

DATED: March 21, 2025

Respectfully submitted,

/s/ Bradley T. Wilders

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UNITED STATES DISTRICT COURT
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. MYLAN N.V., MYLAN PHARMACEUTICALS INC., and MYLAN SPECIALTY L.P., Defendants.	Civil Action No. 2:20-cv-02065-DDC-TJJ

EXHIBIT LIST IN SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH THE MYLAN DEFENDANTS, APPROVAL OF PLAN OF ALLOCATION, AND AWARD OF ATTORNEYS' FEES AND EXPENSES

Exhibit 1 – Declaration of Linda P. Nussbaum

Exhibit 2 – Declaration of Michael L. Roberts

Exhibit 3 – Declaration of Bradley T. Wilders

Exhibit 4 – Declaration of Tracy M. Hanson

EXHIBIT 1

UNITED STATES DISTRICT COURT
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. MYLAN N.V., MYLAN PHARMACEUTICALS INC., and MYLAN SPECIALTY L.P., Defendants.	Civil Action No. 2:20-cv-02065-DDC-TJJ

DECLARATION OF LINDA P. NUSSBAUM IN SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH THE MYLAN DEFENDANTS, APPROVAL OF PLAN OF ALLOCATION, AND AWARD OF ATTORNEYS' FEES AND EXPENSES

I, Linda P. Nussbaum, hereby declare as follows:

1. I am the Founder and Managing Director of Nussbaum Law Group, P.C. ("NLG"). I am an active member of the Bar of the State of New York and have been admitted *pro hac vice* to this Court. *See* ECF No. 119. I am Court-appointed as one of Co-Lead Settlement Class Counsel ("Co-Lead Counsel") for the Settlement Class ("Class") of Direct Purchaser Plaintiffs ("DPP" or "Plaintiffs"). NLG's firm resume is attached to this declaration as Exhibit 1.

2. I respectfully submit this declaration in support of the DPPs' Motion for Final Approval of the Settlement with the Mylan Defendants, Approval of the Plan of Allocation, and Award of Attorneys' Fees and Expenses ("Motion"). I have co-led this litigation since August 2021 when, as counsel for Plaintiff César Castillo, LLC ("Castillo"), NLG filed a timely motion to intervene after the Court dismissed Plaintiffs Second Amended Class Action Complaint, without prejudice. After Plaintiffs KPH and FWK Holdings ("FWK") filed a Third Amended Complaint, NLG and Co-Lead Counsel negotiated with Defendants to streamline the litigation and sought leave to file a Fourth Amended Complaint with KPH, FWK, and Castillo as named plaintiffs. ECF No. 126. The three Plaintiffs filed their Fourth Amended Complaint on September 21, 2021. ECF No. 128. NLG, along with Co-Lead Counsel, collaborated on every aspect of the litigation, including litigation strategy, responding to dispositive motions, petitioning for and defending against interlocutory appeals, as well as offensive, defensive, and non-party discovery, and all other duties enumerated in paragraph 1 of the Court's order appointing me, as Interim Co-Lead Counsel for the Class (ECF No. 306). As counsel for Castillo, NLG responded on Castillo's behalf to Defendants' many discovery requests, collected, reviewed and produced thousands of documents, responded to multiple sets of interrogatories, *see* ECF Nos. 193, 194, 206, 212, 275, and opposed Defendants' motion to compel with respect to Castillo. ECF No. 235. I actively

litigated this case and have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could competently testify to the matters set forth.

I. The Direct Purchaser Litigation

3. On September 28, 2023, the DPPs entered into a $50 million settlement with Pfizer Inc., King Pharmaceuticals LLC, and Meridian Medical Technologies LLC (collectively "Pfizer"), (the "Pfizer Settlement"), to which the Court granted final approval on July 10, 2024. ECF No. 414. After Plaintiffs moved for preliminary approval of the Pfizer Settlement in October 2023, the stay that had been in effect during Plaintiffs' appeal to the Tenth Circuit terminated. Plaintiffs immediately requested deposition dates for a number of Mylan witnesses, served and negotiated additional document requests, and the parties met and conferred on numerous issues. Mylan's motion for partial judgment on the pleadings and Plaintiffs' motions to compel were fully briefed and class discovery commenced. At that time, settlement discussions between the parties ensued in the fall of 2024.

4. On December 30, 2024, DPPs executed a binding term sheet with the Mylan Defendants providing for Mylan's immediate payment of $73.5 million to resolve DPPs' claims. The parties executed a formal Settlement Agreement (the "Settlement") two weeks later on January 14, 2025. ECF No. 454-2. The Settlement was reached after extensive party and non-party discovery, work with experts, motion practice, and an all-day in-person mediation with a former Magistrate Judge. The Settlement was achieved shortly before Plaintiffs' January 10, 2025 deadline to file its motion for class certification, is an excellent result for the Class, and readily exceeds the requisite final approval standard of fair, adequate, and reasonable.

5. The Settlement is the result of the judgment and skill of Co-Lead Counsel and the zealousness with which Co-Lead Counsel continued to litigate Plaintiffs' claims after settling with Pfizer. This litigation is complex, based upon the unique reverse-payment factual allegations that

Mylan—along with Pfizer, the owner of EpiPen patents—entered into an illegal agreement with Teva whereby Teva allegedly agreed to delay launching its generic EpiPen when settling its EpiPen patent litigation with Pfizer in exchange for Mylan allegedly agreeing to delay the launch of its generic version of Teva's profitable Nuvigil drug when settling its Nuvigil patent litigation with Teva. The fact pattern is so novel that Mylan challenged it repeatedly, both in this Court and in the Tenth Circuit, as recently as a year ago—four years into the litigation. *See* Mylan's Motion for Partial Judgment on the Pleadings, ECF No. 386.

6. To achieve favorable results for the Class, Plaintiffs' counsel crafted a detailed complaint and survived several motions to dismiss through oppositions or amendments to the complaints. Plaintiffs' counsel engaged in extensive discovery efforts, having obtained nearly 1.5 million documents produced by Defendants and non-parties, including Teva and its manufacturing partner Antares, other generic manufacturers, the FDA and national wholesalers, and reviewed, analyzed, and organized those documents in preparation for depositions, class certification, and summary judgment; engaged experts to evaluate DPPs' claims and prepare for class certification and expert discovery; and filed and defended against multiple discovery motions, along with taking part in numerous meet-and-confers and correspondence with Defendants and non-parties. Plaintiffs also engaged in substantial defensive discovery of the named Plaintiffs, collected, reviewed, and produced tens of thousands of documents, detailed transactional data, and responded to multiple sets of interrogatories. Co-Lead Counsel's efforts produced successful results for the Class: Co-Lead Counsel negotiated the Settlement, pursuant to which Mylan deposited $73.5 million into a non-reversionary Settlement Fund for the benefit of the Class on December 30, 2024, which has been accruing interest since that date.

7. Through March 15, 2025, Co-Lead Counsel and firms operating at their direction have expended a collective total of 26,670.9 hours of time in the prosecution of this litigation. These attorney hours were reported to and approved by the Court-appointed Liaison Counsel in detailed monthly time and expense reports throughout the litigation. Plaintiffs' Counsel also incurred additional unreimbursed costs and expenses since the settlement with Pfizer of $342,614.77.

8. An award of attorneys' fees comprised of one-third of the $73.5 million Settlement Fund, amounting to $24,500,000, together with any interest earned on that amount for the same period and at the same rate as that earned on the Settlement Fund until paid, is consistent with this District's law and the Tenth Circuit's requirement that the fee be reasonable under review of the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974).

9. The following describes the procedural history, motion practice, settlement negotiations, and other activities that occurred after Plaintiffs settled with Pfizer. For a detailed account of the events leading up to the settlement with Pfizer, Plaintiffs respectfully direct the Court to their memorandum in support of their motion for final approval of the Pfizer Settlement and accompanying declarations. *See* ECF Nos. 404 and 404-1 through 404-6.

10. This declaration further supports that the Settlement with Mylan should be finally approved and that the requested award of attorneys' fees, costs, and expenses, are reasonable and justified.

A. Pfizer Settlement and Mylan's Motion for Judgment on the Pleadings

11. On September 28, 2023, DPPs and Pfizer entered into a $50,000,000, non-reversionary, cash settlement. ECF No. 372-2. The Court preliminarily approved the Pfizer Settlement on March 27, 2024. ECF Nos. 393, 394.

12. On May 7, 2024, Plaintiffs moved for final approval of the Pfizer Settlement, approval of the plan of allocation, and award of attorneys' fees and expenses. ECF No. 403. The declaration of Co-Lead Counsel Michael Roberts in support of that motion summarized the exceptional results Co-Lead Counsel had achieved for the Class, and the hard work required to secure the Settlement. ECF No. 404-1.

13. Following the Final Approval Hearing on June 25, 2024, *see* ECF No. 410, the Court granted Plaintiffs' motion for final approval and fee petition on July 10, 2024, concluding that "the *Johnson* factors strongly support and warrant an award of attorneys' fees in the amount of one-third." ECF No. 414 at 12 (citing *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 717–19 (5th Cir. 1974)).

14. On March 4, 2024, shortly before DPPs filed their motion for preliminary approval of the Pfizer Settlement, Mylan moved for partial judgment on the pleadings. ECF No. 386. In their motion, Mylan argued that Plaintiffs had failed to plead the basic elements of a reverse payment claim under *FTC v. Actavis, Inc.*, 570 U.S. 136 (2013). Plaintiffs vigorously opposed the motion as both a disguised motion for reconsideration of the Court's August 8, 2022 denial of its motion to dismiss and wrong on the merits. ECF No. 391. Mylan filed its reply on April 8, ECF No. 395, raising new arguments that were not included in its motion in light of an order the Court subsequently entered in another case. *Id*. at 2-4 (citing *Edgar v. Teva Pharm. Indus., Ltd.*, 22-2501-DDC-TJJ, 2024 WL 1282436, at *21-23 (D. Kan. Mar. 26, 2024)). As a result, Plaintiffs filed a motion to strike Mylan's new arguments or, in the alternative, for leave to file a sur-reply. ECF No. 397. Mylan opposed Plaintiffs' motion to the extent Plaintiffs requested its arguments be stricken; Mylan did not oppose the motion for leave to file a sur-reply. ECF No. 401. The Court denied Mylan's motion for partial judgment on the pleadings and Plaintiffs' motion to strike, but granted

Plaintiffs' motion for permission to file a sur-reply, on December 9, 2024. ECF No. 452. In denying the motion for partial judgment on the pleadings, the Court stated that it was "'loathe' to reconsider its prior holding when 'extraordinary circumstances' are absent," *id.* at 8 n.5 (quoting *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 817 (1988), and that Mylan's arguments did not "alter the court's conclusion." *Id.* at 17.

B. Post—Pfizer Settlement Discovery

15. Prior to settling with Pfizer, Plaintiffs engaged in written discovery, subpoenas to over two-dozen non-parties, including generic manufacturers, the FDA and various healthcare service providers, and brought and opposed multiple motions to compel. This discovery is described in detail in Plaintiffs' memorandum in support of their motion for final approval of the Pfizer Settlement and accompanying declarations and will not be repeated here. *See* ECF Nos. 404, 404-1 through 404-6.

16. On June 6, 2023, the Court stayed all proceedings, with the exception of certain non-party discovery, pending resolution of Plaintiffs' appeal to the Tenth Circuit of that portion of the Court's August 8, 2022 Order dismissing Pfizer on *Illinois Brick* grounds. ECF No. 368. After Plaintiffs settled with Pfizer and the stay was lifted in October 2023, Plaintiffs immediately engaged in additional discovery and related motion practice.

17. On October 25, 2023, the parties filed a joint status report, where the parties agreed to meet and confer in good faith about the next steps in the case, including negotiating a proposed case scheduling order for the Court's consideration. *See* ECF No. 376. Throughout November 2023, the parties met and conferred four times and exchanged several letters and emails concerning the proposed case schedule.

18. On December 13, 2023, the Court issued Scheduling Order No. 3 that, among other things, scheduled deposition discovery to begin on February 15, 2024, and set July 17, 2024 as the deadline for Plaintiffs' class certification opening brief and expert reports. ECF No. 328.

19. Shortly thereafter, Plaintiffs requested and began negotiating deposition dates for several Mylan witnesses. On December 15, 2023 and January 2, 2024, Plaintiffs sent Mylan detailed deficiency letters with respect to these and other witnesses' custodial document productions and started to prepare for depositions, spending a significant amount of time negotiating document production disputes, reviewing documents, public filings, Congressional Record materials, transcripts from the MDL, and materials from other litigations where potential witnesses gave testimony, drafting detailed deposition outlines, and preparing exhibits.

20. On February 13, 2024, Plaintiffs served their second set of requests for the production of documents on Mylan ("Plaintiffs' Second Requests") seeking, among others, documents related to Provigil, a Nuvigil predecessor drug, and documents related to Mylan's 2015 citizen petition and subsequent communications with the FDA. *See* ECF No. 385.

21. Mylan served its responses and objections to Plaintiffs' Second Requests on March 14, 2024, objecting to all of Plaintiffs' requests on relevance and other grounds and refusing to produce any documents in response to any of the requests. *See* ECF No. 390. The parties engaged in protracted negotiations over the scope and relevance of Plaintiffs' Second Requests, meeting and conferring and exchanging letters detailing the legal and factual bases supporting their respective positions.

22. On March 29, 2024, Mylan served a privilege log corresponding to Plaintiffs' first set of requests for documents. On April 9, 2024, Plaintiffs wrote to Mylan concerning the absence of the "document title or email subject" field in the March 29, 2024 log that Mylan had included

in its previous MDL privilege logs, and requesting that Mylan serve an amended privilege log that included this important information.

23. On April 17, 2024, the parties met-and-conferred to discuss Plaintiffs' Second Requests, Mylan's privilege log, and Plaintiffs' request for deposition dates. Mylan agreed that it would serve an amended privilege log but maintained that it would not produce any documents related to Plaintiffs' requests for production, or provide deposition dates for any witnesses until after the parties resolved their disputes concerning Plaintiffs' document requests.

24. Mylan served an amended privilege log on April 26, 2024 and Plaintiffs immediately set to work analyzing the more than 10,000 entries, comparing them against entries on the Pfizer and Mylan MDL privilege logs, and performing legal research concerning potential challenges to specific log entries.

25. After meeting and conferring several times on the various disputed issues, on May 10, 2024, Mylan wrote to Plaintiffs reiterating that it would not produce documents in response to document requests and arguing that it was premature to discuss deposition dates because of the risk that a witness might be subject to multiple depositions while Plaintiffs' document requests were still in dispute. Mylan also suggested that the parties coordinate depositions in this case with discovery in *Edgar v. Teva Pharm. Indus., Ltd.*, No. 2:22-cv-02501-DDC-TJJ (D. Kan.), an EpiPen-related case brought by direct purchasers of Nuvigil against Teva.

26. On May 21, 2024, Plaintiffs responded to Mylan's May 10, 2024 letter agreeing to withdraw three of the five requests in their Second Document Requests and providing arguments in support of the remaining two.

27. On May 29, 2024, Mylan wrote to plaintiffs asking to meet-and-confer on coordinating discovery with the *Edgar* case. The parties met-and-conferred on May 30, 2024,

where Plaintiffs opposed coordinating discovery with *Edgar* and Mylan insisted that Plaintiffs provide a justification for seeking to depose one of their proposed witnesses.

28. On June 4, 2024, Plaintiffs provided Mylan with their justifications for seeking to depose the proposed witness and requested that Mylan produce the deposition transcript for another witness from the EpiPen direct purchaser litigation pending in the District of Minnesota to help Plaintiffs prepare for a deposition in this case. The next day, Mylan responded with deposition dates for two witnesses beginning in late July but declined to provide the deposition transcript that Plaintiffs requested.

29. On June 26, 2024, Plaintiffs wrote to Mylan concerning Mylan's amended privilege log raising five substantive issues: (i) the withholding of historical WAC pricing documents, (ii) redacted file names and email subject information on the privilege log itself, (iii) documents created primarily for business purposes, (iv) board meeting minutes, and (v) communications exchanged between Mylan and Prizer concerning the EpiPen and Nuvigil patent litigations and settlements. On July 23, 2024, the parties met and conferred to discuss Plaintiffs' privilege log letter and Plaintiffs outstanding RFPs. Mylan declined to address the merits of Plaintiffs' challenges, arguing instead that any motion by Plaintiffs would be untimely.

30. On June 28, 2024, the Court issued its Amended Scheduling Order No. 3, among other things, rescheduling Plaintiffs' class certification motion to October 15, 2024, in order to allow the parties more time to resolve their outstanding discovery issues. ECF No. 412.

31. On July 22, 2024, Plaintiffs served their third set of requests for production of documents ("Plaintiffs' Third Requests") on Mylan seeking certain deposition transcripts from other EpiPen related litigations and documents related to the sales of EpiPen to each direct purchaser of EpiPen or generic EpiPen from Mylan. *See* ECF No. 418.

32. Despite months of negotiations, the parties were unable to resolve their discovery disputes and on July 23, 2024, the Court scheduled a status conference for August 1, 2024, and solicited position statements from the parties addressing the discovery issues. At the status conference, the Court denied Mylan's request to coordinate discovery with the *Edgar* case and extended Plaintiffs' deadline to file any motions to compel to August 5, 2024.

33. On August 5, 2024, Plaintiffs moved to compel Mylan to produce those documents withheld on its privilege log identified in Plaintiffs' June 26, 2024 letter, documents responsive to Plaintiffs' document requests related to the Provigil patent litigation and the Handling Study Mylan submitted to the FDA in support of its 2015 citizen petition. ECF No. 421.

34. Mylan filed its opposition to Plaintiffs' motion to compel on August 12, 2024, ECF No. 427, which non-party Pfizer joined via letter to the Court, ECF No. 428. Plaintiffs filed their reply on August 14. ECF No. 431. Following extensive briefing, the Court denied Plaintiffs' motion with respect to the Second Requests, but allowed Plaintiffs until September 6, 2024 to file a renewed motion to compel regarding the withheld privilege log entries following conferrals with Mylan. ECF No. 433.

35. After meeting and conferring with Mylan and being unable to reach agreement, on September 6, 2024, Plaintiffs filed a renewed motion to compel limited to Mylan's withheld privilege log entries. ECF No. 440. Mylan opposed Plaintiffs' motion on September 20, ECF No. 445, which non-party Pfizer again joined via letter to the Court, ECF No. 446. Plaintiffs filed a reply on September 27. ECF No. 449.

36. Plaintiffs continued non-party discovery as well, serving subpoenas on the national wholesalers seeking their 30(b)(6) depositions and exhibits in the Minnesota EpiPen litigation and a subpoena on an outside consulting firm retained by Mylan in connection with its 2015 citizen

petition. *See* ECF Nos. 435, 447. These subpoenas resulted in the production of additional deposition transcripts and documents that Plaintiffs analyzed and incorporated into their deposition outlines and class certification materials.

37. During this time, Plaintiffs also negotiated a stipulation to govern expert discovery, which involved the exchange of several drafts and numerous meet-and-confers with Mylan. ECF No. 416. Plaintiffs also obtained updated Mylan transactional data and conferred with an economic expert to prepare and send a detailed letter to Mylan with questions about the transactional data in preparation for a requested Mylan 30(b)(6) deposition. Co-Lead Counsel also consulted with experts on various economic, patent, and causation issues in preparation for serving their reports in support of class certification and merits, including the preparation of a report for submission with Plaintiff's motion for class certification.

C. Settlement Negotiations with the Mylan Defendants

38. On September 11, 2024, the Court issued its Second Amended Scheduling Order No. 3, extending Plaintiffs' deadline to file their motion for class certification until January 10, 2025. ECF No. 443.

39. The parties agreed to an in-person mediation before a retired federal magistrate judge. Plaintiffs agreed to postpone the depositions of Mylan's employees and the Mylan 30(b)(6) deposition until after the mediation. In preparing for settlement discussions, Co-Lead Counsel examined the posture of the case, expert analysis, relevant law, and the risks associated with the legal and factual issues, including risks that were not present in the previously-settled indirect-purchaser class actions, such as Mylan's argument that Plaintiffs' claims were barred by the statute of limitations, that some of the DPPs may have benefited from the EpiPen price increases, and Mylan's increased focus on causation where Mylan conducted extensive new discovery and developed new arguments that were unavailable in the MDL. Neither Antares, Teva's

manufacturing partner, nor the FDA had produced documents in the MDL. Discovery in this case (which was not available in the MDL) greatly expanded the previous factual record concerning Teva's manufacturing setbacks and the lengths to which Teva had gone in its effort to obtain regulatory approval. Similarly, evidence from the FDA provided additional information about factors affecting the timing of Teva's ANDA approval.

40. On November 15, 2024, a week before the mediation session, the parties exchanged lengthy, comprehensive and detailed mediation statements with supporting documentation. Co-Lead Counsel also prepared a mediation presentation responding to each of the arguments Mylan raised in its statement.

41. The parties met in-person in Chicago on November 25, 2024, at an all-day mediation attended by Co-Counsel, attorneys from Hogan Lovells US LLP and Lathrop GPM—Mylan's long-time litigation counsel—as well as in-house counsel for Mylan.

42. The parties did not reach agreement at the mediation, but the session brought into focus the factual and legal issues upon which the parties disagreed, specifically: (i) whether, viewed individually or collectively, the two entry-date only settlements could form the basis of an *Actavis* reverse payment claim, (ii) whether DPPs' injuries were caused "by reason of" Mylan's alleged anticompetitive conduct rather than delay caused by Teva's manufacturing and regulatory setbacks, including needle drop issues, drug impurities, and the inability to satisfy the FDA's human factors requirements, (iii) whether DPPs would be able to successfully certify a class of direct purchasers; and (iv) whether DPPs' claims were time barred by the four-year statute of limitations on federal antitrust claims.

43. Over the following weeks, the parties engaged in several teleconferences and continued to exchange factual and legal materials supporting their respective positions and consult with their clients.

44. Ultimately, after numerous and lengthy subsequent negotiations, Co-Lead Counsel and counsel for Mylan, having sufficient information and experience to fully assess the strengths and weaknesses of their positions in the case, reached an agreement and executed a binding term sheet on December 30, 2024. The parties negotiated the Settlement, that was executed two weeks later, on January 15, 2025.

45. Plaintiffs and the Mylan Defendants have no additional or side agreements.

II. The Direct Purchaser-Mylan Settlement

A. Benefits of the Settlement

46. Pursuant to the terms of the Settlement, Mylan immediately deposited $73,500,000 into an interest bearing, non-reversionary Settlement Fund for the benefit of the Class on December 30, 2024. ECF No. 454-2 at ¶ 9(a). After Administrative Expenses and any attorneys' fees, costs, and expenses are deducted, all amounts remaining in the Escrow Account (including substantial interest that has accrued) will be distributed to Class members that submit a valid claim form in accordance with the Allocation Plan approved by the Court.

47. Any Class Member that already submitted a valid Claim Form in connection with the Pfizer Settlement will automatically be included as a member of the Settlement Class with Mylan. Such Class members will be given the opportunity to submit supplemental information to account for the longer class period covered by the Mylan Settlement. Class members who chose not to file a claim in the Pfizer Settlement may still file a claim in the Mylan Settlement.

48. If the Settlement is approved, no amount shall, under any circumstances, revert to Mylan.

B. Preliminary Approval

49. While the parties were negotiating the final terms of the Settlement, Co-Lead Counsel were also drafting the motion for preliminary approval, supporting memorandum, and exhibits in support, including the plan of allocation, the escrow agreement, and the notice documents. Co-Lead Counsel also consulted with their expert economist and the settlement administrator to obtain their declarations to be filed with the preliminary approval motion.

50. The parties negotiated revisions to those documents.

51. Plaintiffs filed the Class's unopposed motion for preliminary approval of the settlement with Mylan, certification of a settlement class, and related relief on January 15, 2025. ECF No. 453. The motion provided for a notice plan that mirrored the notice plan approved for the Pfizer Settlement; it included direct mail notice, digital and publication notice, and a Settlement website.

52. The Court preliminarily approved the Settlement on February 6, 2025, ECF No. 458, and issued a corrected preliminary approval order on February 24, 2025, ECF No. 461 (correcting a minor typographical error). In granting preliminary approval, the Court certified a DPP Settlement Class; appointed Linda P. Nussbaum of Nussbaum Law Group, P.C. and Michael L. Roberts of Roberts Law Firm US, PC Co-Lead Settlement Class Counsel and Bradley T. Wilders of Stueve Siegel Hanson LLP Liaison Settlement Class Counsel; approved the form and manner of notice; appointed A.B. Data, Ltd. as settlement administrator and Huntington Bank as Escrow Agent; and set a schedule for notice and final approval.

C. Class Notice and Settlement Administration

53. In accordance with the Court's preliminary approval order, Plaintiffs immediately began implementing the notice program. Within 21 days of the Court's order, the settlement administrator mailed the long-form notice and claim form to each identified Class member and

updated the existing settlement website to include information pertaining to the Mylan Settlement. Plaintiffs' counsel worked closely with the settlement administrator to ensure that the notices complied with the Court's order. Ahead of the Court-ordered deadline, the settlement administrator caused notice to be published on the Pink Sheet website and in *Wall Street Journal* and *Business Wire*. Reminder notices will be mailed by March 27, 2025.

54. The Class members are treated alike and equitably under the proposed allocation plan. *See* ECF No. 454-9. As discussed in Plaintiffs' motion for preliminary approval and accompanying proposed allocation plan, the Net Settlement Fund will be allocated on a *pro rata* basis based on data submitted by the Class members showing their purchases of brand, authorized generic, and generic EpiPen. Class members who submitted a claim in the Pfizer Settlement do not have to submit a claim or further documentation but may do so if they wish. Each Class member's share will be calculated, through the coordination of Plaintiffs' expert economist and settlement administrator, by dividing the total purchases of the Class member by the total purchases of the Class, with brand and generic purchases given different weights to account for their differing amounts of alleged damages. Co-Lead counsel will ensure that any issues that arise after final approval of the Settlement are properly addressed and will raise any such issues as necessary with the Court.

D. Response of the Class

55. As of this submission, Co-Lead Counsel have received no objections to the Settlement.

56. Co-Lead Counsel will provide the Court with an update on the response of the Class, including the number of claims filed and any objections received, ahead of the Final Approval Hearing.

III. Attorneys' Fees, Litigation Expenses, and Service Awards

A. The Requested Attorneys' Fee Award

57. Co-Lead Counsel seek an attorneys' fee award comprised of one-third of the Settlement Fund ($24,500,000), together with any interest earned on that amount for the same period and at the same rate as that earned on the Settlement Fund until paid. In addition, Co-Lead Counsel seeks the reimbursement of unreimbursed additional costs and expenses incurred in the amount of $342,614.77.

58. The amount of attorneys' fees requested is consistent with what was provided in Plaintiffs' motion for preliminary approval of the Settlement, in the Settlement itself, and in the notice provided to the Class. *See* ECF Nos. 453, 454-2, 454-3.

59. As described above, for the past five years, Co-Lead Counsel have zealously prosecuted this litigation on a completely contingent basis—in the face of sometimes unfavorable odds—to a successful resolution with Mylan on behalf of the Class. Co-Lead Counsel did so opposite Pfizer and Mylan, two of the nation's largest and most profitable and well represented pharmaceutical companies. Since the filing of this litigation, as shown by the multiple rounds of dismissal motions, Mylan continues to maintain that it did nothing wrong, and that the Plaintiffs' claims lack merit and are legally unsupported. On the other hand, Plaintiffs have advanced many complex legal and factual issues under federal antitrust law. Given the complex nature of the claims at issue, Mylan's experienced representation and resources, and the well-accepted riskiness of pharmaceutical antitrust class actions generally and the facts of this case in particular, Co-Lead Counsel knew, when taking on this case, that the outcome was uncertain, and that no recovery was guaranteed for the Class in exchange for Co-Lead Counsel's efforts.

60. Co-Lead Counsel invested a significant amount of time and resources in this case between Plaintiffs' initial investigation and the Settlement—researching and drafting the initial

and multiple amended complaints, responding to numerous motions to dismiss, extensively working with their retained expert witnesses, and engaging in extensive party and non-party discovery, including written discovery and the review and analysis of approximately 1.5 million documents. Non-parties subpoenaed by Plaintiffs included: the FDA, Teva and other generic EpiPen manufacturers, the national wholesalers, and Mylan's outside consulting firm.

61. Co-Lead Counsel and other Plaintiffs' counsel have substantial experience prosecuting complex antitrust class actions. *See* Firm Declarations, Ex. 1-3 to the Motion, and Exhibits 1 thereto. Their skill is reflected in the excellent Settlement they obtained on behalf of the Class and the fact that, in the face of unbending opposition, they defeated multiple rounds of motions to dismiss and a motion for partial judgment on the pleadings.

62. Ahead of Settlement negotiations, Co-Lead Counsel had prepared to depose several Mylan witnesses. In addition, Plaintiffs retained and consulted with several experts regarding liability, causation, class certification, and damages issues and were prepared to file their motion for class certification and supporting expert reports on January 10, 2025. Prior to the in-person mediation, the parties exchanged lengthy detailed memoranda regarding liability, causation, class certification, statute of limitations, and damages issues.

63. As a result of their efforts, Co-Lead Counsel successfully negotiated a Settlement on behalf of the Class. Co-Lead Counsel's continued diligence will ensure proper distribution of the Settlement proceeds and address any issues that arise after final approval of the Settlement.

64. The DPP Class is comprised of sophisticated entities, including large national wholesalers. None of the Class members have thus far objected to the Settlement or Co-Lead Counsel's requested fee. The three largest Class members—national wholesalers—are known to object to counsel's fee requests with which they disagree. *See, e.g.*, *In re Glumetza Antitrust Litig.*,

No. C 19-05822 WHA, 2022 WL 327707, at *9-12 (N.D. Cal. Feb. 3, 2022). It is notable that they lodged no objection to the Pfizer Settlement or fee application and have made no such objection to settlement here. Co-Lead Counsel do not expect to receive any objections given the results obtained for the Class in the face of significant risk.

65. Through March 15, 2025 Co-Lead Counsel and firms operating at their direction have expended a collective total of 26,670.9 hours of time in the prosecution of this litigation. These attorney hours were reported to Court-appointed Liaison Counsel in detailed monthly time and expense reports throughout the litigation under a strict time and expense protocol that was prepared for and required for all participating Plaintiffs' counsel.

66. An award of attorneys' fees comprised of one-third of the $73.5 million Settlement Fund, amounting to $24,500,000, together with any interest earned on that amount for the same period and at the same rate as that earned on the Settlement Fund until paid, is consistent with this District's law and the Tenth Circuit's requirement that the fee be reasonable under review of the factors set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974).

67. In addition to the work done by Co-Lead Counsel, the collective total of hours described in paragraph 65 above includes time for 4 other firms representing the Class that have done work in the litigation, most notably Stueve Siegel Hanson LLP as liaison counsel. All firms that have done work in the litigation under the supervision and at the request of Co-Lead Counsel agreed in advance to adhere to the required detailed monthly time and expense reporting throughout the litigation.

68. Liaison Counsel has reviewed and approved the time and expense records covering services for all Plaintiffs' counsel to ensure the appropriateness and efficiency of time and expenses

expended, and to avoid any duplication, on behalf of the Class. The following chart details the collective time for each of the Plaintiffs' counsel's firms.

Firm	Hours
Roberts Law Firm US, PC	12,393.6
Nussbaum Law Group, P.C.	9,454.6
Stueve Siegel Hanson LLP	1,203.3
NastLaw LLC	2,323.4
Kessler Topaz Metzler & Check, LLP	521.4
Wagstaff & Cartmell LLP	774.6
Total	**26,670.9**

B. Unreimbursed Costs and Litigation Expenses Incurred by Plaintiffs' Counsel

69. Subsequent to the Pfizer Settlement and the Courts grant of final approval of that settlement and request for attorneys' fees and expenses, Plaintiffs' counsel have expended a substantial sum in additional costs and expenses to effectively prosecute this case against Mylan. From April 30, 2024—the last date for which counsel submitted time and expenses in connection with the Pfizer Settlement—through March 15, 2025, Plaintiffs' counsel have incurred $342,614.77 in additional costs and expenses. These costs and expenses are broken down in the declarations of Plaintiffs' counsel attached as Exhibits 1 through 3, and are summarized in the following chart:

Firm	Expenses Requested
Roberts Law Firm US, PC	$170,600.45
Nussbaum Law Group, P.C.	$108,337.92
Stueve Siegel Hanson LLP	$38,624.21
NastLaw LLC	$25,052.19
Total	**$342,614.77**

70. These unreimbursed expenses include items typically borne by clients in non-contingent fee litigation, such as expert witness costs, document management, travel, legal research, photocopying, and overnight delivery, among others, and are directly related and

necessary to Plaintiffs' counsels' prosecution of this litigation and are typical of large, complex class actions such as this.

71. The unreimbursed costs and expenses summarized in paragraph 69 above and itemized in Plaintiffs' counsel's declarations were incurred on behalf of the Class by Plaintiffs' counsel on a contingent basis and have not been repaid. All these costs and expenses are reflected in the books and records of each firm, which are prepared from expense vouchers, check records, invoices, and other source materials, and represent an accurate record of the costs and expenses incurred in connection with this litigation. Copies of all such records are available upon the Court's request.

IV. NUSSBAUM LAW GROUP, P.C. TIME, COSTS, AND EXPENSES

72. As Co-Lead Counsel, I have co-led all aspects of the litigation from César Castillo LLC's intervention in this litigation in September 2021, through the settlement with Mylan. Attorneys with NLG and I actively participated and continue to participate in all aspects of the litigation including, but not limited to, drafting complaints, responding to Defendants' motions to dismiss and subsequent appeals, serving and responding to written discovery, reviewing and analyzing documents, preparing and filing motions to compel as well as oppositions thereto, preparing for depositions, retaining and coordinating with experts, preparing for class certification and other pretrial submissions, negotiating and drafting the Pfizer Settlement, obtaining preliminary approval and final approval of the Pfizer Settlement and overseeing the Plan of Allocation and claims administration process, preparing for and attending the all-day, in-person mediation with Mylan, engaging in multiple additional negotiating sessions with counsel for Mylan subsequent to the mediation, and negotiating and drafting the Mylan Settlement.

73. Due to the volume of materials, the novelty of the legal issues, and the time sensitive nature of much of this work, there have been periods of time where litigation was so

intense that a number of highly experienced attorneys from NLG were working nearly full-time on this case alone. Indeed, the resources necessary to successfully prosecute this matter were so significant that NLG turned down opportunities to work on other matters in order to devote the resources necessary to effectively advance this litigation.

74. NLG prosecuted this case on a fully contingent-fee basis with no guarantee of recovery.

75. From inception to March 15, 2025, NLG spent 9,454.6 hours advancing the litigation. These figures are based on contemporaneous, daily time records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Liaison Counsel.

76. The work conducted by my firm was performed with the appropriate level of effort and efficiency and is not duplicative of other work performed by attorneys representing the Class.

77. NLG seeks an award of $108,337.92 in unreimbursed costs and expenses incurred after April 30, 2024—the last date for which NLG submitted time and expenses in connection with the Pfizer Settlement—in connection with the prosecution of the action. These costs and expenses are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Co-Lead Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents that are an accurate record of the costs and expenses. The costs and expenses are of the type that, in my view, would normally be charged to a fee-paying client in the private legal marketplace.

Category	**Amount**
Litigation Fund Contributions	$100,000.00
Legal Research	$4,444.69
In-House Photocopying	$531.40
Ground Transportation	$938.78
Airfare	$2,313.11

Hotel Accommodations	$467.32
Litigation Fund Contribution Discount[1]	($357.38)
Total	**$108,337.92**

78. As the itemized summary shows, NLG made $100,000.00 in additional joint litigation fund contributions after April 30, 2024, to cover shared litigation expenses, such as expert fees and ESI document hosting costs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 21st day of March 2025:

/s/ Linda P. Nussbaum
Linda P. Nussbaum
New York, New York

[1] As described in the Declaration of Michael L. Roberts, attached to the Motion as Exhibit 2, because the joint litigation fund still has $714.76 in the account at the time of the submission of the Motion, Co-Lead Counsel Mike Roberts and Linda Nussbaum have reduced their requests for reimbursement of costs and expenses by that amount (split between them).

EXHIBIT 1

NUSSBAUM LAW GROUP, P.C.

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FIRM BIOGRAPHY

Nussbaum Law Group, PC ("NLG") is a litigation firm specializing in the prosecution of precedent-setting class litigation with the singular focus of providing the highest level of service and best results. Linda Nussbaum, the firm's founder, has been at the forefront of landmark fair competition and other complex class cases for over 40 years. The firm's experienced litigators have played leading roles in recovering billions of dollars for their clients from the world's largest corporations. The firm has repeatedly successfully represented individuals, public companies and classes in significant and high-stakes, multifaceted litigation in courts throughout the country. Our main practice areas include antitrust, pharmaceutical, consumer, data breach, employee "no poach" and commodities manipulation class actions, as well as complex business disputes.

MANAGING DIRECTOR: LINDA P. NUSSBAUM

Linda Nussbaum is the founder and managing director of the Nussbaum Law Group, P.C. She is nationally recognized for her representation of class and individual plaintiffs in antitrust, RICO, CEA, and pharmaceutical litigation. She has served as sole or co-lead counsel in many significant class actions which have resulted in substantial recoveries, many in the realm of hundreds of millions of dollars.[1]

[1] Ms. Nussbaum has served as Lead or Co-Lead counsel in 29 antitrust class actions. *In re Sorbates Direct Purchaser Antitrust Litig.*, 3:98-cv-04886-MMC (N.D.Ca.) (USDJ Maxine M. Chesney) (settled for $96 million, Nov. 2002); *In re Lorazepam & Clorazepate Antitrust Litig.*, MDL No. 1290, 99-ms-00276-TFH (D.D.C.) (Chief Judge Thomas F. Hogan) (settled for $37 million, Jun. 2003); *In re Methionine Antitrust Litig.*, MDL No. 1311, 3:00-md-01311-CRB (N.D. Ca.) (USDJ Charles R. Breyer) (settled for $107 million, Jun. 2003); *Oncology & Radiation Associates, P.A. v. Bristol-Myers Squibb Company & American Bioscience*, 1:01-cv-02313-EGS (D.D.C.) (USDJ Emmet G. Sullivan) (settled for $65.8 million, Oct. 2003); *In re Relafen Antitrust Litig.*, 01-cv-12239 (D. Mass.)-*Meijer, Inc. v. SmithKline Beecham*, 01-cv-12239-WGY (D. Mass.) (Chief Judge William G. Young) (settled for $175 million, Apr. 2004); *In re Microcrystalline Cellulose Antitrust Litig.*, MDL No. 1402, 01-cv-00111-TNO (E.D. Pa.) (USDJ Thomas N. O'Neill Jr.) (settled for $50 million, Nov. 2006); *In re Plastics Additives Antitrust Litig.*, MDL No. 1684, 03-cv-02038-LDD (E.D. Pa.) (USDJ Legrome D. Davis) (settled for $46.8 million, Jun. 2008); *In re Remeron Direct Purchaser Antitrust Litig.*, Master Docket 02-2007-FSH (D.N.J.) (settled for $75 million, Nov. 2005)-*Meijer, Inc. v. Organon, Inc.*, 2:03-cv-0085-FSH (D.N.J.) (USDJ Faith S. Hochberg); *In re Foundry Resins Antitrust Litig.*, MDL No. 1638, 04-md-01638-GLF (S.D. Ohio) (USDJ Gregory L. Frost) (settled for $14.1 million,

Ms. Nussbaum was selected "Litigator of the Week" by the AMLAW LITIGATION DAILY for her lead counsel role in *Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals v. Pfizer*, *Inc.* (D. Mass) where, after a six-week trial, a jury returned a RICO verdict for her clients. She was also co-lead and trial counsel for a class of antitrust plaintiffs in *Meijer, Inc. v. Abbott Laboratories* (N.D. Cal.). She was named as a finalist for Public Justice Foundation's 2011 Trial Lawyer of the Year award. She has repeatedly been selected by Global Competition Review as being among the world's leading competition lawyers.

Ms. Nussbaum has lectured extensively about various aspects of antitrust and class action law at the American Antitrust Institute Private Enforcement Conference, and the American Bar Association, Section of Antitrust Law Spring Meetings. She has been a member of the American Law Institute (ALI) for over 15 years, and is a long-time advisory board member of the American Antitrust Institute. She is also on the Board of Savvy Ladies, a not-for-profit women's legal and financial resource organization.

Ms. Nussbaum successful prosecution of complex litigation has been recognized and commended by judges in matters in which she has served as lead and trial counsel. Following the trial in *In re Neurontin Marketing and Sales Practices Litigation*, No. 04cv10981-PBS (D. Mass.), in which Linda served as a lead trial counsel, Judge Patti B. Saris commented that:

> [This was] a fabulous trial[.] [I]t's the kind of thing that you become a judge to sit on.

Mar. 2008); *North Shore Hematology-Oncology Associates, P.C. v. Bristol-Myers Squibb Co.*, 1:04-cv-00248-EGS (D.D.C.) (USDJ Emmet G. Sullivan) (settled for $50 million, Nov. 2004); *In re Children's Ibuprofen Oral Suspension Antitrust Litig.*, 1:04-mc-00535-ESH (D.D.C.)-*Meijer, Inc. v. Perrigo Company and Alpharma Inc.* (D.D.C.) (USDJ Ellen S. Huvelle) (settled for $9.7 million, Apr. 2006); *In re Rubber Chemicals Antitrust Litig.*, 04-md-01648 (N.D. Ca.) (USDJ Maxine M. Chesney) (settled for $319.5 million, Nov. 2006); *Meijer, Inc. v. Warner Chilcott Holdings Co. III, Ltd.*, 05-cv-02195-CKK (D.D.C.) (USDJ Colleen Kollar-Kotelly) (settled for $22 million, Apr. 2009); *In re DDAVP Direct Purchaser Antitrust Litig.*, 05-cv-02237-CS (S.D.N.Y.) (USDJ Cathy Seibel) (settled for $30.25 million, Nov. 2011); *Meijer, Inc. v. Abbott Laboratories*, 07-cv-05985-CW (N.D. Ca.) (USDJ Claudia Wilkin) (settled for $52 million, Aug. 2011); *Meijer, Inc. v. Braintree Laboratories, Inc.*, 07-cv-00143 (D. Del.) (Special Master B. Wilson Redfearn); *Castro v. Sanofi Pasteur, Inc.*, 2:11-cv-07178-JMV-JBC (D.N.J.) (USDJ Jose L. Linares) (settled for $61.5 million); *Meijer, Inc. v. Warner Chilcott Public Limited Company*, 12-cv-03824-PSD (E.D. Pa.) (USDJ Paul S. Diamond); *In re Aluminum Warehousing Antitrust Litig.*, 1:13-md-02481-PAE (S.D.N.Y.) (USDJ Paul A. Engelmayer); *In re Zinc Antitrust Litig.*, 2:14-cv-03728-PAE (S.D.N.Y.) (USDJ Paul A. Engelmayer); *IV Saline Solutions Antitrust Litig*., *Washington County Health Care Authority, Inc. v. Baxter International Inc.*, 1:16-cv-10324-JJT (N.D.Ill.) (USDJ John J. Tharp Jr.); *In re Outpatient Medical Center Employee Antitrust Litig.*, 1:21-cv-00305-ARW-SRH (N.D. Ill.); *In re Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litig.*, 1:19-md-2895-CFC (D. Del); *In re Actos Direct Purchaser Antitrust Litig.*, 1:13-cv-09244-RA-SDA (S.D.N.Y.); and *In re Vascepa Antitrust Litig. Direct Purchaser Plaintiffs*, 3:21-cv-12747-ZNQ-LHG (D.N.J.); *In re Morgan Stanley Data Security Litig*., 20-cv-5914-PAE (S.D.N.Y).

Recently, Judge Paul A. Engelmayer in approving the settlement and fee *in In re Zinc Antitrust Litigation,* 14 Civ. 3728 complimented Ms. Nussbaum and her co-lead counsel stating:

> I have been truly impressed by counsel's work in the case. I wish the caliber of lawyering in this case was the model for all cases before me.

Ms. Nussbaum is presently serving in the following leadership positions:

- *In re Fragrance Direct Purchaser Antitrust Litigation,* No. 23-2174-WJM (D.N.J.) (Lead).
- *In re American Medical Collection Agency, Inc., Customer Data Security Breach Litigation, MDL 2904* (D.N.J.) (Lead)
- *In re Wawa, Inc. Data Security Litigation* (E.D.Pa.) (Lead)
- *Nanette Katz, et al. v. Einstein Healthcare Network* (Class Action Case ID No. 21040204, Philadelphia Court of Common Pleas, First Judicial District of Pennsylvania) (Lead)
- *In re Samsung Customer Data Security Breach Litigation* (D.N.J.) (Chair of Discovery)
- *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation* (E.D.N.Y.) (Lead)
- *In re Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litigation* (D. Del) (Lead)
- *In re Actos Direct Purchaser Antitrust Litigation* (S.D.N.Y.) (Lead)
- *In re Generic Drugs Pricing Antitrust Litigation* (E.D. Pa.) (Plaintiff Steering Committee)
- *In re Bank of Nova Scotia Spoofing Litigation (D.N.J.)* (Lead)
- *In re Outpatient Medical Center Employee Antitrust Litigation* (N.D. Ill.) (Lead)
- *In re Vascepa Antitrust Litigation Direct Purchaser Plaintiffs* (D.N.J.) (Lead)
- *In re CentraState Healthcare Data Security Incident Litigation* (Superior Court of New Jersey Law Division: Monmouth County) (Lead)
- *In re Independent Living Systems Data Breach Litigation* (S.D. Florida) (Plaintiffs Executive Committee).

Ms. Nussbaum received her B.A. *magna cum laude* from Brooklyn College, her Juris Doctor with honors from the National Law Center, George Washington University Law School, and her LLM in Taxation from New York University Law School.

OF COUNSEL: SUSAN R. SCHWAIGER

Susan Schwaiger practices in the areas of antitrust, commodities manipulation, data breach, and employee "no poach" litigation, with experience in cases involving a wide variety of industries including banking and financial services, pharmaceuticals, healthcare and chemicals. Ms. Schwaiger has worked closely with Linda Nussbaum for over 24 years and played a significant role in many of the cases in which Ms. Nussbaum served as lead counsel including:

- *In re Morgan Stanley Data Security Litigation* (S.D.N.Y.)
- *In re American Medical Collection Agency, Inc., Customer Data Security Breach Litigation,* MDL 2904 (D.N.J.)
- *In re Outpatient Medical Center Employee Antitrust Litigation* (N.D. Ill.)
- *In re Lorazepam & Clorazepate Antitrust Litigation* (D.D.C.)

- *In re Microcrystalline Cellulose Antitrust Litigation* (E.D. Pa.)
- *In re Plastics Additives Antitrust Litigation* (E.D. Pa.)
- *In re Foundry Resins Antitrust Litigation* (S.D. Ohio)
- *In re Rubber Chemicals Antitrust Litigation* (N.D. Cal.)

In addition, Susan has, with Linda, represented large companies in *In re Payment Card Interchange Fee and Merchant Antitrust Litigation* (E.D.N.Y.) and *In re Packaged Seafood Products Antitrust Litigation* (S.D. Cal.).

Ms. Schwaiger graduated from the University of Tennessee (Knoxville) with a Bachelor of Science degree from the College of Arts and Sciences in 1971. She received a M.A. degree from the University of Kentucky (Lexington) in 1973. She received her Juris Doctor, *cum laude*, from Brooklyn Law School in 1992, where she was a member of the BROOKLYN LAW REVIEW.

OF COUNSEL: PETER E. MORAN

Peter Moran is a senior associate at Nussbaum Law Group. Prior to joining the firm, Peter was an associate with an international law firm in New York City in its Global Competition and Commercial Litigation groups where he represented commercial clients on a variety of antitrust and complex commercial litigation issues, including violations of the federal and state antitrust and consumer protection laws, antitrust compliance, internal investigations, individual civil and criminal liability and responding to federal and foreign regulators. Mr. Moran focuses his practice on antitrust cases in the financial marketplace and pharmaceutical industry, where he handles all stages of litigation from investigation and inception through trial. Mr. Moran received a B.A. degree in English from the State University of New York at Albany. He graduated *cum laude* from Brooklyn Law School in 2009, where he was a member of the BROOKLYN LAW SCHOOL JOURNAL OF INTERNATIONAL LAW and Moot Court Honor Society and recipient of several academic awards.

OF COUNSEL: JONATHAN J. ROSS

Jonathan Ross is a senior associate at Nussbaum Law Group. Prior to joining the firm, Mr. Ross litigated intellectual property matters in class and non-class actions. Mr. Ross has also litigated numerous copyright and trademark disputes. Earlier in his career, Mr. Ross also served as an attorney in the Special Federal Litigation Division of the New York City Law Department where he litigated class actions arising from civil rights demonstrations. Mr. Ross received a B.A. degree in Social and Behavioral Sciences from The Johns Hopkins University. He received his Juris Doctor from Brooklyn Law School in 1993.

SENIOR ASSOCIATE: MEGHAN TALBOT

Meghan Talbot focuses her practice on antitrust matters in the pharmaceutical and financial industries. She has been a key member of trial and appellate teams and has deep experience in litigating complex class actions. Prior to joining the firm, Meghan practiced with an international plaintiff-side firm in its Global Competition group. Before that, she was an associate at a prominent class action boutique representing institutional clients in antitrust and securities matters. Meghan received her B.A. in Economics from Bryn Mawr College, and her J.D. from Villanova Law School.

ASSOCIATE: BRETT LEOPOLD

Brett Leopold is an associate at Nussbaum Law Group. Before joining the firm, Brett worked with other prominent plaintiffs' class action firms in New York on antitrust and data breach class litigation. Brett's background, spanning twenty years in legal practice, includes complex commercial/securities fraud, commodities manipulation, privacy and data breach actions and pharmaceutical antitrust matters. Mr. Leopold obtained a B.A. degree in Political Science from Emory University in 1992 and graduated from St. John's University School of Law in 1995.

ASSOCIATE: JAMES T. PERELMAN

James Perelman is an associate at Nussbaum Law Group. Prior to joining the firm, James worked with several prominent plaintiffs' class action firms, working specifically on pharmaceutical antitrust matters. Previously, he served as a Judicial Fellow in the Court of Common Pleas of Philadelphia County, Civil Trial Division. Mr. Perelman received his B.A. degree in Politics from Brandeis University in 2010 and received his Juris Doctor in 2014 from Tulane University Law School, where he was the Business Editor of the TULANE JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW.

CHIEF OPERATING OFFICER: ZACH SHUTRAN

Zach Shutran leads all administrative and operational functions of the firm. He also plays a significant role in the firm's e-discovery efforts. Mr. Shutran received his B.A. degree from Colgate University in 2012, and his Juris Doctor from Brooklyn Law School in 2018.

EXHIBIT 2

UNITED STATES DISTRICT COURT
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. MYLAN, N.V., MYLAN PHARMACEUTICALS INC., and MYLAN SPECIALTY L.P., Defendants.	Civil Action No. 2:20-cv-02065-DDC-TJJ

DECLARATION OF MICHAEL L. ROBERTS IN SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH THE MYLAN DEFENDANTS, APPROVAL OF PLAN OF ALLOCATION, AND AWARD OF ATTORNEYS' FEES AND EXPENSES

I, Michael L. Roberts, hereby declare as follows:

1. I am an attorney duly licensed to practice in the States of Arkansas, Florida, Illinois, New York, Tennessee, and Texas. I am the managing partner of Roberts Law Firm US, PC ("RLF") and Court-appointed as one of Co-Lead Settlement Class Counsel ("Co-Lead Counsel") for the Settlement Class ("Class") of Direct Purchaser Plaintiffs ("DPP" or "Plaintiffs"). RLF's firm resume is attached as Exhibit 1. I respectfully submit this declaration in support of the Direct Purchaser Class Plaintiffs' Motion for Final Approval of Settlement with the Mylan Defendants, Approval of Plan of Allocation, and Award of Attorneys' Fees and Expenses ("Motion"). I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could competently testify to the matters set forth in this declaration.

2. For more than five years, RLF has zealously advocated for its clients and the Class in litigating this case. RLF has been involved in every aspect of the litigation and has prosecuted this case on a contingent-fee basis with no guarantee of recovery.

3. I have co-led all aspects of the litigation from inception through the Settlement with Mylan. Attorneys with RLF and I actively participated and continue to participate in all aspects of the litigation and settlement including, but not limited to, the duties enumerated in paragraph 1 of the Court's order appointing me and my firm, RLF, as Interim Co-Lead Counsel for the Class (ECF No. 306), including the following work. RLF, in coordination with its Co-Lead Counsel, organized and supervised the work by Plaintiffs' counsel on behalf of the Class in a manner to ensure that litigation efforts for the Class were conducted effectively, efficiently, expeditiously, and economically. RLF also worked collaboratively with its Co-Lead Counsel in preparing and filing the Consolidated Class Complaint (the FAC), discovery motions, oppositions to motions to dismiss, an appeal to the Tenth Circuit, and other pretrial motions on behalf of its clients, KPH and

FWK, and the Class. RLF thoroughly and thoughtfully prepared for and argued on behalf of its clients and the Class at court conferences and hearings, as well as represented its clients and the Class in meet and confer calls with the defendants and third parties from whom the parties sought discovery. Furthermore, RLF researched, discussed, planned, and executed key strategic decisions in prosecuting the Class's claims and in accordance with the rules and expectations of this District and the Court. RLF prepared for and participated in numerous settlement discussions and mediations with the defendants.

4. As counsel for KPH and FWK, RLF responded to, supplemented, and produced tens of thousands of documents on behalf of KPH and FWK in response to Defendants' many discovery requests. RLF kept KPH and FWK apprised of the litigation. RLF also processed and hosted approximately 4.5 million electronic documents for its clients and Castillo. RLF also hosted the approximately 1.5 million documents produced by Defendants and non-parties.

5. Due to the volume of materials, the novelty of the legal issues, and the time sensitive nature of much of this work, there have been periods of time where litigation was so intense that a number of highly experienced attorneys from RLF were working nearly full-time on this case alone. The resources necessary to successfully prosecute this matter were so significant that RLF turned down opportunities to work on other matters in order to devote the resources necessary to effectively advance this litigation.

6. From inception to March 15, 2025, RLF spent 12,393.6 hours advancing the litigation based on contemporaneous, daily time records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Co-Lead Counsel.

7. The work conducted by my firm has been approved by Liaison Counsel and Co-Lead Counsel, was performed with the appropriate level of effort and efficiency, and is not duplicative of other work performed by attorneys representing the putative class.

8. RLF seeks an award of $170,600.45 in unreimbursed costs and expenses in connection with the prosecution of the action from inception through March 15, 2025. These costs and expenses are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Liaison Counsel and Co-Lead Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents that are an accurate record of the costs and expenses. The costs and expenses are of the type that, in my view, would normally be charged to a fee-paying client in the private legal marketplace.

Unreimbursed Costs and Expenses Incurred from May 1, 2024 through March 15, 2025	
Category	**Amount**
ESI Document Hosting (Mainstream Technologies and Exterro)[1]	$59,714.60
Litigation Fund Contributions	$50,000.00
Witness and Expert Expenses	$50,000.00
Electronic Legal Research	$6,892.52
Air Travel	$2,697.70
Hotels	$662.66
Ground Transportation	$377.03
Outside Photocopying	$361.62
Meals	$210.17
Miscellaneous	$41.53
Litigation Fund Contribution Discount[2]	($357.38)
Total	**$170,600.45**

[1] These expenses were properly categorized as "Miscellaneous," but for clarity, given their size relative to RLF's total expenses, are listed separately here.

[2] Because the joint litigation fund still has $714.76 in the account as of March 15, 2025, Co-Lead Counsel Mike Roberts and Linda Nussbaum have reduced their requests for reimbursement of costs and expenses by that amount (split between them).

9. As the summary above shows, RLF has made $50,000.00 in unreimbursed joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs. Plaintiff firms collectively contributed $555,000.00 to the DPP Litigation Fund since the beginning of this litigation. The summary below includes an itemized description of all costs and litigation expenses paid by the DPP Litigation Fund since the beginning of the case as of March 15, 2025.

Summary of DPP Joint Litigation Fund Expenses	
Description	**Amount**
Experts/Consultant Fees	$529,788.10
Mediation	$15,609.19
Litigation Support - Reproduction	$8,382.95
Court Filing Fees	$505.00
Total	**$554,285.24**

10. These costs and litigation expenses paid by the DPP Litigation Fund were necessary for the efficient and effective prosecution of the litigation. The above summary of the DPP Litigation Fund's expenditures was prepared from the ledger and summary maintained by the Nast Law Firm, which was prepared from receipts, expense vouchers, check records, and other documents, and accurately reflects the costs and expenses paid by the DPP Litigation Fund.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 21st day of March 2025:

/s/ Michael L. Roberts
Michael L. Roberts
Dallas, Texas

EXHIBIT 1

ROBERTS LAW FIRM

ROBERTS GROUP

FIRM RESUME

Complex Litigation

1920 McKinney Ave., Suite 700
Dallas, TX 75201
Phone: (501) 821-5575
http://robertsgroup.us/

FIRM OVERVIEW

Founded in 1990, Roberts Law Firm US, PC is a full-service law firm with a worldwide client base, integrating business law with a world vision. We utilize our team of highly experienced and reputable attorneys to deliver cost-effective client-focused representation on a variety of legal issues including, but not limited to antitrust litigation, data breach litigation, intellectual property law, business based litigation, and general corporate law.

Our firm was founded on the principle that business and individual clients deserve powerful, sophisticated representation, where client priorities are paramount, and winning strategies flourish. This mission guides our firm in every client interaction, from domestic corporate clients to those in the Far East. Our full service law firm is headquartered in Dallas, Texas, with presence in Arkansas, Colorado, Illinois, Massachusetts, New Mexico, and New York.

Our firm boasts energetic, highly credentialed attorneys dedicated to exceeding client expectations. Efficiency is valued. Exhaustive analysis is the norm. Disciplined case management is the prevailing philosophy.

Our firm has provided legal services to a wide variety of clients, including institutions of higher education, such as the University of Arkansas for Medical Sciences (UAMS), and other large and sophisticated clients, such as Wal-Mart Stores, Inc., Tyson Foods Corporation, AT&T Corporation, Georgia Pacific Corporation, Uni-Arab Corporation, Home Depot Stores, Federal Express Corporation, Southwest Airlines, USA Drug Stores, Inc., Walgreens, Inc., RBX Industries, ASUSTek Computer, Inc. (Taiwan), Compal Electronics, Inc., (Taiwan), AMTRAN Technology Co., Ltd (Taiwan), Foxlink International, Inc., Arkansas Capital Corporation, and Little Rock Diagnostic Clinic.

Roberts Law Firm is a Certified Minority Business Enterprise. Our firm is a member of the NAMWOLF (National Association of Minority and Women Owned Law Firms, Inc.) and is also a member of the National Minority Supplier Development Council, Inc.

MIKE ROBERTS, MANAGING PARTNER

Practice Areas

Antitrust and Complex Litigation
Business Transactions
Insurance Coverage and Contract Law
Insurance Defense and General Liability
International Business Law and Litigation
Utility Law
Workers Compensation and Administrative Law

Education

University of Arkansas Bowen School of Law, J.D.

Admissions

1990, Arkansas
1993, U.S. District Court, Eastern District of Arkansas
2003, U.S. Court of Appeals, Eighth Circuit
2006, Tennessee
2006, Texas
2006, U.S. Supreme Court
2008, Florida
2010, New York
2011, Eastern District of Wisconsin
2019, Illinois

Publications

Co-Author, *Arkansas Workers' Compensation Law Manual Legislation and Commentary*, 1995, 1997, 1999, 2001 and 2003 editions.

Community Involvement

Arkansas Economic Development Commissioner
Juvenile Diabetes Research Foundation, President

Memberships

Arkansas Bar Association

- Secretary, Workers' Compensation Section, 1996 – 1997
- Chair-Elect, Workers' Compensation Section, 1997 – 1998

Mike Roberts is the Chairman & CEO of Roberts Law Firm US, PC. He primarily works in areas of international economic and business development, law, government relations, and consulting.

Roberts Law Firm is a Certified Minority Business Enterprise in Arkansas with three divisions: Corporate, Intellectual Property, and Complex Class Litigation. Mr. Roberts, owner and manager of the firm, is a certified minority. The firm is a member of NAMWOLF (The National Association of Minority and Women Owned Law Firms, Inc.) and is also a member of the National Minority Supplier Development Council, Inc.

Practice areas predominately involve complex class action litigation representing corporate clients against wrongful or illegal conduct. Roberts Law Firm provides legal services to a number of top Fortune 500 companies and represents OEM companies in Vietnam, Taiwan and China as well as companies in Europe, Central Asia, and the Middle East.

Mr. Roberts is licensed in Arkansas, Florida, Illinois, Tennessee, Texas, and New York. He is also admitted before the United States Supreme Court and several U.S. Federal District Courts. His firm handles litigation for clients across the United States and around the globe. Clients include corporations from Abu Dhabi, Dubai, Greece, England, Taiwan, China, and the United States. The firm has served as counsel for Plaintiff-Corporations in individual and class action cases, and has successfully assisted recovery of hundreds of millions of dollars for its clients.

Michael L. Roberts has served as lead and co-lead counsel and on executive committees in multiple complex class actions, including the following: *First Impressions Salon, Inc., et al. v. National Milk Producers Federation*, (case settled); *In re Direct Purchaser Insulin Pricing Litig.*, (appointed Interim Co-Lead Counsel for Direct Purchaser Plaintiff Class); *In re Microsoft Antitrust Indirect Purchaser Litigation* in Arkansas (case settled early); *In re Pilot Flying J Rebate Litigation* (a nationwide class action which settled within two months from initially filed complaint); *In re Aftermarket Automotive Sheet Metal Antitrust Litigation* (third party payor action); and *In re Parking Heaters Antitrust Litigation* (direct purchaser action). Mr. Roberts served as Co-Lead Settlement Class Counsel in *Ori vs. Fifth Third Bank* case and also served on the Plaintiffs' Steering Committee in the *Heartland Bank* data breach case. Additional information regarding Mr. Roberts' leadership experience is provided below.

In 2006, Arkansas Governor Mike Beebe appointed Mr. Roberts to serve on the Arkansas Economic Development Commission. In 2010, Governor Beebe appointed him to a second term, and in 2015, Governor Asa Hutchinson appointed him to a third term. Under the leadership of Mr. Roberts as Chairman of the Commission, the State added thousands of jobs and many companies located their businesses in Arkansas. Mr. Roberts has organized and led a number of trade missions to China, Taiwan, UAE, Vietnam, Bulgaria, Kazakhstan, and Panama. In addition, he has worked frequently with the Governor to guide foreign companies in establishing strategic relationships that will facilitate access to the American supply chain hub. As an Economic Development Commissioner, Mr. Roberts understands the importance of maintaining the integrity and reputation of local companies who drive and draw economic development and job creation.

Mr. Roberts has long-standing relationships throughout Asia and has traveled there extensively. Mr. Roberts previously represented the government of Pakistan and has worked with corporate clients in Cuba, China, Taiwan, Libya, Europe, Pakistan, Vietnam, United Arab Emirates, Bulgaria, and Greece. He has three decades of experience practicing law where he has represented Fortune 500 companies in the United States, Asia, Europe, and the Middle East. He has an extensive background and experience in assisting companies expand into global markets, and has facilitated a bilateral trade MOU between Vietnam and the U.S.

Mr. Roberts is domiciled and works in Dallas, Texas.

MICHAEL L. ROBERTS, MANAGING PARTNER, ROBERTS LAW FIRM US, PC

Michael L. Roberts has served as lead and co-lead counsel and on executive committees in multiple complex class actions, as described below. He has significant experience in antitrust law, class action practice, electronic discovery, case investigation, and settlement negotiation. Mr. Roberts has worked and continues to work tenaciously and efficiently towards the best outcome for his clients. As the owner and manager of the Roberts Law Firm US, PC, Mr. Roberts is licensed to practice law in Arkansas, Florida, Tennessee, Texas, New York, and Illinois.

Appointments as Co-Lead Counsel

First Impressions Salon, Inc., et al. v. National Milk Producers Federation, United States District Court for the Southern District of Illinois Case No. 3:13-cv-00454- NJR-SCW (antitrust class action in which Michael Roberts served as Co-Lead Counsel for Direct Purchaser Plaintiff Class; case settled). Judge Nancy J. Rosenstengel.

Staley et al. v. Gilead Sciences, Inc. et al. (HIV Drugs Antitrust Litigation), United States District Court for the Northern District of California, Case No. 3:19-cv-02573 (Michael Roberts was appointed Co-Lead Counsel for Direct Purchaser Plaintiff Class; Court granted final approval of settlement with BMS and preliminary approval of settlement with Gilead). Judge Edward Chen.

In re Direct Purchaser Insulin Pricing Litig., United States District Court for the District of New Jersey, Case No. 3:20-cv-03426 (Michael Roberts was appointed Interim Co-Lead Counsel for Direct Purchaser Plaintiff Class). Judge Brian R. Martinotti.

KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., et al. v. Mylan N.V., et al. (EpiPen Antitrust Litigation), United States District Court for the District of Kansas, Case No. 2:20-cv-02065-DDC-TJJ (Michael Roberts appointed Interim Co-Lead Counsel for the Direct Purchaser Class). Judge Daniel Crabtree.

In re: Vascepa Antitrust Litig., United States District Court for the District of New Jersey, Case No. 3:21-cv-12747 (Michael Roberts was appointed Co-Lead Counsel for Direct Purchaser Plaintiff Class). Judge Robert Kirsch.

*In re Parking Heaters Antitrust Litiga*tion United States District Court for the Eastern District of New York, Case No. 15-mc-940-JG-JO (Michael Roberts was appointed Co-Lead Interim Counsel for Direct Purchaser Plaintiff Class; case settled). Chief Judge Dora Lizette Irizarry.

Fond Du Lac Bumper Exchange v. Jui Li Enterprise Co. Ltd. ("AM Sheet Metal Antitrust Litigation"), United States District Court for the Eastern District of Wisconsin, Case No. 2:11 CV 00162 - LA (Michael Roberts was appointed Co-Lead Counsel for Third Party Payor Plaintiff Class; case settled). Judge Lynn Adelman.

National Trucking Financial Reclamation Services, LLC vs. Pilot Corporation, Pilot Travel Centers d/b/a Pilot Flying J, et al., United States District Court for the Eastern District of Arkansas, Case No. 4:13-cv-00250-JMM. (Michael Roberts was appointed Co-Lead Counsel and Co-Lead Settlement Class Counsel; case settled in eight months for $84 million plus injunctive relief). Judge James M. Moody.

In re Microsoft Antitrust Litigation: Paul Peek, D.D.S., et al. v. Microsoft Corporation, Circuit Court of Pulaski County, Arkansas, Twelfth Division, No. CV06-2612 (Michael Roberts was appointed Co-Lead Settlement Class Counsel; case settled for $37 million). Judge Alice Gray.

In re Ori vs. Fifth Third Bank and Fiserv, Inc., United States District Court for the Eastern District of Wisconsin, Case No. 08-CV-00432-LA. (Michael Roberts was appointed Co-Lead Settlement Class Counsel; case settled). Judge Lynn Adelman.

In re Generic Pharmaceuticals Antitrust Litigation, United States District Court for the Eastern District of Pennsylvania, Case No. 2:16-md-02724-CMR, MDL No. 2724 (ongoing class action in which Michael Roberts serves on the Court-Appointed Direct Purchaser Plaintiffs' Steering Committee). Judge Cynthia M. Rufe.

Other Leadership Roles

In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation, United States District Court for the Eastern District of New York, Case No. 1:18-cv-02819-NG-LB (Michael Roberts was appointed to the Plaintiffs' Executive Committee for Direct Purchaser Plaintiff Class). Judge Nina Gershon.

In re Effexor XR Antitrust Litigation, United States District Court for the District of New Jersey, Case No. 3:11-cv-05479-PGS-LHG (Michael Roberts was appointed Co- Chair Discovery Committee for Direct Purchaser Plaintiff Class). Judge Peter G. Sheridan.

In re Heartland Payment Systems Inc. Customer Data Security Breach Litigation, United States District Court for the Southern District of Texas, Case No. H-09-MD-2046 (Michael Roberts was appointed as a member of the Steering Committee; case settled). Judge Lee H. Rosenthal.

In re U.S. DRAM Antitrust Litigation, United States District Court for the Northern District of California, Case No. 4:02-md-01486-PJH (settled for approximately $300 million). Judge Phyllis J. Hamilton. Michael Roberts represented indirect purchasers in the Arkansas class action, *Bruce K. Burton, M.D., P.A. Malvern Diagnostic Clinic, et al. v. Micron Technology, Inc., et al.* Circuit Court of Hot Spring County, Arkansas, First Division, Case No. CV-2004-226-1. Circuit Judge Lynn Williams.

CHRISTOPHER SANCHEZ, PARTNER

Practice Areas
Antitrust and Complex Litigation

Education
DePaul University College of Law, J.D.
University of New Mexico, B.A., *cum laude,* Political Science

Admissions
Illinois, 2000
New Mexico, 2019
U.S. District Court for the Northern District of Illinois
U.S. District Court for the District of New Mexico
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Appeals for the Tenth Circuit

Memberships
State Bar of New Mexico
Chicago Bar Association

Community Involvement
Constitutional Rights Foundation Chicago, *Edward J. Lewis II Lawyer in the Classroom Program*, Chicago, IL
National Lawyers Guild, *Legal Observer Program*, Chicago, IL
DePaul University College of Law, *Professional Practice Program*, Chicago, IL

Christopher B. Sanchez is a Partner at Roberts Law Firm and is based in Albuquerque, New Mexico. Mr. Sanchez has more than twenty years of experience in both the private practice and non-profit contexts, representing consumers, investors, whistleblowers, and civil rights plaintiffs in class action and impact litigation. His experience includes several antitrust actions successfully representing both direct and indirect purchasers in federal courts throughout the country.

Prior to joining the Roberts Law Firm, Mr. Sanchez spent several years at boutique national class action law firms in Chicago and New York.

He has also successfully represented New Mexico's public school districts and children at trial in a landmark education civil rights case.

Additionally, Mr. Sanchez has represented whistleblowers under the False Claims Act and successfully represented a woman from Guinea in her request for political asylum, prevailing in an immigration court trial.

ROBERTS LAW FIRM
ROBERTS GROUP

KAREN HALBERT, PARTNER

Practice Areas

Antitrust and Complex Litigation
Business Transactions
Electronic Discovery
International Business Law and Litigation

Education

University of Arkansas at Little Rock School of Law, J.D., high honors, first in class
Henderson State University, B. S., Computer Science and Math, *magna cum laude*

Admissions

2001, Arkansas
2001, U.S. District Courts, Eastern & Western Districts of Arkansas
2007, U.S. Court of Appeals, Eighth Circuit

Community Involvement

Juvenile Diabetes Research Foundation Greater Arkansas Chapter, Board of Directors

- Government Relations Legislative Chair (2004 -2009)
- President Elect (2009 – 2010), President (2010 – 2011)
- Strategic Planning Chair (2011 – 2012)

Little Rock First Baptist Church, Finance Committee (2003 – 2005)

Memberships

Arkansas Bar Association
Pulaski County Bar Association
William R. Overton Inn of Court

Ms. Halbert's practice consists of corporate law, real estate transactions, cyber law, business transactions, a wide variety of complex business litigation including antitrust and data breach class actions. Her practice focuses on eDiscovery and technology. She is proficient with a variety of technologies associated with modern complex litigation including database management of documents and depositions, digital video testimony, and other electronic courtroom media.

Ms. Halbert successfully and very recently helped our client from China close a real estate transaction involving property, buildings and equipment for industrial use in the client's garment manufacturing business. She has also handled cross border acquisitions for clients from China.

Ms. Halbert's real estate experience includes land acquisitions and sales with multi-million dollars values. Some real estates have involved financing. Karen has experience representing borrowers (developers) in securing financing land projects.

Ms. Halbert has significant experience architecting and implementing complex e-discovery solutions. She developed an e-discovery management solution for an industry that was sued by the City of New York.

The productions included databases and documents produced by the Federal Government, State of New York, and the City of New York, as well as data and documents available from the various members of the industry and other third parties. The system designed by Ms. Halbert managed millions of electronic records from the various sources as well as millions of paper documents. The solution provided access to all relevant information contained in any of the various productions based on criteria such as product serial number or product manufacturer.

Her expertise includes managing e-discovery vendors, coordinating collection of electronic data with Information Technology Departments, determining how to best process electronic data, as well as production of clients' electronic evidence and emails.

Before entering law school, Ms. Halbert was Vice President of Development for an international software company where she was extensively involved in software development methodologies, database architecture, technology contract negotiations, and corporate management.

In April of 2008, Ms. Halbert was inducted into the Arkansas Academy of Computing. The Academy operates within the University of Arkansas' College of Engineering's Computer Science and Computer Engineering Department and recognizes people who have made significant and sustained contributions to the field of computing. Members are graduates of Arkansas' educational institutions and/or performed a significant part of their work in the state of Arkansas.

Ms. Halbert is the recipient of the following honors:

- Arkansas Bar Association Presidential Award of Excellence, 2003
- Selected by her peers for inclusion in *The Best Lawyers in America* 2016 in the fields of Electronic Discovery and Information Management Law.
- National Association of Women Business Owners Women Pioneer Award, 2006
- Juvenile Diabetes Research Foundation International Golden Advocate Award *At Home on the Hill*, 2007
- Juvenile Diabetes Research Foundation International Golden Advocate Award *Messenger Award*, 2009

ROBERTS LAW FIRM
ROBERTS GROUP

STEPHANIE EGNER SMITH, PARTNER

Practice Areas

Antitrust and Complex Litigation
Intellectual Property
International Business Law and Litigation

Education

University of Arkansas Bowen School of Law, J.D.
Tulane University, B.S.E, Biomedical Engineering

Admissions

2004, Arkansas
2005, U.S. Patent and Trademark Office

Publications

Victor/Victoria?: The United States Supreme Court Requires Trademark Dilution Plaintiffs to Show Actual Harm. Moseley v. Victoria's Secret Catalogue, Inc., 537 U.S. 418 (2003). 26 U. Ark. *Little Rock L. Rev*. 303 (2004).

Stephanie Egner Smith is a registered patent attorney, and focuses her practice in antitrust matters, complex commercial litigation, and intellectual property at Roberts Law Firm.

Ms. Smith advises corporate and academic clients in business growth and development in intellectual property portfolios, including patentability, freedom to operate, infringement analysis, trademark registration, and the commercialization of intellectual property. Ms. Smith also litigates antitrust and unfair and deceptive trade practices cases, under federal and state law.

Prior to attending law school, Ms. Smith worked as a research assistant in the Department of Pharmacology, Biomedical Research Center, University of Arkansas for Medical Sciences. During law school, Ms. Smith clerked for the Arkansas Department of Environmental Quality and for a large public utility corporation. Ms. Smith joined the firm following a clerkship with the Pulaski County Circuit Court, Ninth Division.

Ms. Smith is licensed to practice law in Arkansas and is registered to appear before the U.S. Patent and Trademark Office.

ERICH P. SCHORK, PARTNER

Practice Areas

Antitrust and Complex Litigation
International Business Law and Litigation

Education

University of Illinois College of Law, J.D., *magna cum laude*
Purdue University, B.S., Management

Admissions

Illinois, 2006
U.S. District Court for the District of Colorado
U.S. District Court for the Central District of Illinois
U.S. District Court for the Northern District of Illinois
U.S. District Court for the Eastern District of Wisconsin
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Sixth Circuit
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Appeals for the Eighth Circuit
U.S Court of Appeals for the Ninth Circuit

Memberships

American Bar Association
Chicago Bar Association

Erich P. Schork is a Partner at Roberts Law Firm based in Chicago, Illinois. Mr. Schork has significant experience prosecuting complex antitrust, automotive, ERISA, consumer protection, and data privacy class actions. He has been appointed to leadership positions in a multitude of class actions, briefed and argued motions in state and federal courts throughout the country, and successfully argued appeals before the United States Courts of Appeals for the Third, Sixth, and Seventh Circuits.

Prior to joining the Roberts Law Firm, Mr. Schork was the Vice President of a boutique class action law firm in Chicago, Illinois. While attending the University of Illinois College of Law, Mr. Schork served as a Notes and Comments Editor on the *University of Illinois Law Review* and was a member of the University of Illinois' National Moot Court Team.

ROBERTS LAW FIRM
ROBERTS GROUP

SARAH DELOACH, PARTNER

Practice Areas

Antitrust and Complex Litigation
International Business Law and Litigation
Business Transactions

Education

University of Mississippi School of Law, J.D., *magna cum laude*, Concentration in Business Law with Honors
Davidson College, B. A.

Admissions

2015, Arkansas
2016, U.S. Court of Appeals for the Fifth Circuit
2016, U.S. District Courts, Eastern & Western Districts of Arkansas
2016, U.S. Court of Appeals, Eighth Circuit
2017, U.S. District Court, Western District of Tennessee

Memberships

Arkansas Bar Association
Pulaski County Bar Association

Publication

Comment, *Keeping the Faith With The Independent Source Foundations of Inevitable Discovery: Why Courts Should Follow Justice Breyer's Active and Independent Pursuit Approach from* Hudson v. Michigan, 83. Miss. L.J. 1179 (2014).

Community Involvement

Member & Volunteer Instructor, Arkansas Canoe Club

Sarah DeLoach is a Partner at Roberts Law Firm based in Denver, Colorado, where her practice focuses on antitrust and complex litigation, international business law and litigation, and business transactions. Sarah has broad experience in civil litigation. She has authored and argued dispositive motions, provided guidance to clients involving employment and contract issues, advised construction clients on materialmen's and contractor's liens, and handled large-scale discovery in class actions. In addition to her experience in complex commercial pre-trial work, Sarah has authored successful appeals in state and federal court and in protest of administrative contract awards at the state level. She enjoys building relationships and crafting creative strategy with an eye towards both success and value.

Beyond her litigation experience, Sarah has assisted businesses in entity formation and general business strategy. She is also experienced in advising non-profit organizations and in applying for 501(c)(3) status.

Sarah has significant federal court experience, having clerked for the Honorable Rhesa H. Barksdale on the United States Court of Appeals for the Fifth Circuit and the Honorable Chief Judge Brian S. Miller on the United States District Court for the Eastern District of Arkansas. Before joining the firm, Sarah litigated complex commercial and business cases as an associate with an outstanding Arkansas firm. In law

school, Sarah served as Executive Notes & Comments Editor on the *Mississippi Law Journal* and as an elected member of the Honor Council.

DEBRA G. JOSEPHSON, OF COUNSEL

Practice Areas

Antitrust and Complex Litigation
Intellectual Property
International Business Law and Litigation

Education

University of New Hampshire School of Law (formerly Franklin Pierce Law Center), J.D.
St. Anselm College, B.A., natural science

Admissions

2002, Commonwealth of Massachusetts
2002, District of Massachusetts
2002, Court of Appeals for the Federal Circuit
2011, Supreme Court of the United States
1994, United States Patent & Trademark Office, patent agent
2002, United States Patent & Trademark Office, patent attorney

Publications

- *"Lawyers Behaving Badly: Curbing Abusive Tactics in Deposition and Motion Practice," ABA Roundtable, Pretrial Practice & Discovery Committee, 2015*
- *"Patent Validity Issues Post-Actavis," HarrisMartin's Antitrust Pay-For-Delay Antitrust Litigation Conference, Philadelphia, Pa., 2014*
- *"Winning Strategies in U.S. Patent Litigation for Universities and Research Institutes of Taiwan," Technology Law Seminar, National Chiao Tung University, Hsinchu City, Taiwan, 2014*
- *"U.S. Patent Portfolio Considerations – 2013" Technology Law Seminar, National Chiao Tung University, Hsinchu City, Taiwan, 2013*
- *Advanced Course on Patents (DL-301), WIPO Patent Academy, World Intellectual Patent Organization, 2013*
- *Patent Drafting (DL-320) WIPO Patent Academy, World Intellectual Patent Organization, 2013*
- *"Intellectual Property: Accelerator or Barrier to Innovation?" Comstech, Islamabad, Pakistan, 2012*
- *"U.S. Patent Portfolio Strategies Under the America Invents Act" Technology Law Seminar, National Chiao Tung University, Hsinchu City, Taiwan, 2012*
- *Annual Review of Intellectual Property Law Developments 2011, Patent Editor, ABA Section on Intellectual Property Law, American Bar Association, 2012*

Community Involvement

Woburn Elks #908, Woburn, MA – Lecturing Knight, 2016
On The Rise, Cambridge, MA – Board of Directors, 2009-2016
Healthcare Businesswoman's Association, Boston Chapter, 2002-2008 – Vice President, Director of Membership, Mentor

Memberships

American Bar Association
Boston Patent Law Association

Debra Josephson is a Boston-based partner at Roberts Law Firm and leads the firm's Plaintiff Antitrust & Intellectual Property practice groups. Ms. Josephson joined the firm in 2012. She is an experienced corporate and IP lawyer.

Ms. Josephson has represented start-up and development-stage companies, mid-sized corporations, and world-class investigators at major academic institutions in domestic and international intellectual property portfolio development, licensing, protection, and enforcement. She has strong experience in transactional services as well as assisting corporate clients in nearly all aspects of corporate, intellectual property, employment, government regulations, and other areas.

Deb regularly advises clients on the formation, operation and regulation of private companies. Her focus has been in venture capital backed pharmaceutical and medical device companies. Specifically, she represents small companies in accessing and closing on venture capital and other equity deals.

Deb also advises issuers from the early stages of a company's formation through financings, acquisitions and exit strategies. Debra handled series B and later venture funding for startup companies, and major licensing and technology transfer deals. Those deals involved funding in the $20 million to $60 million range.

Prior to her litigation career, Ms. Josephson worked as in house counsel and vice president at pharmaceutical, medical device, and biotechnology companies, and developed and enforced their intellectual property portfolios. As a Patent Agent, and then Patent Attorney, Ms. Josephson represented inventors before the U.S. Patent and Trademark Office and international patent offices in chemistry, mechanical engineering, and biology-based technologies.

Prior to her law career, Ms. Josephson was a polymer chemist, and later, worked in the regulatory affairs and clinical affairs groups of pharmaceutical and medical device companies. Additionally, Ms. Josephson is named as a co-inventor on several patent applications, the technologies of which are currently marketed or under development by various companies.

Ms. Josephson maintains strong ties with her community. She has served on several local charity boards, and boards of organizations that mentor young women scientists and businesswomen in the Boston area. She is a frequent lecturer at international law schools on the topics of complex litigation, patent law and practice, and antitrust matters.

LITIGATION HIGHLIGHTS:

• Represents a class of direct purchasers of raw milk, cheese, and butter in antitrust litigation involving a conspiracy to limit the production of raw milk and artificially inflate the price of dairy products. *First Impressions Salon, Inc., et al. v. National Milk Producers Federation, et al.* (S.D. Ill.)
• Represents a class of direct purchasers in an antitrust case under Sherman Act against several manufacturers of after market parking heaters. *In re Parking Heaters Antitrust Litigation* (E.D.N.Y.)
• Represents a small manufacturer in a challenge to patent inventorship and unauthorized trade secret disclosures in state and federal court
• Represented a class of Direct Purchaser Plaintiffs in an antitrust case under Sherman Act against King Pharmaceuticals for unlawful delay of generic SKELAXIN by filing sham patent litigation, fraud in obtaining the patents, and unlawful reverse payment settlements to generics. The case settled for $73 million. *In re Skelaxin (metaxalone) Antitrust Litigation* (D. Miss.)

• Represented a class of Direct Purchaser Plaintiffs in an antitrust case under Sherman Act against Astellas Pharma for unlawful delay of generic PROGRAF (tarolimus) by filing of objectively baseless Citizen Petitions to FDA. The case settled for $98 million. *In re Prograf Antitrust Litigation* (D. Mass.)
• Represented a class of Direct Purchaser Plaintiffs in antitrust case under Sherman Act against GlaxoSmithKline for unlawful delay of generic FLONASE by filing objectively baseless Citizen Petitions to FDA. The case settled for $150 million. *In re Flonase Antitrust Litigation* (E.D. Pa.)
• Represented a university suing a pharmaceutical company and several universities in an inventorship challenge over pioneering patents for RNAi technology. *University of Utah v. Max-Planck-Gesellschaft Zur Foerderung Der Wissenschaften e.V. et. al.* (D. Mass.)
• Represents several foreign universities in licensing of intellectual property and patent infringement litigation

RITA Y. WANG, OF COUNSEL

Practice Areas

Antitrust Litigation
Securities Litigation
International Business Law
Capital Market
Equity and Debt Financing Transactions

Education

St. John's University School of Law, J.D.
University of Utah, B.A., History and Political Science

Admissions

New York, 2009
New Jersey, 2008

Memberships

American Bar Association

Publication

Note on Decision, *Karaha Bodas Co., L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 20 N.Y. INT'L L. REV., No. 2, 183–94 (2007).

Community Involvement

Co-Chair, Central/East Asia & China Committee, American Bar Association International Law Section.
Editor, China Law Reporter, an ABA publication.

Rita Y. Wang is based in New York City. Ms. Wang has many years of experience prosecuting and defending complex antitrust, securities, ERISA, and consumer protection class actions. Prior to joining the Roberts Law Firm, she had served as an attorney in an international law firm's antitrust litigation group and an attorney in a national law firm's securities and business litigation practice groups. Ms. Wang also has significant experience advising investment funds, startups, and emerging growth companies in entity formation, corporate governance, equity and debt financing transactions, as well as liability insurance coverage.

DR. KELLY RINEHART, ASSOCIATE

Practice Areas
Antitrust and Complex Litigation; Oil and Gas; Family Law; Trusts and Estates; Guardianship; Probate

Education
Texas A&M School of Law, J.D., *Properly Law Journal Leadership Award Recipient*
New Orleans Baptist Theological Seminary, PHD Psychology and Counseling
New Orleans Baptist Theological Seminary, M.A. Marriage & Family Therapy
New Orleans Baptist Theological Seminary, Master of Theology
Blue Mountain College, B.S. Psychology; M.A

Admissions
Texas State Bar; November 2017

Community Involvement
Innocence Project Clinic (Fall 2015); U.S. Army Reserves Military Service (2001 to 2021)

Memberships
Phi Delta Phi International Legal Honor Society, Dallas County Bar Association

Dr. Kelly Rinehart is an associate attorney in the Dallas, Texas office. Her practice focuses on complex litigation involving antitrust, multi-district litigation, class actions, and oil and gas litigation. Dr. Rinehart also has experience in estate management in Tarrant County, Texas.

Prior to joining Roberts Law Firm, Dr. Rinehart provided legal work for a firm in Fort Worth, Texas where she primarily assisted in multi-district oil and gas litigation and concussion litigation. She also provided critical research on a broad range of topics from terroristic speech and constitutional protection, ERISA preemption and exceptions, to constitutionality of attorney's fees relief in Texas LLC litigation. Dr. Rinehart also gained critical litigation skills at a second firm. Benefitting from her previous career as a professional licensed counselor, Dr. Rinehart used her communication and mediation skills litigating family law issues in courts throughout Tarrant, Dallas, Collin, and Johnson Counties, Texas.

While attending law school, Dr. Rinehart continued to teach graduate level counseling and spirituality courses as an adjunct teacher with Liberty University and Tennessee Temple University. During that time, Dr. Rinehart was hand-selected to be the first army personnel to serve as a special staff officer providing resiliency support services to U.S. military organizations operating with and throughout Saudi Arabia, ultimately negotiating with select diplomatic representatives, international state servants, and coalition military leadership in order to perform sensitive operations with integrity and necessary discreetness in cooperation with restrictive partner nations. Despite these obligations, Dr. Rinehart still served a term in a leadership role with the Texas A&M International Law Society, placed second in the Texas A&M School of Law 1L Negotiation Trial competition, competed on the Law School Mediation Team, performed as an edits leader on the Property Law Journal, and still graduated within three years in the top 14% of her class.

Dr. Rinehart's current legal professional experience is supplemented by her military experience. During multiple active duty tours throughout four separate campaigns during her 20-year military career as an Army Reservist, Dr. Rinehart gained invaluable experience as a special staff officer to include overseeing special staff directorate security cooperation operations across 20 nations, researching and arranging key leader engagements with US military and foreign military and civilian leaders to promote interoperability and overall theater stability throughout Central Asia. She was also the first military special staff officer to develop standards of performance and execution of religious area assessment and religious area impact analysis for Humanitarian Assistance and Disaster Relief Operations across a combined, joint, interagency, multinational operational environment.

MORGAN HUNT, ASSOCIATE

Practice Areas
Antitrust and Complex Litigation
Business Transactions
International Business Law and Litigation

Education
The University of Texas School of Law, J.D.
University of Texas at Arlington, B.A., *cum laude*

Admissions
2019, Texas

Community Involvement
Member & Mentor, NCAA Student Athlete Advisory Committee
Richard and Ginni Mithoff Pro Bono Program

Memberships
State Bar of Texas
Texas Young Lawyers Association

Morgan Hunt is an associate attorney in the Dallas, Texas office. Her practice primarily focuses on antitrust, multi-district litigation, and class actions. Ms. Hunt also has experience in Plaintiff's personal injury work in both the pre-litigation and litigation phases.

Prior to joining Roberts Law Firm, P.A., Ms. Hunt was an associate at a Plaintiff's firm in Dallas, Texas where she represented clients in personal injury matters involving car wrecks, trucking matters, and first-party claims.

During law school, Ms. Hunt was a member of the Interscholastic Mock Trial Team and was inducted into The Order of Barristers. She also served as a Staff Editor for the Texas Journal on Civil Liberties & Civil Rights and was a student member of the Barbara Jordan Inn of Court. Ms. Hunt gained valuable legal experience as a judicial intern for the Honorable Judge Staci Williams in the 101st Dallas County District Court as well as experience as a summer associate for both a labor and employment firm and a boutique litigation firm involving commercial litigation.

Prior to law school, Ms. Hunt played NCAA Division I Women's Basketball for the University of Texas at Arlington where she served as a team captain for the 2014-2015 season.

EXHIBIT 3

UNITED STATES DISTRICT COURT
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. MYLAN N.V., MYLAN PHARMACEUTICALS INC., and MYLAN SPECIALTY L.P., Defendants.	Civil Action No. 2:20-cv-02065-DDC-TJJ

DECLARATION OF BRADLEY T. WILDERS IN SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT WITH THE MYLAN DEFENDANTS, APPROVAL OF PLAN OF ALLOCATION, AND AWARD OF ATTORNEYS' FEES AND EXPENSES

I, Bradley T. Wilders, hereby declare as follows:

1. I am an attorney duly licensed to practice in the bars of Missouri and Illinois, along with several federal courts, including the United States District Court for the District of Kansas. I am a partner at Stueve Siegel Hanson LLP ("SSH") and am Court-appointed as Liaison Counsel for the Direct Purchaser Plaintiff ("DPP") Settlement Class ("Class"). SSH's resume is attached to this declaration as Exhibit 1. I have personal knowledge of the information set forth in this declaration and, if called upon, I could and would competently testify thereto.

2. I respectfully submit this declaration in support of the Direct Purchaser Class Plaintiffs' Motion for Final Approval of Settlement with the Mylan Defendants, Approval of Plan of Allocation, and Award of Attorneys' Fees and Expenses.

3. SSH has prosecuted this case on a contingent-fee basis with no guarantee of recovery.

4. SSH has performed work necessary to discharge its duties as Liaison Counsel for the Class, including, but was not limited to, the duties enumerated in paragraph 2 of the Court's order appointing me as Interim Liaison Counsel (ECF No. 306). This has included, but was not limited to, reviewing and revising all filings, conducting legal research, participating in strategy calls, providing advice regarding local rules and standards of practice, participating in meet and confer conferences with defense counsel, arguing motions to the Magistrate Judge, drafting briefs, performing as counsel of record in the Tenth Circuit, and participating in settlement conferences. SSH also has collected, maintained, and reviewed time and expense records covering services for all Class counsel to ensure the appropriateness and efficiency of time and expenses expended, and to avoid any duplication, on behalf of the Class.

5. From inception, SSH spent 1,203.30 hours advancing the litigation. The information in this declaration regarding the time SSH attorneys and other professionals have spent advancing the litigation was prepared from contemporaneous, daily time records maintained by the firm's timekeeping software and submitted to, reviewed by, and approved by Co-Lead Class Counsel. The work conducted by my firm has been approved by co-lead counsel and was performed with the appropriate level of effort and efficiency and is not duplicative of other work performed by other attorneys representing the putative class.

6. SSH seeks an award of $38,624.21 in unreimbursed costs and expenses in connection with the prosecution of the action from May 1, 2024 through April 15, 2025. These expenses and charges are summarized below. These costs and expenses were necessary for the efficient and effective prosecution of the litigation and submitted to and approved by Co-Lead Class Counsel. The costs and expenses records were prepared from receipts, expense vouchers, check records, and other documents and are an accurate record of the costs and expenses. The costs and expenses are of a type that, in my view, would normally be charged to a fee-paying client in the private legal marketplace. The costs and expenses do not include any amounts that have already been reimbursed.

Category	**Amount**
In-House Photocopying	$ 102.00
Westlaw	$ 12,449.69
Litigation Fund Contribution	$ 25,000.00
Ground Transportation	$ 62.88
Hearing and Trial Transcripts	$ 258.00
Travel	$ 590.95
Meals	$ 170.69
TOTAL	**$ 38,624.21**

7. As the summary shows, SSH made $25,000.00 in unreimbursed joint litigation fund contributions to cover shared litigation expenses, such as expert fees and ESI document hosting costs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 21st day of March 2025:

/s/ Bradley T. Wilders
Bradley T. Wilders
Kansas City, Missouri

EXHIBIT 1

STUEVE SIEGEL HANSON

WHO WE ARE

Stueve Siegel Hanson was launched in 2001 on a foundational business model where our payment for legal services would depend on the results delivered and the value provided rather than the hours spent on a case. Since then this business model has been a hallmark of our success, which has included the recovery of billions of dollars in damages and relief for consumers, entrepreneurs, employees, small and large businesses, and a variety of economic underdogs. The cases we handle frequently arise in some of the most complex areas of the law, including antitrust, intellectual property, FLSA collective actions, consumer and securities class actions, data breach, franchise disputes and other complex business litigation.

Our team of lawyers includes some of the best trained and most experienced trial lawyers in the country. Stueve Siegel Hanson's founding partners were partners at some of the country's largest law firms. The firm has also been fortunate in its ability to attract, retain and promote lawyers educated at top law schools and groomed at nationally prominent law firms, many of whom also have had valuable experiences as judicial law clerks at both the trial court and appellate levels.

Stueve Siegel Hanson is a national litigation firm based in Kansas City, Missouri, with offices in the heart of The Country Club Plaza.

OUR MISSION

Stueve Siegel Hanson provides aggressive, cutting-edge representation in litigation. Our law firm serves companies in business disputes as well as individuals harmed by dangerous products, unfair employers or unsavory business practices.

Because we work on a contingency model, our fees are based on the results we achieve. This means our trial lawyers have the same interests you do: Succeed for you and we succeed ourselves, fail you and we fail ourselves.

We believe the pursuit of justice should not be subject to the dysfunction of the billable hour, which rewards attorneys more for time than the results achieved. We take pride in winning efficiently and effectively as our clients' partner in the courtroom.

We invest in our firm, our profession and our community. We recruit the brightest attorneys from the nation's top law firms, and together we maintain a culture of camaraderie and respect. We apply new technology to further our efficiency, communication and creativity. We give our time and talents to pro bono projects, community service and bar organizations. While we take considerable pride in earning awards and recognition, we are most fulfilled by results, referrals and repeat business.

CLASS AND COLLECTIVE ACTIONS

Since opening its doors in 2001, Stueve Siegel Hanson has obtained substantial results in a wide range of complex commercial, class, and collective actions while serving as lead or co-lead counsel.

Over the past decade, verdicts and settlements include:

Antitrust

- Obtaining $53 million in settlements between a class of direct purchasers of automotive lighting products and several manufacturers accused of participating in a price fixing scheme.
- Obtaining a $25 million settlement in a nationwide antitrust class action regarding price fixing of aftermarket automotive sheet metal parts.
- Obtaining a $7.25 billion settlement in a massive price-fixing case brought by a class of U.S. merchants against Visa, Mastercard and their member banks.
- Obtaining $33 million in nationwide class action alleging price fixing for certain polyurethanes in Urethanes antitrust case.
- Obtaining a $25 million settlement in a class action lawsuit that alleged Blue Rhino and certain competitors conspired to reduce the amount of propane gas in cylinders sold to customers. The firm obtained a $10 million settlement in a related suit against AmeriGas.

Data Privacy

- Obtaining a historic $1.5 billion settlement in a nationwide class action stemming from credit reporting firm Equifax's massive 2017 data breach.
- Obtaining $500 million, plus additional benefits, for victims of the 2021 T-Mobile data breach.
- Obtaining a $190 million settlement in a class action following a Capital One data breach that compromised the confidential information of nearly 100 million credit applicants.
- Obtaining a $115 million settlement resulting from a 2015 data breach affecting Anthem, Inc., one of the nation's largest for-profit managed health care companies.
- Obtaining a $10 million settlement in a class action resulting from a data breach at Target Corp.
- Obtaining a $3.25 million settlement in data privacy litigation on behalf of more than 61,000 optometrists whose personal information was compromised by the national optometry board.
- Obtaining a $2.3 million settlement in a class action stemming from a data breach at global technology company Citrix's internal network.

Catastrophic Injury

- Obtaining $39.5 million in settlements from three refiners on behalf of adjacent homeowners living above a large plume of gasoline leaked from the refineries and connecting pipelines.

Commercial Litigation

- Obtaining a $1.51 billion settlement for U.S. corn growers, grain handling facilities and ethanol production plants that purchased corn seeds prematurely sold by Syngenta.
- Obtaining a $218 million jury verdict for a class of Kansas corn producers who purchased corn seeds prematurely sold by Syngenta.
- Obtaining a $56 million settlement on behalf of a class of government entities against Trinity Industries and its manufacturing arm, Trinity Highway Products, to remove and replace the companies' 4-inch ET Plus guardrail end terminals on Missouri roads.
- Obtaining a $55 million settlement for dairy farmers in the United States who purchased the Classic model of the voluntary milking system (VMS) manufactured and sold by DeLaval Inc.
- Obtaining a $49.75 million settlement in the United States with Lely on behalf of dairy farmers who purchased its robotic milking system, the Lely Astronaut A4 ("A4").
- Obtaining more than $44 million in restitution and $7.9 million in cash for dentists against Align Technology, Inc. in a nationwide deceptive trade practices case.

Consumer Class Action

- Obtaining two settlements totaling $29 million to resolve consumer class action claims against Experian arising out of the company's reporting of delinquent loan accounts.
- Obtaining up to $220 million in damages for all Missouri residents who purchased the prescription pain reliever Vioxx before it was removed from the market.
- Obtaining more than $75 million in relief for purchasers of Hyundai vehicles for Hyundai's overstatement of horsepower in vehicles.
- Obtaining $29.5 million in settlements for overdraft fees charged to customers from UMB Bank, Bank of Oklahoma, and Intrust Bank.
- Obtaining $19.4 million for purchasers of H&R Block's Express IRA product related to allegedly false representations made during the sales presentation.

Cost of Insurance

- Obtaining an appellate victory against Kansas City Life maintaining the full amount of damages awarded by the jury for overcharges to the cash values of the class of Missouri policyholders' universal life insurance policies and obtaining an additional award of prejudgment to bring the total judgment to over $48 million.
- Obtaining three jury verdicts of over $33 million in three class action jury trials against Kansas City Life on behalf of Missouri and Kansas policy owners.
- Obtaining a $2.25 billion settlement in a class action lawsuit against The Lincoln National Life Insurance Company over alleged life insurance policy overcharges.
- Obtaining two nationwide class action settlements with State Farm for $325 million and $65 million on behalf of policy owners alleging the insurer improperly included non-mortality factors in calculating the cost of insurance charge under the insurance contract.

- Obtaining a $59.75 million settlement in a nationwide class action lawsuit against John Hancock Life Insurance Company (U.S.A.) over alleged life insurance policy overcharges.
- Obtaining a $34 million jury verdict in a class action trial against State Farm on behalf of Missouri policy owners alleging the insurer improperly included non-mortality factors in calculating the cost of insurance charge under the insurance contract. The jury verdict was affirmed by the Eighth Circuit on appeal and the appellate court awarded an additional $5 million in prejudgment interest bringing the total recovery to nearly $40 million.

Wage and Hour

- Obtaining a $73 million settlement on behalf of current and former Bank of America retail banking and call center employees who alleged violations of the Fair Labor Standards Act.
- Obtaining approximately $50 million in settlements on behalf of DirecTV satellite technicians who were denied overtime and minimum wages in a California state court class action, more than 50 federal mass actions, and a collective arbitration.
- Obtaining a $27.5 million settlement for a class of loan originators who were misclassified as exempt and denied overtime.
- Obtaining a $25 million settlement for a class of mortgage consultants for unpaid overtime as lead counsel in multidistrict litigation.
- Obtaining a $24 million settlement to resolve a collective arbitration and more than 50 federal mass actions involving misclassified satellite technicians denied overtime and minimum wages.
- Obtaining a $14.5 million settlement for a class of inventory associates for unpaid overtime.
- Obtaining a $12.5 million settlement for multiple classes and collective of pizza delivery drivers alleging vehicle expenses reduced their wages below the minimum wage.
- Obtaining a $12.5 million settlement for classes of workers at two MGM casinos for tip credit violations.
- Obtaining a $10.5 million settlement for a class of bank employees for misclassification as being exempt from overtime.
- Obtaining a $9.8 million settlement for collectives of workers at three Rush Street Gaming casinos for tip credit and wage deduction violations.
- Obtaining an $8.5 million settlement for a collective of employees in the hospitality industry for unpaid minimum wages.
- Obtaining a $7.7 million settlement for a class of loan account servicers misclassified as exempt and denied overtime.
- Obtaining a $7.5 million settlement for class of loan processors in multidistrict litigation.
- Obtaining $6 million settlement for a class of workers at Wind Creek Casino for tip credit and wage deduction violations.
- Obtaining a $5.5 million settlement for a class of workers at Rivers Casino Schenectady for tip credit and overtime violations.
- Obtaining dozens of settlements between $1 million and $5 million for classes and collectives seeking unpaid overtime and minimum wages.

AWARDS AND RECOGNITION

We are proud to have been recognized by local, regional and national publications for our work and results. Among our earned rankings:

Law360

Titan of the Plaintiffs Bar:

- Norman Siegel, 2020

Practice Group of the Year:

- Cybersecurity & Privacy, 2019 and 2023
- Food & Beverage, 2018

MVP of the Year:

- Patrick Stueve, 2018 Food & Beverage
- Norman Siegel, 2019 Cybersecurity & Privacy and 2023 Class Action

Rising Star:

- Alexander Ricke, 2022 Employment
- Lindsay Todd Perkins, 2020 Cybersecurity & Privacy
- Austin Moore, 2019 Cybersecurity & Privacy

The National Law Journal

Elite Trial Lawyers:

- 2019 Business Torts, Employment Rights, Financial Products, and Privacy/Data Breach Finalists
- Austin Moore, 2023 Rising Star of the Plaintiffs Bar

Top 100 Jury Verdicts of 2017, No. 10 Verdict in the U.S.

Best Lawyers

Lawyers of the Year (Kansas City-Mo):

- Patrick Stueve 2016 and 2024 Antitrust Law; 2022 and 2024 Litigation- Antitrust; and 2017, 2019 and 2021 Bet-the-Company Litigation
- Steve Six, 2022 and 2024 Appellate
- George Hanson, 2022 Employment
- Norman Siegel, 2020 Mass Tort Litigation/Class Actions

Best Law Firms 2024 Edition:

- Recognized nationally for Mass Tort Litigation/Class Actions
- Tier 1 for Antitrust Law, Appellate Law, Appellate Practice, Bet-the-Compay Litigation, Commercial Litigation, and Employment Law in Kansas City, Mo.

Chambers and Partners

USA Guide 2023: Litigation: Mainly Plaintiffs in Missouri

- Firm, Band 1
- Norman Siegel, Band 1
- Patrick Stueve, Band 1

Missouri Lawyers Media

The POWER List:

- Lindsay Todd Perkins, 2025 Appellate
- Bradley Wilders, 2025 Appellate
- Patrick Stueve, 2024 Power 100; and Commercial and Consumer
- Norman Siegel, 2024 Power 100; and Commercial and Consumer
- George Hanson, 2024 Employment

Top 20 Law Firms:

- Missouri's Top 20 Law Firms 2024 for Largest Out of State Settlements

JUDICIAL PRAISE

"I've always been impressed with the professionalism and the quality of work that has been done in this case by both the plaintiffs and the defendants. On more than one occasion, it has made it difficult for the Court because the work has been so good."

> **Hon. Nanette Laughrey**, U.S. District Court for the Western District of Missouri
> *Nobles, et al., v. State Farm Mutual Automobile Insurance Co.*

"The complex and difficult nature of this litigation, which spanned across multiple jurisdictions and which involved multiple types of plaintiffs and claims, required a great deal of skill from plaintiffs' counsel, including because they were opposed by excellent attorneys retained by Syngenta. That high standard was met in this case, as the Court finds that the most prominent and productive plaintiffs' counsel in this litigation were very experienced had very good reputations, were excellent attorneys, and performed excellent work. In appointing lead counsel, the various courts made sure that plaintiffs would have the very best representation… In this Court's view, the work performed by plaintiffs' counsel was consistently excellent, as evidenced at least in part by plaintiffs' significant victories with respect to dispositive motion practice, class certification, and trial."

> **Hon. John Lungstrum**, U.S. District Court for the District of Kansas
> *In Re: Syngenta AG MIR 162 Corn Litigation*

"The most compelling evidence of the qualifications and dedication of proposed class counsel is their work in this case. Considering how far this action has come despite a grant of summary judgment in Defendant's favor and a reversal on appeal, proposed class counsel have made a strong showing of their commitment to helping the class vigorously prosecute this case."

> **Hon. Andrew J. Guilford**, U.S. District Court for the Central District of California
> *Reyes v. Experian*

"I believe this was an extremely difficult case. I also believe that it was an extremely hard fought case, but I don't mean hard fought in any negative sense. I think that counsel for both sides of the case did an excellent job… I congratulate the plaintiffs and I also congratulate the defense lawyers on the very, very fine job that both sides did in a case that did indeed pose novel and difficult issues."

> **Hon. Audrey G. Fleissig**, U.S. District Court for the Eastern District of Missouri
> *William Perrin, et al., v. Papa John's International, Inc.*

"The experience, reputation and ability of class counsel is outstanding."

> **Hon. Michael Manners**, Circuit Court of Jackson County, Missouri
> *Berry v. Volkswagen Grp. of Am., Inc.*

"It appears that plaintiffs' counsel's experience in wage-hour class actions has unmatched depth."

> **Hon. J. Thomas Marten**, U.S. District Court for the District of Kansas
> *Garcia v. Tyson Foods, Inc.*

BRADLEY T. WILDERS

PARTNER

T 816.714.7126
wilders@stuevesiegel.com

Bradley Wilders represents small and large clients in complex commercial litigation, including patent, copyright, antitrust and fraud cases.

Brad is not afraid to take a case to trial if that is what it takes to secure a fair resolution for his clients. In one recent engagement, Brad was a critical part of the team that achieved a $217.7 million judgment on behalf of Kansas farmers against an international corn seed manufacturer. After the trial, the case settled for all U.S. farmers for $1.51 billion, which is the largest agricultural settlement in U.S. history. The litigation stemmed from allegations that the seed manufacturer introduced genetically modified corn seed into the U.S. corn supply before it was approved for import into China; as a result, China stopped buying corn from U.S. farmers, causing lower corn prices and other economic losses. In approving the settlement, the federal district judge described the work undertaken by Brad and other lawyers on the team as “complex and difficult” and that the work they performed was “consistently excellent, as evidenced at least in part by plaintiffs’ significant victories with respect to dispositive motion practice, class certification, and trial.” Brad a significant role on all three of these issues. His arguments raised critical issues about the biotech industry and its duty to act reasonably when launching new products, resulting in favorable orders that will protect U.S. farmers in the future.

Brad especially enjoys representing small businesses and individuals; in his most personally rewarding case, he represented the long-time photographer for the Kansas Chiefs whose work was used without permission at Arrowhead Stadium. Brad negotiated a satisfactory resolution to all parties.

Prior to joining Stueve Siegel Hanson, Brad clerked for Judge John R. Gibson of the U.S. Court of Appeals for the Eighth Circuit, where he was given the rare opportunity to work on cases in five of the 11 federal appellate courts. He draws upon this experience in his current practice, where he has handled multiple successful appellate cases.

Brad then served as an associate at an Am Law 100 international firm in Chicago, where he defended one of the world’s largest computer companies against multiple accusations of patent infringement.

Named among the Missouri/Kansas “Super Lawyers,” Brad has served as a special master in federal litigation, overseeing discovery disputes and settlement matters in a complex class-action case.

Brad is also active in the local bar. He was elected Treasurer/Secretary of the Federal Practice Committee of the Kansas City Metropolitan Bar Association, and he was appointed by the court to the District of Kansas’ Bench-Bar Committee for a three-year term beginning in 2020.

STUEVE SIEGEL HANSON

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EXHIBIT 4

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, Plaintiff, v. MYLAN N.V., *et al.*, Defendants.	Case No. 20-cv-2065-DDC-TJJ

DECLARATION OF TRACY M. HANSON REGARDING (A) DISSEMINATION OF THE NOTICE OF SETTLEMENT WITH THE MYLAN DEFENDANTS AND (B) REPORT ON REQUESTS FOR EXCLUSION AND OBJECTIONS, IF ANY, RECEIVED TO DATE

I, Tracy M. Hanson, hereby declare and state as follows:

1. I am a Project Manager with A.B. Data, Ltd. ("A.B. Data"). I am familiar with the facts contained herein based upon my personal knowledge and, if called as a witness, could and would testify competently thereto. I submit this Declaration at the request of Co-Lead Settlement Class Counsel in connection with the above-captioned action (the "Action").

2. A.B. Data was appointed by the Court in its Order dated February 6, 2025 (ECF No. 458), as amended by the Court's February 24, 2025, Order (ECF No. 460), to serve as Settlement Administrator for the direct purchaser class settlement with Pfizer in this case. A.B. Data's duties in this case include administering the distribution of notice of the Settlement to Class Members. I submit this Declaration to advise the Court of A.B. Data's activities concerning distribution of notice and the results.

Direct Notice

3. A.B. Data received from Co-Lead Settlement Class Counsel a listing of 74 potential Settlement Class Members based on transactional data obtained in this litigation in connection

with the Pfizer Settlement. A.B. Data supplemented the providedlist with mailing addresses through the review of A.B. Data's own records from other direct purchaser pharmaceutical matters that A.B. Data administered, and through independent research.

4. In reviewing the Pfizer Settlement Class Member Claim filings and data, including updated addresses and other contact information, A.B. Data identified a total of 228 mailing addresses for the 74 potential Settlement Class Members and 10 additional potential Settlement Class Members.

5. On February 27, 2025, A.B. Data mailed via First-Class U.S. Mail of the Long-Form Notice (the "Notice") to all 228 mailing addresses for potential Settlement Class Members. On the same day, A.B. Data posted the Notice on www.EpiPenDPPSettlement.com, the case-specific website created for this Settlement. A copy of the Notice is attached hereto as **Exhibit A**.

6. In sum, A.B. Data caused 228 Notices to be mailed to potential Settlement Class Members.

7. A.B. Data is tracking the Notice mailing. Twenty-six (26) mailed Notices have been returned as undeliverable as of the date of this Declaration. If the Notice to a potential Settlement Class Member is returned as undeliverable as addressed by the United States Postal Service, A.B. Data will perform additional research to locate an updated address, and where an updated address is located, A.B. Data will promptly remail the Notice to the updated address.

8. On March 19, 2025, a reminder notice was mailed via First-Class U.S. Mail to potential Settlement Class Members that have not filed a Claim in the Pfizer Settlement or the Mylan Settlement, ahead of the March 27 deadline.

Media Notice

9. To supplement direct notice efforts, beginning on March 13, 2025, A.B. Data caused digital banner ads, which are scheduled to continue for 30 days, to appear on The Pink Sheet website. The Pink Sheet reaches over 3,000 of the world's leading pharmaceutical, contract research organizations (CROs), medical technology, biotechnology, and healthcare service providers, including the top 50 global pharmaceutical organizations and top 10 CROs. These ads appeared on both desktop and mobile formats. A sample of the digital banner ad is attached as **Exhibit B**.

News Media

10. A.B. Data also caused the Short-Form Notice to be published in *The Wall Street Journal* on March 13, 2025. *The Wall Street Journal* is a national newspaper covering business news and financial information with expanded content in arts, culture, lifestyle, and sports. *WSJ* is one of the most widely read and respected publications globally with 4.25 million print and online subscribers. A copy is attached hereto as **Exhibit C**.

11. On March 13, 2025, A.B. Data disseminated a news release via *Business Wire* to announce the Settlements modeled on the Short-Form Notice approved by this Court. This news release distributed via *Business Wire* went to the news desks of approximately 10,000 newsrooms, including those of print, broadcast, and digital websites across the United States. A copy of the news release is attached as **Exhibit D**.

Website and Telephone

12. To assist potential Settlement Class Members in understanding the terms of the Settlements and their rights, A.B. Data continues to maintain the case-specific toll-free telephone number, email address, and website that were established in connection with the Pfizer Settlement

in this litigation. The telephone number, email address, and website were included in the mailed and published notices.

13. The case-specific toll-free telephone number (866-778-6568) has an interactive voice response ("IVR") system which provides summary information to frequently asked questions. This also provides callers the opportunity to speak with a live customer support representative. The case-specific email address, info@EpiPenDPPSettlement.com, is available as another form of contact for Settlement Class Members.

14. The case-specific website, www.EpiPenDPPSettlement.com, appeared on the Notice and all print and digital publications. The website includes case-specific information, including relevant deadlines and downloadable versions of the Notice, Settlement Agreements, Preliminary Approval Order, and other relevant documents. To date, the website has had 1,036 visitors.

Claims

15. The deadline for Settlement Class Members to postmark or submit a claim online in this action is May 29, 2025. A.B. Data continues to review and process claims; however, certain audits cannot be completed until all claims have been submitted. In A.B. Data's experience, the majority of claims are typically filed close to the claim filing deadline; however, in this case, A.B. Data will consider valid any claim form that was timely submitted and considered valid in the Pfizer Settlement. Any claimant that disagrees with the decision of A.B. Data concerning its claim has the opportunity to seek review of that decision by the Court. At this time, counting the 46 valid claims that were timely submitted in the Pfizer Settlement, there are 48 claims in the Mylan Settlement.

Requests for Exclusion and Objections

16. The Notice instructs any Settlement Class Member requesting exclusion from the Settlement Class must postmark (if mailed) or submit (if submitted online) such a request on or before April 11, 2025. As of the date of this Declaration, A.B. Data has not received any requests for exclusion.

17. The postmark deadline for a Settlement Class Member to object to the Settlement is also April 11, 2025. The Notice directs members of the Settlement Class to file their objection with the Clerk of the United States District Court for the District of Kansas with copies to Co-Lead Settlement Class Counsel and Settling Defendants' Counsel. As of the date of this Declaration, A.B. Data has not been notified of any objections.

Settlement Administration Billing

18. A.B. Data agreed to be the Settlement Administrator in exchange for payment of its fees and out-of-pocket expenses. As of the date of this Declaration, A.B. Data has incurred fees and expenses in the amount of $53,092.77. A copy of the invoice is attached as **Exhibit E**.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 19, 2025.

Tracy M. Hanson

EXHIBIT A

COURT-ORDERED LEGAL NOTICE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

If you purchased EpiPen® or generic EpiPen directly from the manufacturer, you may receive a payment from a $73.5 million class action settlement.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

If you are a member of the Direct Purchaser Class, your legal rights will be affected whether you act or don't act. Please read this Notice carefully.

A proposed settlement ("Settlement") has been reached in a proposed class action lawsuit alleging that Mylan N.V., Mylan Pharmaceuticals Inc., and Mylan Specialty L.P. (together, "Mylan") entered into an improper market allocation agreement with Pfizer, Inc., King Pharmaceuticals, Inc. (n/k/a King Pharmaceuticals LLC) and Meridian Medical Technologies, Inc. (collectively, "Pfizer"), and Teva Pharmaceuticals USA, Inc. ("Teva") that delayed the launch of generic EpiPen and extended Mylan's and Pfizer's alleged monopoly over the epinephrine autoinjector market.

Under the Settlement, Mylan agreed to pay $73,500,000 into a settlement fund ("Settlement Fund") for the Direct Purchaser Settlement Class. Mylan strongly denies that it violated any laws and contends that its actions enhanced competition and did not cause Class Members any injury.

The Class claims against Pfizer were resolved by an earlier settlement. The Court granted final approval of that settlement on July 9, 2024. The separate Settlement that is the subject of this Notice is only with Mylan and resolves only the claims against Mylan. If you submitted a claim in the Pfizer Settlement, you do not have to submit another claim to receive a payment in this Settlement.

Generally, the Direct Purchaser Settlement Class is comprised of entities that purchased EpiPen or generic EpiPen directly from Mylan or Teva during the period from March 13, 2014, until February 6, 2025 (the "Class"). The lawsuit and Settlement concern only direct purchasers. You are receiving this Notice because records show you may have made qualifying purchases of EpiPen or generic EpiPen.

The full text of the Settlement is available for inspection at www.EpiPenDPPSettlement.com. In the event of any inconsistency between this Notice and the terms of the Settlement, the terms of the Settlement control.

This is not intended to be an expression of any opinion by the Court with respect to the truth of the allegations in the Lawsuit or the merits of the claims or defenses asserted. This Notice is solely to advise you of the proposed Settlement of this Lawsuit as to Mylan and your rights in connection with the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS	
SUBMIT A CLAIM	If you are a member of the Class, you may file a claim by submitting a Claim Form online at www.EpiPenDPPSettlement.com or by mail. The deadline to postmark or submit your claim online is **May 29, 2025**. **If you already submitted a Claim Form during the settlement with Pfizer in this case, you do not need to do anything further.** Class Members that already submitted a valid Claim Form in connection with the Pfizer Settlement will automatically be included as a member of the Settlement with Mylan using the Claim Form already submitted and given the opportunity to submit supplemental information, if desired. If you did not already submit a Claim Form in this case during the settlement with Pfizer, you must submit a Claim Form to receive a payment from this Settlement.
OBJECT	You may write to the Court about why you object to the Settlement. The objection deadline is **April 11, 2025**. Additionally, you may ask to go to the Final Approval Hearing and speak in Court about the fairness of the Settlement. If you object to the Settlement, you are still a member of the Class and you must file a claim to receive a payment.
OPT OUT	You may write to the Settlement Administrator and exclude yourself from the Settlement Class. Exclusion allows you to file your own lawsuit. You will not receive any payment and will not be bound by the releases contained in the Settlement if you exclude yourself. The exclusion deadline is **April 11, 2025**.
DO NOTHING	If you already submitted a claim in the Pfizer Settlement in this case, and do not wish to submit supplemental information, you do not need to do anything to receive a payment from the Mylan Settlement. If you **HAVE NOT** previously submitted a claim, you will not receive any payment if you do nothing. You will, however, still be bound by the releases contained in the Settlement and will not be able to file or continue to pursue your own lawsuit.

These rights and options are explained in this Notice. If you do not act by the deadline for an option, you will lose your right to exercise that option. The Court overseeing this case still has to decide whether to approve the Settlement. You may receive a payment if the Court approves the Settlement and after the period to appeal has expired and/or all appeals have been resolved. Please be patient.

TABLE OF CONTENTS

BASIC INFORMATION

1. WHAT IS THIS LAWSUIT ABOUT?

This lawsuit is a class action known as *KPH Healthcare Services, Inc. v. Mylan N.V.*, Case No. 2:20-cv-02065-DDC-TJJ (D. Kan.) (the "Lawsuit"). Judge Daniel D. Crabtree of the United States District Court for the District of Kansas is overseeing the Lawsuit.

The Lawsuit alleges that Mylan and Pfizer entered into an improper market allocation agreement with Teva Pharmaceuticals. Plaintiffs allege that pursuant to that agreement, Teva agreed to settle patent litigation with Pfizer related to Teva's generic EpiPen, and delay launching the product, in exchange for Mylan's agreement to settle other patent litigation with Teva related to generic Nuvigil. The lawsuit further alleges that this agreement unlawfully extended Pfizer's and Mylan's alleged monopoly power over the epinephrine autoinjector market.

Mylan strongly denies these allegations and maintains that it engaged in no wrongdoing or illegal conduct. No court, jury, or other authority has decided whether Mylan engaged in any wrongdoing. The Class claims against Pfizer were resolved by an earlier settlement. The Court granted final approval of that settlement on July 9, 2024.

The parties reached this Settlement after a comprehensive mediation process overseen by a neutral, experienced, and well-regarded mediator.

2. WHAT IS A CLASS ACTION?

In a class action, one or more people or entities called "named plaintiffs" or "class representatives" (in this case, KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc. or "KPH;" FWK Holdings LLC or "FWK;" and César Castillo, LLC; collectively, "Plaintiffs") sue(s) on behalf of people and entities with similar claims. These people and entities are called a "Class" or "Class Members." One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

3. ARE YOU PART OF THE DIRECT PURCHASER CLASS?

You are part of the Direct Purchaser Class if you are a person or entity in the United States or its territories, possessions, and the Commonwealth of Puerto Rico that purchased EpiPen or generic EpiPen directly from Mylan or Teva, for resale, at any time during the period from March 13, 2014, until the date on which the Court entered the Preliminary Approval Order, February 6, 2025.

Excluded from the Class are Defendants and their officers, directors, management, employees, predecessors, subsidiaries, and affiliates, and all federal governmental entities.

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, unless you have already submitted a Claim Form in the previous settlement in this Lawsuit with Pfizer. If you already submitted a Claim Form in the Pfizer Settlement, you will be considered part of the Mylan Settlement Class, will receive a payment from the Mylan Settlement, and do not need to do anything further. However, you may submit supplemental data to account for the longer Class Period, if desired.

If you are a Class Member, you have not previously submitted a Claim Form in the Pfizer Settlement, and you wish to participate in the distribution of proceeds from the Mylan Settlement, you are required to submit a Claim Form available on the Settlement website, www.EpiPenDPPSettlement.com, and supporting documentation, postmarked (if mailed) or submitted online on or before May 29, 2025.

THE SETTLEMENT

4. WHAT DOES THE SETTLEMENT PROVIDE?

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 all the Released Claims as defined in the Settlement Agreement. A summary of those Released Claims is included below.

In exchange for Mylan's agreement to pay $73,500,000 into a Settlement Fund, Plaintiffs will ask the Court to dismiss the Lawsuit against Mylan with prejudice. The Class Members will release all claims alleged against Mylan in the Lawsuit that were alleged or could have reasonably been alleged and/or concerning the purchase, sale, marketing, or distribution of EpiPen, Nuvigil, and/or their generic equivalents and arising under the Sherman Act, 15 U.S.C. §§ 1 & 2, *et seq.*, any state or federal RICO statutes, or any other federal or state statute or common law doctrine relating to antitrust, fraud, unfair competition, unjust enrichment, or consumer protection.

The Released Claims do not include claims currently asserted against Mylan in *In re: EpiPen Direct Purchaser Litigation*, Case No. 0:20-CV-00827 (District of Minnesota).

This Settlement is not intended to release any claims arising in the ordinary course of business between Class Members and Mylan under the Uniform Commercial Code, the laws of negligence, product liability, implied warranty, contract, express warranty, or personal injury.

Class Members and Mylan release any and all provisions, rights, and/or benefits conferred by Section 1542 of the California Civil Code and/or any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Class Members and Mylan also will release any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that is the subject matter of the above releases, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

The Settlement Fund may be reduced in proportion to the *pro rata* share of any Class Members who exclude themselves from the Settlement. The Settlement may be terminated by Mylan if Class Members representing 8% or more of the total purchases of EpiPen or generic EpiPen exclude themselves from the Class. The Settlement also may be terminated if for any reason the Settlement does not become final. If the Settlement is terminated, the Lawsuit will proceed against Mylan as if a settlement had not been reached.

5. WHY IS THERE A SETTLEMENT?

Neither the Court nor a jury has decided in favor of Plaintiffs or Mylan. Instead, both sides have agreed to settle after years of hard-fought litigation. If the Court approves the Settlement, the parties will avoid the costs, delay, and uncertainty of continuing the Lawsuit, and Class Members will be eligible to receive a payment from the Settlement. The Settlement does not mean that any law was broken or that Mylan did anything wrong, or that Plaintiffs' allegations are not true. Mylan denies all legal claims in this case. Plaintiffs and their lawyers are confident in the allegations against Mylan but think the Settlement is best for the Class.

SETTLEMENT PAYMENTS

6. HOW CAN YOU GET A PAYMENT FROM THE SETTLEMENT?

To retain your right to seek a payment from this Settlement, you must submit a Claim Form on or before May 29, 2025, unless you have already submitted a Claim Form in the Pfizer Settlement. **If you already submitted a Claim Form in the Pfizer Settlement, you do not have to do anything further.** However, you may submit

supplemental data to support your claim if you wish. If you have not already submitted a Claim Form in the Pfizer Settlement, you must submit a Claim Form to receive a payment from the Mylan Settlement.

If you have been identified as a Class Member based on available records, a Claim Form will be sent to you. If you believe you are a Class Member, but you do not receive such a Claim Form, you can obtain one from the settlement website, www.EpiPenDPPSettlement.com.

You may complete your Claim Form online at the Settlement website, www.EpiPenDPPSettlement.com, or you may print a copy, fill it out, and send it by U.S. Mail to the Settlement Administrator. The Claim Form includes more detailed instructions.

If you do not submit a timely Claim Form with all of the required information and supporting records, and you have not already submitted a Claim Form in the Pfizer Settlement, you will not receive a payment from the Settlement Fund. Unless you expressly excluded yourself from the Class, you will still be bound by the Settlement, the Judgment, and the release contained in them.

7. HOW MUCH WILL YOU RECEIVE FROM THE SETTLEMENT?

Pursuant to the Settlement, a $73,500,000 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 awarded by the Court, will be distributed to Class Members under a proposed plan of allocation ("Plan of Allocation") if approved by the Court. The Plan of Allocation proposes distributing the Settlement Fund based on the proportionate share of purchases made during the Class Period. The Court may approve the proposed Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the Settlement website, www.EpiPenDPPSettlement.com.

At this time, it is unknown how much money each Class Member will receive. It will depend on the number of Class Members that submit Claim Forms and the number of qualifying purchases made by each of those Class Members.

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 Settlement Fund after a reasonable amount of time from the initial date of distribution of the Settlement Fund, and if it is feasible, the Settlement Administrator will reallocate such balance among Class Members who successfully received and deposited, cashed, or otherwise accepted a distribution amount, in an equitable fashion. These redistributions shall be repeated until the balance remaining in the Settlement Fund is no longer economically feasible to distribute to Class Members. After that, Class Counsel shall seek the Court's guidance on any *de minimis* balance which remains in the Settlement Fund.

8. WHAT WILL YOU GIVE UP IN EXCHANGE FOR THE SETTLEMENT?

Members of the Class will be bound by all future orders in this case and will be bound by the release as described in Question 4.

More information about the release may be found in the Settlement Agreement, which is available on the Settlement website, www.EpiPenDPPSettlement.com.

THE LAWYERS REPRESENTING THE CLASS

9. DO YOU HAVE A LAWYER IN THIS CASE?

The Court appointed the following attorneys as Co-Lead Class Counsel for the Direct Purchaser Settlement Class ("Class Counsel"):

Michael L. Roberts
ROBERTS LAW FIRM US, PC
1920 McKinney Avenue, Suite 700
Dallas, TX 75201
Telephone: (501) 952-8558
Email: mikeroberts@robertslawfirm.us

Linda P. Nussbaum
NUSSBAUM LAW GROUP, P.C.
1133 Avenue of the Americas, 31st Floor
New York, NY 10036
Telephone: (917) 438-9102
Email: lnussbaum@nussbaumpc.com

Class Counsel are experienced in handling similar cases against other companies.

10. HOW WILL THE LAWYERS BE PAID?

Class Counsel will file a motion for an award of attorneys' fees and expenses that will be considered at the Final Approval Hearing. Class Counsel will seek reimbursement for litigation costs and expenses, attorneys' fees of up to one-third of the Settlement Fund, plus interest earned on these amounts at the same rate as earned by the Settlement Fund.

If the Court grants the Plaintiffs' lawyers' requests, these payments will be made from the Settlement Fund. You will not have to pay these lawyers out of your own pocket.

The attorneys' fees and expenses requested will be the only payment to Class Counsel for their considerable time and efforts in achieving this Settlement and their risk in undertaking this representation on a wholly contingent basis, including the expenses they advanced without any guarantee of repayment. The Court will decide what constitutes a reasonable fee award and may award less than the amount requested by Class Counsel.

Class Counsel's motion for attorneys' fees, costs, and expenses will be filed with the Court and made available for download or viewing on or before March 21, 2025, at www.EpiPenDPPSettlement.com.

WHAT ARE YOUR OPTIONS?

As outlined on Pages 1 & 2, and as described below, Direct Purchaser Class Members have four options: (1) submit a claim; (2) object to the Settlement; (3) exclude themselves from the Settlement; and/or (4) do nothing. The deadline for each option is listed in this Notice. If you do not act by the deadline for an option, you will lose your legal right to exercise that option.

11. OPTION 1 – SUBMIT A CLAIM

You can request a payment from the Settlement by submitting a Claim Form. Information about how to do this, and the effect of doing this, is outlined in the "Settlement Payments" section on Pages 5-6. **If you already submitted a Claim Form in the Pfizer Settlement, you do not have to do anything further.**

Your Claim Form must be submitted online or postmarked by May 29, 2025. If your Claim Form is not submitted online or postmarked by that date, you will lose the ability to get a payment from this Settlement.

12. OPTION 2 – OBJECT TO THE SETTLEMENT

If you are a Class Member, you may tell the Court what, if anything, you object to about the Settlement, the Plan of Allocation, and/or Class Counsel's request for an award of attorneys' fees, reimbursement of costs, and expenses by filing an objection. For your objection to be considered, you must file your objection, accompanied by proof that you are a Class Member, with the Clerk of the Court by April 11, 2025, at the United States District

Court for the District of Kansas, 500 State Avenue, Kansas City, KS 66101. If your written objection is not filed by that date, you will lose the ability to object to the Settlement. You must also mail a copy of your objection to the following Class Counsel and counsel for Mylan:

To Plaintiffs and the Class:	To Mylan:
Michael L. Roberts ROBERTS LAW FIRM US, PC 1920 McKinney Avenue, Suite 700 Dallas, TX 75201 Linda P. Nussbaum NUSSBAUM LAW GROUP, P.C. 1133 Avenue of the Americas, 31st Floor New York, NY 10036	Adam K. Levin HOGAN LOVELLS US LLP Columbia Square 555 Thirteenth Street, NW Washington, D.C. 20004

Counsel must receive your objection by the same date, April 11, 2025.

Your objection must consist of a signed letter stating that you wish to object to the proposed Settlement. 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, and/or request of an award of attorneys' fees, reimbursement of costs, and expenses; (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) include documents sufficient to prove the objector's membership in the Class; (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.

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 be forever 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 costs and expenses to Class Counsel, unless otherwise ordered by the Court.

If you object, you will remain a member of the Class, so in order to retain your right to seek a payment from the Settlement, you also must file a Claim Form by May 29, 2025, as described above.

13. OPTION 3 – OPT OUT

If you do not want the benefits offered by the Settlement and do not want to be legally bound by the terms of the Settlement, and/or if you wish to pursue your own separate lawsuit against the Mylan Defendants, you must exclude yourself from the Class. Your request to be excluded must include (i) your name and address, (ii) a statement that you want to be excluded from the Settlement Class, and (iii) your signature.

Your request to be excluded must be postmarked (if mailed) or received (if submitted online) by April 11, 2025.

14. OPTION 4 – DO NOTHING

If you are a Class Member, you have not submitted a Claim Form in the Pfizer Settlement, and you do nothing, you will remain in the Class and be bound by all orders in this Lawsuit. You will also give up the right to seek a payment from the Settlement, to object to the Settlement, to speak at the hearing about the Settlement, or to be part of another lawsuit against Mylan for any and all claims released by this Settlement Agreement.

FINAL APPROVAL HEARING

15. WHEN IS THE FINAL APPROVAL HEARING?

The Court will hold a Fairness Hearing on May 9, 2025, at 1:30 p.m. Central Time, before the Honorable Daniel D. Crabtree, United States District Court for the District of Kansas, 500 State Avenue, Kansas City, KS 66101, Courtroom 643, for the purpose of determining whether (1) the Settlement as set forth in the Settlement Agreement for $73,500,000 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; and (4) 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. For updated information on the hearing, you may check the Settlement website, contact Class Counsel, or access the court docket for this case as described in the "How Do You Get More Information?" section below.

16. DO YOU HAVE TO ATTEND THE HEARING?

No, you do not have to attend the Final Approval Hearing to show your approval. Class Counsel will answer any questions the Court may have.

If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper address, and it complies with the other requirements provided in this Notice, the Court will consider it.

But if you want to attend, you are welcome to do so at your own expense. You may also pay another lawyer to attend for you, but you will be responsible for hiring and paying that lawyer.

17. MAY YOU SPEAK AT THE HEARING?

If you object to the Settlement, you may ask the Court for permission to speak at the hearing. Your objection must include a request to speak, be timely submitted, and comply with the other requirements provided in this Notice.

Your objection submission must include information or materials responsive to all nine of the items listed in the "Option 2 - Object to the Settlement" section on Pages 7-8, as well as copies of all documents or writings you want the Court to consider.

Ultimately, the Court will decide who will be allowed to speak at the hearing.

FINAL APPROVAL HEARING

18. HOW DO YOU GET MORE INFORMATION?

This Notice summarizes the Settlement. The precise terms and conditions of the Settlement are detailed in the Settlement Agreement. If there are any inconsistencies between this Notice and the terms of the Settlement Agreement, the terms of the Settlement Agreement control.

The records in this Lawsuit may be examined and copied during regular office hours, and are 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 Lawsuit are available at www.pacer.gov. In addition, the Settlement Agreement, this Notice, the Claim Form, and the Plan of Allocation are available at www.EpiPenDPPSettlement.com. You may contact the Settlement Administrator at 1-866-778-6568 if you have any questions about the Lawsuit or the Settlement.

Please do not write or call the Court, the Court Clerk's office, or Mylan with questions about the Settlement or the claims process.

KPH Healthcare Services, Inc. v. Mylan, N.V.
Case No. 2:20-cv-02065-DDC-TJJ
(District of Kansas)

DIRECT PURCHASER CLAIM FORM

YOUR CLAIM MUST BE SUBMITTED ONLINE OR POSTMARKED ON OR BEFORE MAY 29, 2025.

Submit this Claim Form using the Settlement Administrator's website, www.EpiPenDPPSettlement.com,

OR

Mail your claim to: EpiPen Direct Purchaser-Mylan Settlement
c/o A.B. Data, Ltd.
P.O. Box 173113
Milwaukee, WI 53217

1. CLASS MEMBER INFORMATION

Company Name

First Name of Company Representative | Last Name of Company Representative

Company Street Address – Line 1 | Company Street Address – Line 2

City | State | Zip Code

Email Address of Company Representative | Telephone Number

2. CLASS MEMBER REPRESENTATIVE INFORMATION

Please list the contact information for the person responsible for overseeing the claims process and communicating about your claim and distribution of any settlement payments. If the information is the same as #1, check the box below and skip to #3.

☐ Same as Class Member Information.

Company Name for Person Responsible

First Name of Person Responsible | Last Name of Person Responsible

Street Address of Person Responsible – Line 1 | Street Address of Person Responsible – Line 2

City of Person Responsible | State | Zip Code

Email Address of Person Responsible | Telephone Number of Person Responsible

3. BRAND PURCHASE INFORMATION

Please list in the space below the total number of units (*i.e.*, packages of 2 EpiPen) of **brand EpiPen purchased directly from Mylan** between March 13, 2014, and February 6, 2025, reduced to account for returns and assignments.

_____

Units of brand EpiPen

A list of relevant National Drug Codes (NDCs) is included at the end of this Claim Form as Exhibit A.

**** You must submit supporting purchase records. ****

4. GENERIC PURCHASE INFORMATION

Please list in the space below the total number of units (*i.e.*, packages of 2 EpiPen) of **Authorized Generic EpiPen purchased directly from Mylan** between March 13, 2014, and February 6, 2025, reduced to account for returns and assignments.

_____

Units of Authorized Generic EpiPen

Please list in the space below the total number of units (*i.e.*, packages of 2 EpiPen) of **Generic EpiPen purchased directly from Teva** between March 13, 2014, and February 6, 2025, reduced to account for returns and assignments.

_____

Units of Generic EpiPen

A list of relevant National Drug Codes (NDCs) is included at the end of this Claim Form as Exhibit A.

**** You must submit supporting purchase records. ****

5. ASSIGNMENTS

Please check here if you are filing this claim based on an assignment: ☐

If you are submitting a claim pursuant to an assignment, please identify with particularity that assignment below. Please also attach documentation in support of such assignment, including the assignment agreement and purchase records showing your qualifying purchases from your assignor that are covered by any such assignment.

The Settlement Administrator may require additional information and documents for any claim made based on an assignment. If you are submitting this claim as an assignee, the data and supporting purchase records may be shared with the relevant assignor(s) during the claims administration process. By submitting a claim by virtue of an assignment, you agree that such data and documentation, and calculations based on such data and documentation, may be shared with your assignor.

6. WIRE TRANSFER INFORMATION

If you wish to have your share of the Net Settlement Fund paid by wire transfer, please provide the information below:

Bank Name	
Bank Address	
Account Name	
Account No.	
ABA/Routing No.	
Special Instructions	

7. SIGNATURE

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. I understand that the punishment for perjury varies by state, but perjury is a felony and carries a possible prison sentence of at least one year, plus fines and probation.

Signature:_____ Dated: _____

Printed Name:_____

Company Name:_____

Position at Company:_____

EXHIBIT A

NDCs of Brand, Authorized Generic, and Generic EpiPen

Brand EpiPen (Sold by Mylan)
49502-500-92
49502-500-02
49502-500-01
49502-501-92
49502-501-02
49502-501-01

Authorized Generic EpiPen (Sold by Mylan)
49502-102-02
49502-101-02
49502-101-01
49502-102-01

Generic EpiPen (Sold by Teva)
00093-5985-27
00093-5986-27
00093-5985-19
00093-5986-19

EpiPen Direct Purchaser - Mylan Settlement
c/o A.B. Data, Ltd.
P.O. Box 173113 Milwaukee, WI 53217

COURT APPROVED NOTICE REGARDING

EpiPen Direct Purchaser - Mylan Settlement

EXHIBIT B


If You Purchased
EpiPen®
or Generic EpiPen
Directly From the Manufacturer,
You May Receive a Payment
from a $73.5 Million
Class Action Settlement
File a Claim HERE >
EpiPenDPPSettlement.com

EXHIBIT C

Private Credit Lures Restructuring Pros

Amid bankruptcy surge, lenders offer fat packages for workout talent

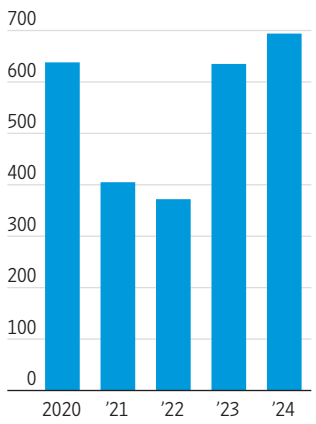
BY ISAAC TAYLOR

Private-credit firms are increasingly hiring loan-restructuring and workout professionals as corporate bankruptcies and distressed exchanges have spiked.

U.S. corporate-bankruptcy filings reached a 14-year high in 2024, according to data from S&P Global Market Intelligence. The 694 filings in 2024 marked the highest number of such filings since 2010. That, combined with slower-than-anticipated interest-rate cuts and heightened market uncertainty, has bolstered demand for workout talent, lenders and recruiters say.

The hiring uptick spans the market from large alternative-asset managers to midsize players that manage less than $10 billion in assets, credit-industry executives said. Large alternative-asset managers that currently have posted job openings online for professionals with workout or distressed-credit skills include **Blackstone**, Blue Owl, **Goldman Sachs** and Golub Capital.

U.S. corporate bankruptcy filings, annually



Source: S&P Global Market Intelligence

Recruiters and lenders say some firms are bringing in talent for specific purposes, including liability management exercises, or LMEs, transactions that allow companies to restructure their debt to secure more financing, often pushing out maturities, while avoiding bankruptcy.

LMEs represented 69% of dual-track defaults in 2024, the highest level in nearly four years, as management of unsustainable debt burdens shifted away from conventional payment defaults, according to research firm PitchBook Data.

MARISSA ALPER FOR WSJ

Blackstone has posted openings for credit-workout pros.

Firms are also hiring talent to work on distress-for-control transactions, in which lenders buy a significant amount of debt from a struggling company with the goal of gaining enough control to influence the restructuring process.

In the past couple of years, private-credit asset manager Antares Capital noticed an industry average of about three lender takeover situations each year, one of its credit executives said. The private-credit industry averaged one a year before 2022, the person said.

Loan documentation has deteriorated over the past few years, allowing borrowers to use the documents against lenders and ask credit shops to take a haircut, or a reduction in asset value, before equity has been impaired.

"As this tactic has become commonplace versus one-off and there've been more and more of these out-of-court negotiations, it's led to the need for expertise and talent in order to protect our investments," said Lauren Basmadjian, global head of liquid credit at private-equity firm Carlyle Group.

A number of private-credit shops have realized they don't have the human capital and the experience in house to handle a significant market downturn, said James Sprayregen, vice chairman of Hilco Global, an asset-focused advisory and investment firm.

Sprayregen himself joined Hilco last year after spending a total of 32 years at Kirkland & Ellis, where he founded the law firm's restructuring group in 1990. He also co-led the restructuring group at Goldman Sachs between 2006 and 2008.

"It takes a while for the bite to be felt," he said, referring to why hiring is picking up now instead of when the Fed started raising interest rates in early 2022.

Firms looking to hire vice president- to partner-level talent with restructuring skills and private-equity portfolio operations knowledge typically pay anywhere from $500,000 to $1.5 million in base salary and bonus, said John Rubinetti, a partner at executive search firm Heidrick & Struggles.

One such firm, Golub Capital, is looking to hire a senior associate on its workout team, according to an online job posting. Responsibilities include managing a portfolio of the firm's most troubled investments and developing plans for maximizing recoveries and minimizing losses on the portfolio.

Golub didn't respond to requests to comment.

Antares, which provides financing to sponsor-backed companies, over the past few years said it has bolstered its workout team to 18 people, nearly triple the typical size.

"Even though people are looking to acquire these resources, I don't think it will be as successful as they're hoping because we don't believe that the workout team can just be activated," said Vivek Mathew, the head of asset management for Antares. "We feel like they need to be integrated."

When a company veers off the underwriting case, even minimally, Antares has a workout person shadowing the situation, he said. If it turns into a classic workout, that person isn't parachuting in.

Last year Antares noticed a liquidity issue with a company it backed in the transportation industry. "We could see, over a quarter or two, that the performance was starting to tail off," said Antares Senior Managing Director Michele Kovatchis.

The company's equity sponsor agreed to an additional commitment of capital, and Antares used payment-in-kind debt to alleviate some of the interest burden.

She credits Antares' early identification of the liquidity issue partly to the firm's workout talent. "Once we start to see any little bits of weakness, we'll add that resource," Kovatchis said. "That person can very quickly step into those situations and take it over."

Formula One Weighs Green Goals

Continued from page B1

which 18% came from sponsorships. By comparison, the NFL made some $14 billion in 2023, according to S&P Global. Both Nascar and F1 made about $1 billion in media rights last year, according to Liberty Media and Nascar.

Between races, practice and other events, many drivers use private jets. Ferrari itself is sponsored by a private jet firm **VistaJet**, while some F1 stars have their own personal planes.

Carbon footprint

In 2022, Formula One's carbon footprint totalled 223,031 tons of carbon dioxide equivalent, including both its direct and indirect emissions, according to the sport's latest sustainability report—roughly the same as the Pacific island nation of Tonga. That figure is down from 2018, but is still far from the emissions target the motor sport has set itself: net zero by 2030.

Much of the emissions in F1 come from logistics, roughly 49% of the total. The cars themselves and the fuel they burn account for less than 1% of total emissions. Some 29% of F1's emissions are generated by business travel, with a further 12% coming from event operations. The last 10% come from factories and facilities, designing and producing the cars and kit needed for races.

A recent change made by F1 to regroup most of its European races together will reduce miles traveled between races and help lower its emissions.

The championship uses biofuel-powered trucks to move equipment between venues, which it says has reduced related emissions by 83%. F1 and teams like Mercedes-Benz Motorsport also are purchasing sustainable aviation fuel credits to help mitigate emissions from flying.

For a race in Austria last year, much of the event was powered by renewable energy, using a combination of vegetable oils, solar panels and battery storage. Doing so cut emissions from the pit, paddock and technical center by 90%, according to F1.

Calendar changes also have been made in the Asia-Pacific region and in North America to reduce mileage traveled between races. Teams are now sending equipment ahead on boats instead of planes, using more in-country resources and building hubs from where equipment can be moved over shorter distances.

Formula One Carbon Footprint

Share of 223,031 tons of carbon dioxide equivalent emissions from Formula 1 in 2022

49%
Logistics
Moving the cars and kit makes up the bulk of emissions, with most coming from flying and shipping.

29%
Business travel
Hundreds of people are required at each race weekend, but teams are sending fewer staff to races, choosing to work remotely.

12%
Event operations
More races are being added to the F1 calendar. In Austria, low carbon energy was used to power the pit and paddock.

10%
Factories and facilities
Teams increasingly are purchasing 100% renewable energy to power their factories, and looking for more circular materials.

<1%
The cars
Cars make up only a tiny fraction of emissions, with increasing use of sustainable fuels being mandated from 2026.

Source: 2023 Impact Report

Some teams also are turning to carbon removal and offsets to help meet their goals. McLaren has partnered with soil carbon sequestration firm UNDO, an enhanced rock-weathering project developer, while Mercedes is purchasing its offsets through Frontier, a group of largely technology companies that has committed more than $1 billion to carbon removals.

"Our priority is to reduce our emissions and that's why we've got our 75% reduction target by 2030," said Alice Ashpitel, head of sustainability at Mercedes-Benz Motorsport. "But we also recognize that we are going to need removal credits to help us kind of neutralize that residual 25%, and then beyond that carbon removals will play a role in neutralizing those kind of hard to abate, final emissions."

Fossil-fuel links

But F1's links with the fossil-fuel companies are drawing scrutiny. **Saudi Arabian Oil Group**, also known as Aramco, the largest oil producer in the world, is a flagship sponsor. Most Formula One races take place in fossil-fuel-producing countries, including the U.S. but also in places like Abu Dhabi, Bahrain and the host of last year's United Nations COP29 climate conference, Azerbaijan.

F1 and its proponents argue that having these types of sponsors helps them and the countries in which they are based to push environmental changes. It cites an advanced sustainable fuel created by Aramco as an example, which it says all race cars will run on from 2026, leading to an 80% cut in emissions.

However, Andrew Simms, co-director of the New Weather Institute, a climate-focused think tank, said that Aramco is looking to produce only 35 barrels a day of the synthetic e-fuel, compared with the 9 million barrels a day of crude oil it produces. The New Weather Institute has lodged a claim with the U.K.'s Advertising Standards Authority, saying that F1 and Aramco have been misleading in their advertisements on advanced and low-carbon fuels in F1 and the wider transport sector. The claim is under investigation.

F1 said it believes the new fuels could have an impact on road vehicles as carmakers seek to reduce global automotive emissions. Aramco said its "relationships in motorsports allows us to test these advanced fuels under extreme conditions, which helps to validate their potential."

Despite the issues, researchers like Simms are optimistic that sports such as F1 can foster change, with athletes serving as role models for fans.

"There are sports people calling on governing bodies to minimize the impact of sport on the environment," he said. "The more we see people speaking out about it the more sport can be seen as an example."

EXHIBIT D

Mar 13, 2025 10:00 AM Eastern Daylight Time

Nussbaum Law Group, P.C. and Roberts Law Firm US, PC Announce a $73.5 Million Class Action Settlement with Mylan on Behalf of Direct Purchasers of EpiPen® or Generic EpiPen

NEW YORK--(BUSINESS WIRE)--Nussbaum Law Group, P.C. and Roberts Law Firm US, PC:

COURT-ORDERED LEGAL NOTICE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

If you purchased EpiPen® or generic EpiPen directly from the manufacturer, you may receive a payment from a $73.5 million class action settlement.

KPH Healthcare Services, Inc. v. Mylan N.V.,
Case No. 2:20-cv-02065-DDC-TJJ (District of Kansas)

This is not a recall, safety, or other similar notice. No one is claiming that EpiPen is unsafe or ineffective.

For more information and to file a claim, visit www.EpiPenDPPSettlement.com**.**

WHAT DOES THE SETTLEMENT PROVIDE?

A proposed settlement ("Settlement") has been reached in a class action lawsuit alleging that Mylan N.V., Mylan Pharmaceuticals, Inc., and Mylan Specialty L.P. (together, "Mylan") entered into an improper market allocation agreement with Pfizer, Inc., King Pharmaceuticals, Inc. (n/k/a King Pharmaceuticals LLC) and Meridian Medical Technologies, Inc. (collectively, "Pfizer"), and Teva Pharmaceuticals USA, Inc. ("Teva") that delayed the launch of generic EpiPen and extended Mylan's and Pfizer's alleged monopoly over the epinephrine autoinjector market. Under the settlement, Mylan agreed to pay $73,500,000 into a settlement fund ("Settlement Fund") for the Direct Purchaser Settlement Class. Mylan strongly denies that it violated any laws and contends that its actions enhanced competition and did not cause Class Members any injury.

The Class claims against Pfizer were resolved by an earlier settlement. The Court granted final approval of that settlement on July 9, 2024. The separate Settlement that is the subject of this Notice is only with Mylan and resolves only the claims against Mylan.

WHO IS INCLUDED?

People or entities who purchased EpiPen® or generic EpiPen directly from Mylan or Teva, for resale, at any time during the period from March 13, 2014, until the date on which the Court entered the Preliminary Approval Order, February 6, 2025.

Excluded from the Class are Defendants and their officers, directors, management, employees, predecessors, subsidiaries, and affiliates, and all federal governmental entities.

HOW CAN YOU GET A PAYMENT?

If you submitted a claim in the Pfizer Settlement in this case, you do not have to submit another claim to receive a payment in this Settlement. However, you have the opportunity to submit supplemental information if you wish to do so. If you did not submit a claim and you are a member of the Class, you must submit a Claim Form online at www.EpiPenDPPSettlement.com or by mail to get paid in this settlement.

You may have received a Claim Form. If not, a Claim Form is available at www.EpiPenDPPSettlement.com. See the Claim Form for instructions on how to submit a claim. If the Court approves the Settlement, claims will be paid after any appeals are resolved.

The deadline to postmark or submit your claim online at www.EpiPenDPPSettlement.com or by email to info@EpiPenDPPSettlement.com is May 29, 2025.

YOUR OTHER LEGAL RIGHTS AND OPTIONS

OBJECT	You may write to the Court about why you object to the Settlement, the request for attorneys' fees, reimbursement of expenses and costs, and/or the plan of allocation. If you object to the Settlement, you are still a member of the Class and you must file a claim to receive a payment. Objections must be filed with the Court and received by the parties on or before **April 11, 2025**.
OPT OUT	You may write to the Settlement Administrator and exclude yourself from the Class. Exclusion allows you to file your own lawsuit. If you exclude yourself, you will not receive any payment and will not be bound by the releases contained in the Settlement. The exclusion deadline is **April 11, 2025**.
DO NOTHING	If you already submitted a claim in the Pfizer Settlement in this lawsuit and do not wish to submit supplemental information, you do not need to do anything to receive a payment from the Mylan Settlement. If you **HAVE NOT** previously submitted a claim, you will not receive any payment. You will, however, still be bound by the releases contained in the Settlement and will not be able to file or continue to pursue your own lawsuit.

The Court scheduled a final approval hearing for **May 9, 2025**, at **1:30 p.m. Central Time** to consider whether the settlement and plan of allocation are fair, reasonable, and adequate, as well as any objections to the settlement, the plan of allocation, and any request for attorneys' fees, and reimbursement of expenses and costs. You do not need to attend, but you or your attorney can do so at your own expense.

For more information about the Settlement and your options, please visit www.EpiPenDPPSettlement.com or call 1-866-778-6568.

Contacts

Linda P. Nussbaum
(917) 438-9189
lnussbaum@nussbaumpc.com

Michael L. Roberts
(501) 821-5575
admin@robertslawfirm.us

EXHIBIT E

A.B. DATA, LTD.
Class Action Administration
600 A. B. Data Drive
Milwaukee, WI 53217
414-961-7523
billing@abdata.com
abdataclassaction.com

NUSSBAUM LAW GROUP, PC
1133 AVENUE OF THE AMERICAS
31ST FLOOR
NEW YORK, NY, 10036

INVOICE #:	54769
INVOICE DATE:	3/14/2025
PERIOD ENDING:	2/28/2025
CLIENT:	681650
PAGE:	1/1
TERMS:	30 days upon receipt

INVOICE PREVIEW

JOB 54769 EpiPen Direct Purchaser - Mylan

DESCRIPTION	QTY	PRICE	AMOUNT
Receipt and Preparation of Paper Claim Forms	1	5.00	$5.00
Executive Project Management (Hourly) - Mylan	2.93	240.00	$703.20
Project Management (Hourly) - Mylan	20.60	185.00	$3,811.00
System Support (Hourly) - Mylan	23.08	195.00	$4,500.60
Staff (Hourly) - Mylan	11.88	110.00	$1,306.80
Staff - Other (Hourly) - Mylan	13.32	55.00	$732.60
Printing and Mailing of Notices - 16 Page (Mylan) Flat Fee	1	1,500.0000	$1,500.00
Postage	1	222.13	$222.13
Media Notices	1	40,000.00	$40,000.00
Website Maintenance/Support (Monthly)	1	145.00	$145.00
IVR and Line Maintenance (Monthly)	1	125.00	$125.00
Electronic Storage	1	41.44	$41.44

TOTAL $53,092.77

MAIL CHECKS TO
PO Box 170062, Milwaukee, WI 53217
Make checks payable to A.B. DATA, LTD.

SEND WIRES TO
US BANK, N.A.
400 W. Brown Deer Road, Bayside, WI 53217
Routing Number 075000022
Account Number 182377466541 (AB Data, Ltd.)
Swift Code USBKUS44IMT

Past due invoices are subject to a 1.5% per month service charge