

EXHIBIT 1

**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

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Settlement Agreement”) is made and entered into on September 28, 2023, by and between defendants Pfizer Inc., King Pharmaceuticals LLC, and Meridian Medical Technologies LLC (collectively, “Pfizer”),¹ and the direct purchaser class plaintiffs, KPH Healthcare Services, Inc. a/k/a Kinney Drugs Inc. (“KPH”), FWK Holdings LLC (“FWK”), and César Castillo, LLC (“CCI”) (collectively, “Plaintiffs”) (Pfizer and Plaintiffs together, the “Settling Parties”), individually and on behalf of the proposed Direct Purchaser Class,² by and through Linda P. Nussbaum of Nussbaum Law Group, P.C. and Michael L. Roberts

¹ The following defendants are expressly not included in this Settlement Agreement: Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc. (collectively, “Mylan” or “Mylan Defendants”).

² The “Direct Purchaser Class” or the “Class” means “All persons or 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 as defined below (the “Class Period”). Excluded from the Class are Defendants and their officers, directors, management, employees, predecessors, subsidiaries, and affiliates, and all federal governmental entities.

of Roberts Law Firm US, P.C., in their capacity as Interim Co-Lead Counsel for Plaintiffs and the Putative Direct Purchaser Class (“Lead Counsel”).

WHEREAS, Plaintiffs comprise all of the named plaintiffs in *KPH Healthcare Services, Inc., et al. v. Mylan, N.V., et al.*, Civil Action No. 2:20-cv-02065-DDC-TJJ (the “District Court Action”), filed in the United States District Court for the District of Kansas before the Honorable Daniel D. Crabtree (the “District Court”), and *KPH Healthcare Services, Inc., et al. v. Pfizer Inc., et al.*, No. 23-3014 (the “Appeal,” and together with the “District Court Action,” the “Direct Purchaser Class Action”), pending in the United States Court of Appeals for the Tenth Circuit (the “Appellate Court”);

WHEREAS, the Settling Parties acknowledge that the District Court has jurisdiction over the District Court Action, each of the Settling Parties, and all members of the Class for all purposes related to the District Court Action, including this Settlement Agreement;

WHEREAS, Plaintiffs have alleged that Pfizer and Mylan Defendants engaged in conduct in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2, concerning the EpiPen, a spring-loaded injector that delivers a pre-measured and pre-loaded amount of epinephrine for the emergency treatment of anaphylaxis, and generic equivalents of the EpiPen;

WHEREAS, Pfizer denies each and every one of Plaintiffs’ allegations of unlawful conduct, has not conceded or admitted any liability, asserts defenses to Plaintiffs’ claims, asserts that Pfizer’s settlement with Teva to resolve patent litigation regarding EpiPen was entirely lawful, asserts that the conduct challenged by Plaintiffs did not delay the market entry of any generic product or cause any injury or damage, and has not conceded or admitted the propriety of certification of any class for any purposes other than settlement;

WHEREAS, Plaintiffs and Pfizer agree that neither this Settlement Agreement nor the settlement it embodies nor any actions taken in furtherance of either the Settlement Agreement or the settlement shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by Pfizer or of the truth or falsity of any claim or allegation alleged in the Direct Purchaser Class Action, or a waiver of any defenses thereto;

WHEREAS, on September 21, 2021, Plaintiffs filed the operative Complaint³ asserting two counts under the federal Sherman Act for alleged antitrust violations by Defendants in the District Court Action;

WHEREAS, on October 21, 2021, Pfizer filed a Motion to Dismiss the Complaint, which the Settling Parties fully briefed, and which the District Court granted with prejudice on August 8, 2022;

WHEREAS, on January 23, 2023, Plaintiffs were granted permission by the United States Court of Appeals for the Tenth Circuit to appeal the District Court's order granting Pfizer's motion to dismiss and where such Appeal remains pending;

WHEREAS, Plaintiffs and Pfizer, through counsel and under the auspices of the Tenth Circuit Court of Appeal's Circuit Mediation Office, have engaged in extensive arm's-length negotiations concerning settlement of the Direct Purchaser Class Action;

WHEREAS, Plaintiffs and their counsel have concluded, after extensive fact discovery, and after carefully considering the claims in the Direct Purchaser Class Action, including the claims asserted in the Complaint, and the possible and asserted legal and factual defenses thereto, that it would be in the best interests of the Class to settle the claims asserted in the Direct Purchaser

³ Consolidated Fourth Am. Class Action Complaint (Sept. 21, 2021), ECF No. 128 (the "Complaint").

Class Action against Pfizer to avoid the uncertainties of litigation, particularly complex litigation such as this, and to assure a certain and immediate benefit to the Class, and further that Plaintiffs' Counsel consider the Settlement (as defined below) set forth herein to be fair, reasonable, and adequate and in the best interests of Plaintiffs and the Class;

WHEREAS, Pfizer has concluded, despite its belief that it is not liable for the claims asserted and that it has good defenses thereto, that it would be in its best interests to enter into this Settlement Agreement to avoid the risks and uncertainties of litigation and to finally resolve all claims asserted in the Direct Purchaser Class Action;

WHEREAS, the Settling Parties have reached a settlement of the Direct Purchaser Class Action (the "Settlement"), all terms and conditions of which are embodied in this Settlement Agreement, subject to the final approval of the District Court; and

NOW THEREFORE, Plaintiffs, on behalf of themselves and as representatives of the Direct Purchaser Class, the Direct Purchaser Class, and Pfizer, in consideration of the execution of this Settlement Agreement, the mutual promises contained herein, the benefits to be received hereunder and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by all Settling Parties to this Settlement Agreement, hereby agree as follows:

1. **Reasonable Best Efforts to Effectuate This Settlement.** Each of the Settling Parties agrees to use its best efforts to obtain approval of the Settlement. Lead Counsel for Plaintiffs and on behalf of the Class agrees to recommend approval of this Settlement by the District Court. Each of the Settling Parties hereto agrees to undertake its best efforts, including all steps and efforts contemplated by this Settlement Agreement and any other reasonable steps and efforts that may be necessary or appropriate, by order of the District Court or otherwise, to secure approval and to carry out the terms of this Settlement, and to secure the prompt, complete, and

final dismissal with prejudice of all claims against Pfizer in the Direct Purchaser Class Action. Pfizer agrees to serve notice on those entities required to receive notice under 28 U.S.C. § 1715.

2. **Motions for Remand, Class Certification, and Preliminary Approval.**

(a) Within five (5) days of the execution of this Settlement Agreement, the Settling Parties shall jointly file with the Appellate Court a motion to remand the Direct Purchaser Class Action to the District Court for the limited purpose of approving the Settlement (the “Remand Motion”) and will concurrently move to stay all deadlines in the Appeal pending approval of the Settlement by the District Court. As of the same date, Plaintiffs shall withdraw their December 7, 2022 subpoena to Pfizer (the “Subpoena”), and Pfizer shall withdraw its motion to quash the Subpoena currently pending in the United States District Court for the Southern District of New York.

(b) Within seven (7) calendar days of the entry of the Appellate Court’s order granting the Remand Motion, Plaintiffs shall file with the District Court a motion for preliminary approval of the Settlement. The motion for preliminary approval shall request the entry of a preliminary approval order (the “Preliminary Approval Order”). The Preliminary Approval Order shall include: (i) a finding that the Settlement satisfies the requisite standard for preliminary approval as being within the range of fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23; (ii) approval of a notice plan, including appointment of a notice administrator as proposed by Plaintiffs, to provide notice of the Settlement to members of the Class; (iii) approval of an escrow agreement (the “Escrow Agreement”) and appointment of an escrow agent to be proposed by Plaintiffs (the “Escrow Agent”); (iv) a schedule for a hearing by the District Court, after the notice period has expired, to approve the Settlement and to consider Plaintiffs’ counsel’s applications for attorneys’ fees, costs, and expenses, and service awards as set forth in this

Settlement Agreement; (v) certification of the Direct Purchaser Class as defined above for purposes of settlement; and (vi) appointment of Michael L. Roberts of Roberts Law Firm US, PC and Linda P. Nussbaum of Nussbaum Law Group, P.C. as co-lead settlement class counsel and Bradley T. Wilders of Stueve Siegel Hanson LLP as settlement liaison counsel. Pfizer will not oppose the grant of the Preliminary Approval Order and shall not be required to play any role in the preparation and submission of the motions for approval of the Settlement (either preliminary or final approval) other than to state, if requested by the District Court or Plaintiffs to do so, that (a) the Settlement negotiations were at arm's length at all times, (b) there were several back-and-forth offers of settlement and counter-offers between the Settling Parties over a multi-week period by telephone and by email, (c) there was no discussion of attorneys' fees, costs, and expenses prior to the Settling Parties reaching agreement on all material terms of the Settlement Agreement, and (d) there were not commitments to Plaintiffs or to Plaintiffs' Counsel other than what is set forth in this Settlement Agreement. In the event the District Court preliminarily approves the Settlement, the Court-approved Settlement Administrator shall, in accord with the Preliminary Approval Order, provide Class members with notice of the Settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure in the form and manner approved by the District Court ("Class Notice").

(c) Plaintiffs shall seek certification of the Direct Purchaser Class for purposes of settlement in light of the Settlement only, concurrently with their Motion for Preliminary Approval. Pfizer will not oppose Plaintiffs' motion for class certification in connection with the Settlement only. Neither this Settlement Agreement, nor any other Settlement-related document, nor anything contained herein or therein or contemplated hereby or thereby, nor any proceedings undertaken in accordance with the terms set forth in the Settlement Agreement or herein or in any

other Settlement-related document, shall constitute, be construed as or be deemed to be evidence of or an admission or concession by Defendants as to whether any class, in this case or others, may be certified for purposes of litigation and trial.

3. **Motion for Final Approval and Entry of Final Judgment.** If the District Court certifies the Direct Purchaser Class for purposes of settlement and preliminarily approves this Settlement Agreement, Plaintiffs shall submit a motion for final approval of the Settlement Agreement by the District Court, after appropriate notice to the Class, and shall seek entry of a final judgment and order (the “Final Judgment and Order”). The Final Judgment and Order shall:

- a. find that this Settlement Agreement and the terms of the Settlement are fair, reasonable, and adequate as to Plaintiffs and the Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure and direct its consummation pursuant to the terms of this Settlement Agreement;
- b. provide for payment of reasonable attorneys’ fees and reimbursement of costs and expenses from the Settlement Fund (as defined below) as described herein;
- c. provide for payment from the Settlement Fund of service awards to each of the named Plaintiffs, in addition to whatever monies they will receive from the Settlement Fund pursuant to a District Court-approved plan of allocation to the Class (the “Plan of Allocation”);
- d. direct that Plaintiffs’ and Direct Purchaser Class members’ claims against Pfizer be dismissed with prejudice and, except as provided for in paragraph 11, without costs and without attorney’s fees recoverable under 15 U.S.C. § 15(a), except as otherwise provided for herein;
- e. retain exclusive jurisdiction over the Settlement and this Settlement Agreement, including the administration and consummation of this Settlement; and
- f. direct that the judgment of dismissal of all Class claims against Pfizer shall be final and appealable.

4. **Finality of Settlement.** This Settlement Agreement shall become final upon the occurrence of all of the following (the “Effective Date”):

- a. neither Pfizer nor Plaintiffs have availed themselves of their respective rights to cancel and terminate the Settlement pursuant to paragraphs 16 or 17 hereof;
- b. the Settlement Agreement is approved by the District Court as required by Rule 23(e) of the Federal Rules of Civil Procedure;
- c. entry, as provided for in paragraph 3 hereof, is made of the Final Judgment and Order of dismissal with prejudice against the Plaintiffs and the Class; and
- d. the time for appeal from the District Court's approval of this Settlement as described in subparagraph 4(b) hereof and entry of the Final Judgment and Order as described in subparagraph 4(c) hereof has expired or, if appealed, either such appeal shall have been dismissed prior to resolution by the court or approval of this Settlement and the Final Judgment and Order has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

5. **No Admission.** Nothing in this Settlement Agreement shall be construed as an admission in any action or proceeding of any kind whatsoever, civil, criminal or otherwise, before any court, administrative agency, regulatory body or any other body or authority, present or future, by Pfizer including, without limitation, that Pfizer has engaged in any conduct or practices that violate any antitrust statute or other law. This Settlement Agreement shall not be admissible for any purpose except in an action to enforce its terms or as otherwise provided in paragraph 29 hereof.

6. **No Concession.** Nothing in this Settlement Agreement shall be construed as a concession by Plaintiffs that the allegations in the Complaint are not true and accurate.

7. **Settlement Amount and Settlement Fund.**

(a) The "Settlement Amount" shall be Fifty Million Dollars and no/100 (\$50,000,000.00). Subject to the terms and conditions of this Settlement Agreement and the Escrow Agreement, and in full, complete and final settlement of the claims against Pfizer in the

Direct Purchaser Class Action: (a) within ten (10) calendar days after the District Court grants preliminary approval to the Settlement, provided that Lead Counsel notifies Pfizer of the establishment and identity of the Escrow Account within twenty-one (21) calendar days after execution of the Settlement Agreement and ten (10) calendar days before said payment is due, Pfizer shall deposit Five Million Dollars and no/100 (\$5,000,000.00) into the Escrow Account held and administered by the Escrow Agent; and (b) the remainder of the Settlement Amount shall be deposited by the later of December 15, 2023 or fifteen (15) calendar days prior to the District Court's "Fairness Hearing" regarding final approval of the Settlement.⁴ The Settlement Amount deposited by Pfizer into the Escrow Account plus interest earned after deposit thereon shall be referred to as the "Settlement Fund."

(b) Before the Settlement becomes final, 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 ("Administrative Expenses") may be made from the Settlement Fund, and such disbursements shall not be refundable to Pfizer in the event the Settlement is disapproved, terminated, or otherwise fails to become effective. District Court approval shall not be required for disbursements or distribution of Administrative Expenses for amounts (in the aggregate) of less than \$250,000.

(c) If this Settlement becomes final, all interest earned less Administrative Expenses will inure to the benefit of the Class.

⁴ "Fairness Hearing" means the final proceedings to be held before the District Court to determine whether the Settlement should be approved as fair, reasonable and adequate pursuant to Rule 23(e)(2); whether the Judgment should be entered; and whether the motion for award of Attorneys' Fees and Expenses should be granted.

(d) The Escrow Account shall be established and administered pursuant to the Escrow Agreement in a form to be agreed upon between the Plaintiffs, Pfizer and the proposed Escrow Agent and approved by the District Court at the time of preliminary approval. The Escrow Account shall be treated as a “qualified settlement fund” for federal income tax purposes pursuant to Treas. Reg. § 1.468B-1 and that any taxes due as a result of income earned by the Settlement Fund will be paid from the Settlement Fund. Except as otherwise expressly permitted by the terms of the Escrow Agreement, the Escrow Agent shall disburse funds from the Escrow Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Judgment and Order, the Escrow Agreement, and as expressly authorized by any order of the District Court. Lead Counsel shall be solely responsible for directing the Escrow Agent to file all informational and other tax returns necessary to report any taxable and/or net taxable income earned by the Settlement Fund. Pfizer shall have no responsibility to make any tax filings relating to this Settlement Agreement or the Settlement Fund, and shall have no responsibility to pay taxes on any income earned by the Settlement Fund, or to pay any taxes with respect thereto unless the settlement is not consummated and the Settlement Fund is returned to Pfizer. Pfizer shall have no responsibility for the payment of taxes or tax-related expenses. If, for any reason, for any period of time, Pfizer is required to pay taxes on income earned by the Settlement Fund, the Escrow Agent shall, upon written instructions from Pfizer with notice to Lead Counsel, timely pay to Pfizer sufficient monies from the Settlement Fund to enable Pfizer to pay all taxes (state, federal, or other) on income earned by the Settlement Fund.

(e) The Settlement Fund shall be available for distributions to Plaintiffs and members of the Class upon the Settlement becoming final pursuant to paragraph 4 hereto, subject

to deductions for payments of: (1) reasonable attorneys' fees, costs and expenses approved by the District Court (and any interest awarded thereon); (2) any District Court-approved service awards to Plaintiffs that served as class representatives in the Direct Purchaser Class Action; and (3) any and all Administrative Expenses.

8. **Full Satisfaction; Limitation of Interest and Liability.** Plaintiffs and members of the Class shall look solely to the Settlement Fund for settlement and satisfaction against Pfizer of all claims that are released hereunder, including any costs, fees or expenses of any of the Plaintiffs or their attorneys, experts, advisors, agents and representatives, including with respect to the negotiation, execution and performance of their obligations under this Settlement Agreement. In the event the Settlement becomes final pursuant to paragraph 4 hereof, the Settlement Fund will fully satisfy any and all Released Claims as defined in paragraph 12 hereof. Except as provided by order of the District Court, no Plaintiff or member of the Class shall have any interest in the Settlement Fund or any portion thereof. Pfizer shall have no liability, obligations, or responsibility with respect to the investment, allocation, disbursement, or other administration or oversight of the Settlement Fund. The total consideration that Pfizer will pay for this Settlement shall be the Settlement Amount only, and Pfizer shall have no financial responsibility other than the Settlement Amount, including, without limitation, any amounts payable as attorneys' fees, expenses and costs of Plaintiffs and the Class, any District Court-approved service award to Plaintiffs that served as class representatives, any taxes payable on the Settlement Fund, and any amounts to pay for any and all Administrative Expenses associated with the Direct Purchaser Class Action or the Settlement.

9. **Reimbursement of Costs, Fees and Expenses.** Plaintiffs and their counsel will be reimbursed and indemnified solely out of the Settlement Fund for all costs, fees and expenses

including, but not limited to, all Administrative Expenses. Pfizer shall not be liable for any costs, fees or expenses of any of Plaintiffs' respective attorneys, experts, advisors, agents and representatives, or for any costs, fees or expenses for notice, administration or other costs of implementing this Settlement. All such costs, fees and expenses shall be paid from the Settlement Fund and, with the exception of Administrative Expenses of \$250,000 or less in accordance with paragraph 7(b) hereof, shall be approved by the District Court.

10. **Disbursement of the Settlement Fund.** If this Settlement Agreement becomes final pursuant to the provisions of paragraph 4 hereof, the Settlement Fund shall be distributed to members of the Class as ordered by the District Court. Prior to the Settlement becoming final pursuant to paragraph 4, disbursements for Administrative Expenses may be made from the Settlement Fund only upon written notice from Lead Counsel to the Escrow Agent in the manner provided in the Escrow Agreement, with a copy provided to counsel for Pfizer. Pfizer shall have no liability or responsibility with respect to disbursements from or administration of the Settlement Fund. To the extent that there is any ambiguity or inconsistency concerning disbursements when this Settlement Agreement and the Escrow Agreement are read together, the terms of this Settlement Agreement shall control.

11. **Attorneys' Fees, Expenses and Costs.** Plaintiffs' Counsel intend to seek, solely from the Settlement Fund, attorneys' fees of up to 33 1/3% of the gross Settlement Fund plus the reimbursement of reasonable costs and expenses incurred in the prosecution of the Direct Purchaser Class Action against Pfizer plus interest thereon, and a service award for each named Plaintiff ("Fee and Expense Award"). Lead Counsel shall file a motion for approval of the Fee and Expense Award after the District Court has granted preliminary approval to the Settlement but sufficiently before the deadline set for filing of objections, and Pfizer agrees to take no position

with respect to the application by Lead Counsel for a Fee and Expense Award as set forth above. Plaintiffs' Counsel will be paid any District Court-approved Fee and Expense Award within seven (7) calendar days after this Settlement becomes final pursuant to paragraph 4 of this Settlement Agreement. Any Fee and Expense Award approved by the District Court shall be payable solely out of the Settlement Fund, and Plaintiffs, members of the Class, and their respective counsel shall not seek payment of any attorneys' fees, expenses, costs or service awards from Pfizer or any source other than the Settlement Fund. The Released Parties (as defined in paragraph 12 hereof) shall have no responsibility for, and no liability whatsoever with respect to, any payment or disbursement of attorneys' fees, expenses, costs or service awards, any allocation of attorneys' fees, expenses, costs or service awards among Plaintiffs' counsel and/or Plaintiffs, or with respect to any allocation of attorneys' fees, expenses, costs or service awards to any other person or entity who may assert any claim thereto. In no event shall any Fee and Expense Award be paid before the later of the Effective Date and the date on which the Fee and Expense Award is final and the period for any appeal or other review thereof has expired with no appeal being filed. The amount of any Fee and Expense Award is intended to be considered by the District Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement.

12. **Releases.**

(a) Upon the occurrence of the Effective Date and in consideration of payment of the Settlement Amount specified in paragraph 7 above, Plaintiffs and all Class members, on behalf of themselves and their respective past and present parents, subsidiaries, and affiliates, as well as the past and present general and limited partners, officers, directors, employees, servants, predecessors, successors, heirs, executors, administrators, and representatives of all Class members (the "Releasers"), shall release and forever discharge, and covenant not to sue Pfizer and

its respective past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, general partners, limited partners, officers, directors, management, supervisory boards, insurers, employees, agents, servants, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing) (the “Released Parties”), with respect to, in connection with, or relating to any and all past, present, or future liabilities, claims, demands, obligations, suits, damages, levies, executions, judgments, debts, charges, actions, or causes of action, at law or in equity, whether class, individual, or otherwise in nature, whether known or unknown, which are arising out of or relating to any conduct, events, or transactions, (a) alleged, or which could reasonably have been alleged, in the Direct Purchaser Class Action, (b) concerning purchases of EpiPen and/or its 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, and (c) the sale, marketing, or distribution of EpiPen or generic EpiPen except as provided for in paragraph 13 herein (the “Released Claims”). For the avoidance of doubt, the Released Claims under paragraph 12 of this Settlement Agreement do not pertain to any claims asserted, or which reasonably could have been asserted, or may in the future be asserted, against Mylan and/or Viatris Inc.

(b) In addition, upon the occurrence of the Effective Date and in consideration of payment of the Settlement Amount specified in paragraph 7 above, Plaintiffs and all members of the Class hereby agree to withdraw and release Pfizer from any pending requests for discovery in the Direct Purchaser Class Action, including any document requests, interrogatories, requests for admission, and subpoenas, and, further, agree not to seek any further discovery in any form

relating to the Direct Purchaser Class Action from Pfizer and its respective past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, general partners, limited partners, officers, directors, management, supervisory boards, insurers, employees, agents, servants, trustees, associates, attorneys—in each instance, whether current or former—and any of their legal representatives, or any other representatives thereof (and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing);

(c) In addition, upon the Effective Date and in consideration of payment of the Settlement Amount specified in paragraph 7 above, each Releasor hereby expressly waives, releases, and forever discharges, upon the Settlement Agreement becoming final pursuant to paragraph 4 hereof, any and all provisions, rights, and/or benefits conferred by § 1542 of the California Civil Code, which reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Upon the Effective Date, each Releasor also hereby expressly waives, releases, and forever discharges any and all provisions, rights, and/or benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims that are the subject matter of paragraph 12. Nonetheless, upon the Effective Date, each Releasor hereby expressly waives and fully, finally, and forever settles, releases, and discharges any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that is the subject matter of paragraph 12, whether or not concealed or hidden,

without regard to the subsequent discovery or existence of such different or additional facts.

(d) Upon the occurrence of the Effective Date and in consideration of the release set forth in subparagraphs 12(a)-12(c), Pfizer hereby releases and forever discharges, and covenants not to sue the Releasors from all claims with respect to, in connection with, or relating to any and all past, present, or future liabilities, claims, demands, obligations, suits, damages, levies, executions, judgments, debts, charges, actions, or causes of action, at law or in equity, whether class, individual, or otherwise in nature, and whether known or unknown, arising out of or relating to any conduct, events, or transactions, prior to the Effective Date, alleged, or which could reasonably have been alleged, by way of counterclaim, joinder, or otherwise, in the Direct Purchaser Class Action.

13. **Reservation of Claims.** Notwithstanding the releases contained in paragraph 12, the Releasors and Pfizer expressly agree that this Settlement Agreement and the releases are not intended to release any claims arising in the ordinary course of business between Releasors and the Released Parties under Article 2 of the Uniform Commercial Code (pertaining to sales), or the laws of negligence or product liability or implied warranty, breach of contract, breach of express warranty, or personal injury, to the extent that such claims are not based in whole or in part on any conduct challenged or alleged in the Direct Purchaser Class Action and do not relate to drug pricing or competition laws.

14. **Claim Forms.** Plaintiffs and Lead Counsel will ensure that each claim form contains a copy of the release set forth in paragraph 12 hereof. A claim form shall be signed by each member of the Class or its authorized representative as a precondition to receiving any portion of the Settlement Fund.

15. **Stay of Proceedings.** Pending District Court approval of the Settlement and

consistent with subparagraph 2(a) above, and other than as expressly set forth in this Settlement, the Settling Parties agree to stay any and all proceedings in the Direct Purchaser Class Action against Pfizer other than those incidental to the settlement process, and agree to extensions of time with respect to any court filings necessary to effectuate such stays. For the avoidance of doubt, this stay of proceedings excludes Pfizer's filing in the District Court a stipulation regarding the authentication and admissibility of documents produced by Pfizer in the Direct Purchaser Class Action.

16. **Effect of Disapproval.** If the District Court declines to finally approve this Settlement; or if such approval is set aside on appeal or materially modified; or if the District Court enters final judgment and appellate review is sought, and on such review, the final judgment is not affirmed or is affirmed with material modification; or if the terms of this Settlement Agreement are materially changed except by mutual consent of the Settling Parties, then this Settlement Agreement may be cancelled and terminated, and shall become null and void upon the election of any of Pfizer or Lead Counsel by providing written notice to the Settling Parties designated to receive such notice hereunder in accordance with paragraph 23 hereof and the Escrow Agent within ten (10) business days following the occurrence of any such event. An Order by the District Court awarding a Fee and Expense Award in any amount lower than requested by Lead Counsel pursuant to this Settlement Agreement shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or the Final Judgment and Order and shall not give rise to any right of termination. A modification or reversal on appeal of any amount of Fee and Expense Award, or the amount of service awards from the Settlement Fund to Plaintiffs in the Action, shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or the Final Judgment and Order and shall not give rise to any right of termination.

17. **Opt-Outs.** Class Notice shall provide that the period for any Class member to opt-out of the Class will be no less than 45 days following commencement of dissemination of the Class Notice, and the opt-out shall be in writing and shall be signed by the member of the Class who is opting-out. In the event of any opt outs from the Class prior to final approval of the Settlement, the Settlement Amount will be reduced in proportion to the opt-out Class members' pro rata share of aggregate brand and generic EpiPen purchases of Class members during the Class Period. Further, Pfizer shall have the option in its sole discretion to terminate the Settlement Agreement in the event that Class members representing in the aggregate more than 8% of total brand and generic EpiPen purchases during the Class Period opt out of the Class following the preliminary approval of the Settlement.

18. **Termination.** In the event that the Settlement is terminated pursuant to paragraphs 16 or 17, or for any reason does not become final in accordance with the terms of paragraph 4 hereof, then (i) this Settlement Agreement shall be of no force or effect, (ii) any amount of the Settlement Fund, including any and all interest earned thereon, less the costs of administration of the funds and the costs of the notice(s) provided for herein, shall be paid to Pfizer, as soon as practicable after the Escrow Agent receives notice of termination pursuant to paragraph 16 hereof, and (iii) any release pursuant to paragraph 12 above shall be of no force or effect.

19. **Preservation of Rights.** The Settling Parties agree that this Settlement Agreement, whether or not it shall become final, and any and all negotiations, documents and discussions associated with it shall be without prejudice to the rights of any party; shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Pfizer, or of the truth of any of the claims or allegations contained in any complaint or any other pleading or document filed in this Direct Purchaser Class Action; and evidence thereof

shall not be discoverable, admissible, or otherwise used directly or indirectly, in any way (except that the provisions of this Settlement Agreement can be used by the Settling Parties to effectuate or enforce the Settlement Agreement), whether in the Direct Purchaser Class Action or in any other action or proceeding. The Settling Parties expressly reserve all of their rights if the Settlement does not become final in accordance with paragraph 4 of this Settlement Agreement or is otherwise terminated by any of the Settling Parties in accordance with provisions of this Settlement Agreement. Upon the Settlement becoming final, nothing in this paragraph shall prevent Pfizer from asserting any release or using this Settlement Agreement to offset any liability to any other parties.

20. **Resumption of Litigation.** The Settling Parties agree that in the event that the Settlement Agreement is terminated, or the Settlement does not become final pursuant to paragraph 4, litigation of the Direct Purchaser Class Action will resume in a reasonable manner to be approved by the Appellate Court upon joint application by the Settling Parties.

21. **Confidentiality.** Lead Counsel and Pfizer agree that they will not, at any time, make public statements (which includes press releases, communication to the press or other media, statements in the Internet, speeches, or other communications in public fora) concerning the Settlement, the Direct Purchaser Class Action, the litigation of the Direct Purchaser Class Action, or the Settling Parties, witnesses, or counsel involved in the Direct Purchaser Class Action, apart from their agreed public relations statements, with the exceptions that (i) the Settling Parties shall have the right to disclose the Settlement to comply with their financial, legal, reporting, and securities obligations, and (ii) the Settling Parties shall have the right to take actions to enforce the Settlement to the extent necessary. Additionally, Plaintiffs, their counsel and other agents for or representatives of Plaintiffs and of the Class, as well as Pfizer, its counsel, and other agents for or

representatives of Pfizer, shall abide by the terms of the Stipulated Protective Order approved and entered by the District Court on March 30, 2021 (ECF No. 99) (the “Protective Order”). Any obligation to abide by the Protective Order shall survive beyond the Effective Date of this Settlement Agreement.

22. **Binding Effect.** This Settlement Agreement shall be binding upon, and inure to the benefit of, the Settling Parties, the Released Parties, the Releasers, and the successors and assigns of each of them. Without limiting the generality of the foregoing, each and every covenant and agreement herein by the Plaintiffs and their counsel shall be binding upon all members of the Class and the Releasers and their respective successors and assigns.

23. **Notice.** Any and all notices, requests, consents, directives, or communications by any party intended for any other party shall be in writing and shall, unless expressly provided otherwise herein, be given personally, or by express courier, or email followed by postage prepaid mail, to the following persons, and shall be addressed as follows:

To Plaintiffs and the Class:

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

Michael L. Roberts
Roberts Law Firm US, PC
1920 McKinney Ave., Suite 700
Dallas, TX 75201
Telephone: (501) 821-5575
mikeroberts@robertslawfirm.us

*Interim Co-Lead Counsel for Plaintiffs and
the Direct Purchaser Class*

To Pfizer:

Raj Gandesha
White & Case LLP
1221 Avenue of the Americas
New York, NY 10020
Tel.: (212) 819-8283
rgandesha@whitecase.com

Counsel for Pfizer

Any of the Settling Parties may, from time to time, change the address to which such notices, requests, consents, directives, or communications are to be delivered, by giving the other parties prior written notice of the changed address, in the manner hereinabove provided, ten (10) calendar days before the change is effective.

24. **Integrated Agreement.** This Settlement Agreement contains the entire, complete, and integrated statement of each and every term and provision agreed to, by and among the Settling Parties. This Settlement Agreement shall not be modified in any respect, unless by writing executed by each of the Settling Parties.

25. **Independent Settlement.** This Settlement of the Direct Purchaser Class Action is entirely independent of all other cases or litigations, and is not conditioned on approval by any other plaintiff or settlement of any other case.

26. **Headings.** The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

27. **No Party is the Drafter.** None of the Settling Parties shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

28. **Choice of Law.** All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of New York without regard to its choice of law or conflict of laws principles.

29. **Consent to Jurisdiction.** Pfizer and each member of the Class hereby irrevocably

submit to the exclusive jurisdiction of the United States District Court for the District of Kansas for any suit, action, proceeding or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement. Notwithstanding anything in this paragraph 29 to the contrary, nothing in this paragraph 29 shall prohibit (i) the assertion in any forum in which a claim is brought that any release herein is a defense, in whole or in part, to such claim or (ii) in the event that such a defense is asserted in such forum, the determination of its merits in that forum.


30. **Class Action Fairness Act.** Pfizer, at its sole expense, shall submit all materials required to be sent to appropriate Federal and State officials pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

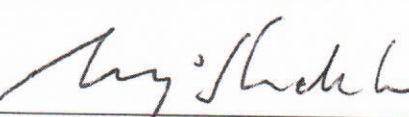
31. **Execution in Counterparts.** This Settlement Agreement may be executed in counterparts. Signatures transmitted by facsimile or email shall be considered valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Settlement Agreement and filed with the District Court.

IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Settlement Agreement as of the date first herein above written.

Nussbaum Law Group, P.C.

Pfizer Inc., King Pharmaceuticals LLC, and Meridian Medical Technologies LLC

By: 
Linda P. Nussbaum
Nussbaum Law Group, P.C.
1133 Avenue of the Americas, 31st Floor
New York, NY 10036
Telephone: (917) 438-9102
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Raj Gandesha
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rgandesha@whitecase.com

By: 
Michael L. Roberts
Roberts Law Firm US, PC
1920 McKinney Ave., Suite 700
Dallas, TX 75201
Telephone: (501) 821-5575
mikeroberts@robertslawfirm.us

Counsel for Pfizer

Interim Co-Lead Counsel for Plaintiffs and the Direct Purchaser Class