

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 3:16-cv-3087-MAS-LHG

District Judge Michael A. Shipp

Magistrate Judge Lois H. Goodman

Special Master Dennis M. Cavanaugh, U.S.D.J.
Ret.

**JOINT DECLARATION OF JAMES A. HARROD AND JAMES E. CECCHI IN
SUPPORT OF (I) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF
SETTLEMENTS AND APPROVAL OF PLAN OF ALLOCATION; AND (II) LEAD
COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

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JAMES A. HARROD and JAMES E. CECCHI declare as follows:

I. INTRODUCTION

1. I, James A. Harrod, am a member of the bars of the State of New York, the U.S. District Courts for the Southern and Eastern Districts of New York, and the U.S. Courts of Appeals for the Second, Third, Sixth, and Seventh Circuits and am admitted *pro hac vice* in the above-captioned action (“Action”). I am a partner in the law firm of Bernstein Litowitz Berger & Grossmann LLP (“BLB&G”), one of the Lead Counsel in the Action.¹ I have personal knowledge of the matters stated in this Declaration based on my active supervision of and participation in the prosecution and settlement of the Action.

2. I, James E. Cecchi, am a member of the bars of the States of New Jersey and New York, the U.S. District Courts for the District of New Jersey and the Southern and Eastern Districts of New York, the U.S. Courts of Appeals for the Second, Third, Eleventh, and Federal Circuits, and the United States Supreme Court. I am a partner in the law firm of Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. (“Carella Byrne”), one of the Lead Counsel in the Action. I have personal knowledge of the matters stated in this Declaration based on my active supervision of and participation in the prosecution and settlement of the Action.

3. As Lead Counsel, BLB&G and Carella Byrne have acted as counsel for the proposed Settlement Class, and with Plaintiffs’ Counsel have prosecuted this action on behalf of Plaintiffs AirConditioning and Refrigeration Industry Health and Welfare Trust Fund (“ACR Trust”), Fire and Police Health Care Fund, San Antonio (“San Antonio”), Plumbers Local Union

¹ Unless otherwise defined in this Declaration, all capitalized terms have the meanings defined in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc. (ECF No. 194-2) (“Valeant Stipulation”) and the Stipulation and Agreement of Settlement with the Philidor Defendants dated August 24, 2021 (ECF No. 195-2) (“Philidor Defendants Stipulation,” and, together, the “Stipulations”).

No. 1 Welfare Fund (“NY Plumbers”), New York Hotel Trades Council & Hotel Association of New York City, Inc. (“NYHTC”), and the Detectives Endowment Association of New York City (“DEA”) (collectively, “Plaintiffs”).

4. We respectfully submit this Declaration in support of Plaintiffs’ motion, on behalf of themselves and the Settlement Class, under Rule 23(e) of the Federal Rules of Civil Procedure, for final approval of the proposed settlements of the Action, which include a settlement with Defendant Valeant Pharmaceuticals International, Inc. (“Valeant”) for \$23 million (“Valeant Settlement”) and a settlement with Defendants Philidor Rx Services, LLC (“Philidor”), Andrew Davenport, and the Estate of Matthew S. Davenport (collectively, the “Philidor Defendants”) for \$125,000 (“Philidor Defendants Settlement” and, together, the “Settlements”). If approved, the proposed Settlements will resolve all claims asserted in the Action. The Court preliminarily approved the Settlements by its Orders dated August 17, 2021 (“Preliminary Approval Orders”). ECF Nos. 196, 197.

5. We also respectfully submit this Declaration in support of: (i) Plaintiffs’ motion for approval of the proposed plan for allocating the proceeds of the Net Settlement Funds to eligible Settlement Class Members (“Plan of Allocation” or “Plan”) and (ii) Lead Counsels’ motion, on behalf of all Plaintiffs’ counsel,² for an award of attorneys’ fees in the amount of 30% of the Settlement Funds; payment of Litigation Expenses incurred by Plaintiffs’ Counsel in the amount of \$720,335.39; and case-contribution awards of \$20,000 for each Plaintiff (“Fee and Expense Application”).³

² Plaintiffs’ Counsel are: Lead Counsel BLB&G and Carella Byrne; Cohen Milstein Sellers & Toll PLLC, counsel for Plaintiff NYHTC; and Barrack, Rodos & Bacine, counsel for Plaintiff DEA.

³ In conjunction with this Declaration, Plaintiffs and Lead Counsel are submitting a Memorandum of Law in Support of Plaintiffs’ Motion for Final Approval of Settlements and Plan of Allocation

6. As noted above, the proposed Settlements provide for the resolution of all claims in the Action in exchange for cash payments of \$23 million from Defendant Valeant and \$125,000 from the Philidor Defendants for the benefit of the Settlement Class. The proposed Settlements represent an excellent result for the Settlement Class, considering the significant risks in the Action and the amount of the potential recovery. The Settlements provide a considerable benefit to the Settlement Class by conferring a substantial, certain, and immediate recovery while avoiding the significant risks and expense of additional litigation, including the risk that the Settlement Class could recover nothing or substantially less than the Settlement Amounts after years of additional litigation and delay.

7. These beneficial Settlements were achieved as a direct result of Plaintiffs' and Lead Counsels' efforts to diligently investigate, vigorously prosecute, and aggressively negotiate settlements for this Action against highly skilled opposing counsel.

8. Notably, the maximum potential damages that could be realistically established at trial were approximately \$169 million to \$242 million, and might have been substantially lower (likely under \$100 million) after information on TPP reimbursement levels was considered. The Settlements therefore represent a recovery of 9.6% to 23.1% of the realistic range of damages, which Lead Counsel believe is highly favorable in light of the substantial risks of establishing liability here. In fact, the amount of damages would have been heavily contested throughout the litigation and Defendants would have argued that damages were substantially less than the amounts modeled by Plaintiffs' experts.

(“Settlement Memorandum”) and a Memorandum of Law in Support of Lead Counsel’s Motion for Attorney’s Fees and Litigation Expenses (“Fee Memorandum”).

9. The benefit that the proposed Settlements will provide to the Settlement Class is also particularly meaningful when considered against the substantial risk that the Settlement Class might recover significantly less (or nothing) if the Action were litigated through additional dispositive motions, trial, and any appeals that would likely follow—a process that could last years. As discussed in more detail below, if this litigation continued, there is no guarantee that Plaintiffs or the Settlement Class could establish Defendants’ liability. Defendants would put forth powerful arguments that, among other things, Defendants did not enter a conspiracy to replace generic alternative prescriptions with Valeant-branded products or that Plaintiffs could not prove loss causation or damages. In addition, as to the Philidor Defendants, Plaintiffs also faced extremely significant ability-to-pay concerns because Philidor is now a defunct entity with no meaningful assets; Matthew Davenport is deceased, and his Estate has limited assets; and Andrew Davenport is subject to a multi-million-dollar forfeiture order.

10. As also discussed in more detail below, the Settlements were achieved as a direct result of extensive efforts by Lead Counsel and Plaintiffs’ Counsel. Those efforts included:

- (a) Conducting a wide-ranging investigation concerning the allegedly fraudulent misrepresentations and omissions made by Defendants during the period from January 2, 2013 through November 9, 2015, inclusive (the “Class Period”), including consulting with experts, reviewing the voluminous public record, and interviewing numerous former employees of Valeant and other potential witnesses;
- (b) Researching and drafting the Consolidated Class Action Complaint, filed with the Court on December 14, 2016 (ECF No. 27), which was based on a thorough investigation of publicly available information, including SEC filings, press releases, news articles, social media posts, and other publicly available sources of information concerning Defendants, research reports by securities analysts, transcripts of Valeant’s calls with investors, Plaintiffs’ records (including prescription reimbursement information and contracts), and federal and state regulations and regulatory materials;
- (c) Drafting the 108-page Amended Consolidated Class Action Complaint, filed with the Court on July 30, 2019 (ECF No. 143), which incorporated

additional material including exhibits from the trial of Defendant Andrew Davenport;⁴

- (d) Litigating the Philidor Defendants' motion to stay the proceedings during pendency of the Criminal Trial and having that stay lifted in April 2019;
- (e) Successfully opposing (in significant part) Defendants' motions to dismiss the Amended Complaint, which consisted of 109 pages of briefing, by researching and drafting an omnibus opposition brief;
- (f) Opposing Defendants' objections to the Report and Recommendation of the Special Master on the motions to dismiss;
- (g) Consulting with experts regarding loss causation and damages;
- (h) Engaging in significant discovery, coordinated with a securities class action and dozens of opt-out securities cases asserting claims arising out of related events,⁵ which included producing over 92,000 pages of documents from Plaintiffs, drafting and serving extensive discovery requests on Defendants and document subpoenas upon several relevant nonparties, responding to document requests served by Defendants, serving and responding to interrogatories and litigation discovery disputes, reviewing and analyzing more than 8.6 million pages of documents produced by Defendants and third parties, participating in 39 depositions, successfully filing a motion in opposition to the Philidor Defendants' motion to quash a third-party subpoena, exchanging extensive discovery correspondence with Defendants, and preparing a motion for class certification;
- (i) Engaging in intensive, arm's-length negotiations with Defendant Valeant for approximately four months, including the submission of a detailed mediation statement, two mediation sessions before Jed D. Melnick, Esq. from JAMS, and follow-up negotiations through JAMS, which ultimately culminated in the agreement to settle with Valeant for \$23 million in cash;
- (j) Engaging in good-faith negotiations with the Philidor Defendants over several weeks in June 2021, which ultimately resulted in the agreement to settle with the Philidor Defendants for \$125,000; and
- (k) Drafting and negotiating the Settlement Stipulations and related settlement documentation.

⁴ *United States v. Tanner, et al.*, No. 17-cr-0061-LAP (S.D.N.Y.) ("Criminal Trial").

⁵ See September 10, 2019 Order (ECF No. 147).

11. For all the reasons discussed in this Declaration and in the accompanying memoranda and declarations, including the quality of the result obtained and the numerous significant litigation risks discussed fully below, Plaintiffs and Lead Counsel respectfully submit that the Settlements and the Plan of Allocation are “fair, reasonable, and adequate” in all respects, and that the Court should approve them under Federal Rule of Civil Procedure 23(e). For similar reasons, and for the additional reasons discussed below, we respectfully submit that Lead Counsels’ Fee and Expense Application is also fair and reasonable and should be approved.

12. Plaintiffs fully support the approval of the Settlements and Lead Counsel’s Fee and Expense Application. *See* Declaration of Kristi Wagner on behalf of ACR Trust (attached as Exhibit 1), at ¶¶ 5-6; Declaration of James Bounds on behalf of San Antonio (attached as Exhibit 2), at ¶¶ 5-6; Declaration of Walter Saraceni on behalf of NY Plumbers (attached as Exhibit 3), at ¶¶ 5-6; Declaration of Carmine D. Russo on behalf of DEA (attached as Exhibit 4), at ¶¶ 5-6; Declaration of John Heim on behalf of NYHTC (attached as Exhibit 5), at ¶¶ 5-6.

II. PROSECUTION OF THE ACTION

A. Background

13. As the Court is aware, this Action asserts fraud and conspiracy claims under the Racketeer Influenced and Corrupt Organizations Act (“RICO”) on behalf of Plaintiffs and other third-party payors (“TPPs”) that paid for their beneficiaries’ prescriptions and drugs manufactured by Valeant and distributed by Philidor (or one of the pharmacies it controlled) from January 2, 2013 through November 9, 2015 (“Class Period”).

14. Defendant Valeant Pharmaceuticals International, Inc. (n/k/a Bausch Health Companies, Inc.) (“Valeant”), is a Canadian pharmaceutical and medical-device company that markets a broad range of branded, generic, and branded generic pharmaceuticals, over-the-counter products, and medical devices, directly or indirectly, in over 100 countries.

15. Defendant Philidor Rx Services, LLC (“Philidor”) held itself out as a specialty, mail-order pharmacy. Plaintiffs allege that Philidor primarily dispensed Valeant-branded products during the Class Period but did not disclose its relationship with Valeant. Philidor was largely responsible for helping expand the secret network of pharmacies used to carry out Defendants’ fraudulent scheme.

16. Defendant Andrew Davenport (“Davenport”) was, at the time Philidor ceased operations, the Chief Executive Officer and founder of Philidor.

17. Defendant the Estate of Matthew Davenport (“Estate”) was substituted into this Action after Defendant Matthew Davenport passed away. Matthew Davenport was an owner and officer of Philidor.

18. This action involves Defendants’ alleged fraudulent conspiracy to dispense Valeant’s branded medications through Philidor and its network of pharmacies. Plaintiffs further allege that Valeant secretly controlled Philidor and its network pharmacies. By concealing the relationships between Valeant, Philidor, and the other pharmacies, Defendants allegedly prevented TPPs and their pharmacy benefit managers (“PBMs”) from realizing that numerous prescriptions for expensive Valeant brand-name drugs were being dispensed by pharmacies directly or indirectly controlled by Valeant. Plaintiffs allege that many of the Valeant drugs had less expensive generic equivalents or near equivalents, so if the TPPs and PBMs had realized that the prescriptions were all coming from a Valeant-controlled pharmacy network, they would have refused to do business with Philidor, and would not have paid for the branded Valeant drugs and would have substituted less expensive generics or equivalents. When the relationships between Valeant, Philidor, and the network of other pharmacies were publicly revealed in late 2015, major national PBMs

immediately stopped doing business with Philidor; Philidor ceased operations; and numerous Congressional and regulatory investigations, as well as private lawsuits, followed.

B. Commencement of the Action and Organization of the Case

19. On May 27, 2016, the initial complaint in this Action was filed by Plaintiffs ACR Trust and San Antonio. ECF No. 1. On June 24, 2016, NY Plumbers filed a complaint in *Plumbers Local Union No. 1 Welfare Fund v. Valeant Pharmaceuticals International, Inc., et al.*, No. 3:16-cv-03885-MAS-LHG (D.N.J.) (“*Plumbers Action*”). BLB&G and Carella Byrne filed both the initial complaint in this Action and the complaint in the *Plumbers Action*. On August 30, 2016, BLB&G and Carella Byrne asked the Court to consolidate the *Plumbers Action* with this Action. ECF No. 9. That same day, Lead Counsel submitted correspondence to the Court requesting appointment as interim class counsel under Federal Rule of Civil Procedure 23(g). ECF No. 10.

20. On September 16, 2016, Lead Counsel wrote to the Court again to request consolidation of an additional action that had been filed in the United States District Court for the Southern District of New York, *Hotel Trades Council & Hotel Association of New York City, Inc. Health Benefits Fund, et al. v. Valeant Pharmaceuticals International, Inc.*, No. 1:16-cv-06779-RJS (“*New York Action*”). ECF No. 11. Plaintiffs in the *New York Action* were represented by Barrack, Rodos & Bacine (“*Barrack Rodos*”) and Cohen Milstein Sellers & Toll PLLC (“*Cohen Milstein*”).

21. On November 30, 2016, the Court issued an order consolidating the actions and appointing BLB&G and Carella Byrne as Lead Counsel and interim class counsel. ECF No. 23. In this same order, the Court created an Executive Committee of plaintiffs’ counsel consisting of BLB&G, Carella Byrne, Barrack Rodos, and Cohen Milstein. *Id.*

C. Plaintiffs' Consolidated Complaint

22. On December 14, 2016, Plaintiffs filed the Consolidated Class Action Complaint (“Complaint”). ECF No. 27. To prepare the Complaint, Plaintiffs conducted an extensive factual and legal investigation. The investigation included, among other things, a review and analysis of (i) material from SEC filings; (ii) press releases and other public statements issued by Valeant and Philidor; (iii) news articles; (iv) social media posts; (v) transcripts of Valeant investor calls; (vi) research reports by financial and securities analysts; (vii) interviews with former employees; (viii) information concerning prescription fulfillment generally; (ix) information concerning pharmacy licensing generally; (xi) information concerning the reimbursements Plaintiffs paid for prescription drugs on behalf of their members, and related contracts; and (xii) information concerning the revelation of Valeant’s relationship with Philidor and reactions to that disclosure.

23. The Complaint asserted RICO claims against Defendants Valeant, Philidor, Davenport, and Matthew Davenport. The claims were based on allegations that Defendants conspired to conceal Valeant’s relationship with mail-order pharmacy Philidor to make TPPs like Plaintiffs, as well as other payors, pay for expensive branded Valeant drugs rather than cheaper generic alternatives. In particular, the Complaint alleged that Valeant secretly controlled Philidor at all times, ultimately through a fully paid Purchase Option Agreement, in order to maximize revenue from its branded products. The Complaint also alleged that Philidor manipulated prescriptions to be filled with Valeant-branded drugs rather than generic alternatives. The Complaint further alleged that in order to effectuate this conspiracy, Philidor acquired pharmacies to exploit their state licenses to expand the geographic reach and scope of its secret pharmacy network, and thereby generate more revenue for Valeant. The Complaint alleged that these improper sales caused Plaintiffs and other TPPs to overpay for their members’ prescriptions and

to receive prescriptions that would not have otherwise been fulfilled (and reimbursed), thereby damaging Plaintiffs and other TPPs in the class.

D. Defendants' First Motions to Dismiss

24. Defendants moved to dismiss the Complaint on February 13, 2017 (ECF Nos. 38, 42, 43). Defendant Valeant argued primarily that Plaintiffs lacked standing to bring this Action and contended that Plaintiffs did not allege a direct injury, that Plaintiffs' theory of indirect harm was too attenuated to support proximate causation, and that there was no proximate cause because third and fourth parties separated the alleged fraud from the asserted injury. Furthermore, Valeant argued that Plaintiffs failed to properly plead the elements of a RICO claim by failing to adequately allege that Valeant was part of an enterprise, by not alleging a pattern of racketeering activity or intent with requisite particularity, by repackaging breach-of-contract claims as RICO claims, and by trying to create a private right of action under RICO to enforce state laws and regulations. Finally, Valeant argued that Plaintiffs failed to plead a conspiracy claim under RICO because the allegations merely demonstrated a commercial relationship and that leave to amend the Complaint should not be granted.

25. Similarly, Defendants Davenport and Philidor argued in their motion to dismiss that: Plaintiffs failed to allege the necessary predicate acts for a RICO claim, Plaintiffs failed to plead a RICO enterprise-in-fact, Plaintiffs failed to plead that Davenport participated in the operation of a RICO enterprise through a pattern of racketeering activity, Plaintiffs did not establish proximate causation, and Plaintiffs failed to plead facts establishing a RICO conspiracy.

26. Likewise, Defendant Matthew Davenport argued in his motion to dismiss that Plaintiffs failed to plead that Matthew participated in the operation or management of the Valeant Enterprise, Plaintiffs failed to plead that Matthew engaged in a pattern of racketeering activity, and Plaintiffs failed to adequately plead a conspiracy claim. Finally, Matthew argued that

Plaintiffs lacked standing to pursue these claims because they lacked any direct injuries proximately caused by him.

27. On April 17, 2017, Plaintiffs filed an omnibus opposition to Defendants' motions to dismiss. ECF No. 67. In their comprehensive fifty-seven page brief, Plaintiffs responded to Defendants' three motions to dismiss by arguing:

- (a) Rule 8(a)'s notice pleading requirements applied to all elements of Plaintiffs' claims except for Defendants' predicate acts of mail fraud and wire fraud;
- (b) Plaintiffs had standing to bring RICO claims because they suffered a direct injury, that injury was proximately caused by Defendants' RICO violations, their excess-price theory of harm was sufficiently alleged, and their quantity-effect theory of harm was also sufficiently alleged;
- (c) Plaintiffs adequately alleged RICO violations including by adequately alleging the existence of the Valeant Enterprise (including Defendants Davenport and Matthew Davenport's participation in the operation of the Valeant Enterprise), and by adequately alleging Defendants' predicate acts of mail and wire fraud and of Matthew Davenport's engagement in racketeering;
- (d) Defendants' arguments that Plaintiffs' claims improperly sought to incorporate violations of state law were meritless; and
- (e) Plaintiffs adequately alleged a RICO conspiracy because RICO only requires that plaintiffs plead that defendants violated Section 1962(c) by conducting or participating in the conduct of the Valeant Enterprise's affairs, because the intra-corporate immunity doctrine did not immunize Valeant, and because the Complaint adequately gave Defendants notice of the basis for the conspiracy claims.

28. On May 15, 2017, Davenport and Philidor filed their reply brief in further support of their motion to dismiss. ECF No. 68. In their brief, Davenport and Philidor reiterated the arguments in their opening brief while also addressing Plaintiffs' "excess price" and "quantity effect" theories of proximate causation. Two days later, on May 17, 2017, Valeant and Matthew Davenport filed their reply briefs in further support of their motions to dismiss. ECF Nos. 69, 70.

Similar to the Davenport and Philidor reply brief, these reply briefs reiterated arguments that Valeant and Matthew Davenport had advanced in their opening briefs.

E. Defendants Davenport, Philidor, and Matthew Davenport's Motions to Stay

29. On March 14, 2017, while Plaintiffs prepared their omnibus motion to dismiss opposition, Davenport and Philidor moved to stay the Action pending resolution of parallel criminal proceedings against Davenport in the United States District Court for the Southern District of New York in *United States v. Tanner, et al.*, No. 1:17-cr-00061-LAP-1 (S.D.N.Y.). ECF No. 55. Davenport had been criminally indicted on January 27, 2017 for: (1) honest services fraud conspiracy under 18 U.S.C. § 1349; (2) honest services wire fraud under 18 U.S.C. §§ 1343, 1346, and 1349; (3) Travel Act conspiracy under 18 U.S.C. §§ 1952(a)(1) and (a)(3); and (4) money laundering conspiracy under 18 U.S.C. § 1956(h). The Indictment alleged that Davenport conspired with non-party Gary Tanner, a former Valeant employee, to cause Valeant to pay \$100 million for an option to acquire Philidor, that Davenport then paid kickbacks to Tanner, and that Davenport and Tanner illegally laundered the kickbacks.

30. Ten days later, on March 24, 2017, Matthew Davenport moved to stay the Action, arguing that should the Court grant Davenport and Philidor's motion to stay, the Action should be stayed as to him as well. ECF No. 56.

31. On April 3, 2017, Valeant filed a letter with the Court declaring it was not opposed to the pending motion to stay. ECF No. 58.

32. Also on April 3, 2017, Plaintiffs filed an omnibus opposition to the motions to stay. ECF No. 59. Generally, Plaintiffs argued that a stay of the entire litigation pending Davenport's criminal trial would be overbroad since the Indictment and this Action had little in common except for one Defendant, Davenport, and that the criminal case asserted totally distinct legal claims that had little factual overlap with the claims Plaintiffs asserted in this Action.

33. On April 10, 2017, Davenport, Philidor, and Matthew Davenport filed replies in further support of their motions to stay the Action. ECF Nos. 63, 64.

34. On August 9, 2017, the Court issued a Memorandum Opinion and Order granting Defendants Davenport, Philidor, and Matthew Davenport's motions to stay the Action until the conclusion of the criminal trial in *United States v. Tanner, et al.*, No. 1:17-cr-00061-LAP-1 (S.D.N.Y.). ECF Nos. 73, 74. The stay order terminated the pending motions to dismiss and directed the Parties to submit joint case status updates every three months beginning on November 1, 2017. ECF No. 74.

35. Pursuant to the Court's order staying the case, the parties filed joint case status updates on November 1, 2017 (ECF No. 77), February 1, 2018 (ECF No. 78), May 1, 2018 (ECF No. 81), August 1, 2018 (ECF No. 88), November 1, 2018 (ECF No. 96), and February 1, 2019 (ECF No. 105).

36. On May 22, 2018, the trial in the *United States v. Tanner, et al.*, action concluded with a jury verdict convicting both Davenport and Tanner.

37. On June 5, 2018, the parties filed a joint letter with the Court to inform it that there was a disagreement about whether the stay should be lifted following conclusion of the criminal trial in *United States v. Tanner, et al.*, while Davenport appealed his criminal conviction. ECF No. 82.

38. Following extensive negotiations with Davenport on August 17, 2018, Plaintiffs filed a letter regarding their intention to move in the United States District Court for the Southern District of New York for an order that the defendants in *United States v. Tanner, et al.*, provide Plaintiffs with copies of the trial exhibits from the criminal case, which were not available from the clerk and were being held by the parties. ECF No. 89.

39. On September 28, 2018, the Court filed an order instructing the Parties to file motions seeking to continue the stay no later than October 12, 2018. ECF No. 90.

40. On October 12, 2018, Davenport and Philidor filed a motion to continue the stay.⁶ ECF No. 91. Davenport and Philidor argued that the stay should continue pending Davenport's appeal of his conviction in *United States v. Tanner, et al.*, to prevent the prejudice to Davenport of having to litigate this Action in tandem with the appeal.

41. Also on October 12, 2018, Plaintiffs filed notice in response to the Court's September 28, 2018 Order (ECF No. 90) regarding their intention to oppose any motion by Defendants to continue the stay. ECF No. 92.

42. On October 22, 2018, Plaintiffs opposed Defendants Davenport and Philidor's motion to continue the stay. ECF No. 93. As they had argued previously, Plaintiffs contended that a stay of the entire Action for the criminal proceedings against a single Defendant in a matter that asserted distinct factual and legal claims was overbroad. Furthermore, Plaintiffs argued that because the Action was at the pleading stage and discovery had not yet begun, Davenport's Fifth Amendment rights were not implicated. Plaintiffs emphasized that the Court's order granting the stay applied "until the conclusion of *United States v. Tanner, et al.* . . . or until the Court lifts the stay." ECF No. 74 at 1-2.

43. That same day, Defendant Valeant filed a letter with the Court informing it that Valeant took no position with respect to continuing the stay and that Valeant would move to dismiss Plaintiffs' next amended complaint. ECF No. 94.

⁶ On May 10, 2018, counsel for Matthew Davenport filed a suggestion of death on the docket with respect to his death. ECF No. 80. Neither counsel for Matthew Davenport nor the Estate participated in the motion to continue the stay briefing.

44. On October 29, 2018, Defendants Davenport and Philidor filed a reply in further support of their motion to continue the stay. ECF No. 95.

45. On April 12, 2019, the Court issued a letter opinion and order denying Defendants Davenport and Philidor's motion to continue the stay. ECF No. 119.

F. Appointment of a Special Master

46. On February 15, 2019, the Court entered an order directing the Parties to file individual correspondence by February 22, 2019 regarding their opposition or consent to the appointment of a special master to oversee the Action pursuant to Federal Rule of Civil Procedure 53. ECF No. 106.

47. On February 22, 2019, Defendants Davenport and Philidor filed a letter informing the Court that they did not oppose the appointment of a special master except that they did oppose assignment of a special master to decide the pending motion to stay. ECF No. 107.

48. Also on February 22, 2019, Plaintiffs filed a letter with the Court referencing their joint submission in the Securities Action (15-cv-7658, ECF No. 422) and noting that Plaintiffs did not oppose a special master deciding the pending motion to stay.

49. On February 25, 2019, the Court entered an order informing the Parties that it had reviewed their submissions regarding the appointment of a special master and invited the Parties to jointly submit a minimum of three special master candidates. ECF No. 108.

50. On March 8, 2019, the Court entered an order informing the Parties that it had reviewed their submissions regarding the appointment of a special master and that the Court would resolve Defendants Davenport and Philidor's pending motion to stay and then appoint a special master. ECF No. 111.

51. On March 20, 2019, the Court issued an order scheduling a status conference for March 27, 2019 via a conference call. ECF No. 113. During the conference call on March 27,

2019, the Court directed the Parties to submit individual or joint correspondence by March 29, 2019 regarding the appointment of Peter C. Harvey, Esq. of Patterson Belknap Webb & Tyler LLP as special master in the Action. ECF Nos. 114, 115.

52. On March 29, 2019, Defendants Davenport and Philidor submitted correspondence in opposition to the appointment of Mr. Harvey as special master due to his experience as a prosecutor, given Davenport's conviction in parallel criminal proceedings that was on appeal. ECF No. 116.

53. Also on March 29, 2019, Defendant Valeant submitted correspondence in opposition to the appointment of Mr. Harvey as special master due to conflicts created by his firm's representation of a former Valeant employee who received a non-party subpoena in the Securities Action for which Valeant was indemnifying him and Mr. Harvey's firm's work in unrelated product liability and patent litigations. ECF No. 117.

54. On March 29, 2019, Plaintiffs submitted a letter to the Court with no objection to Mr. Harvey's appointment as special master. ECF No. 118. Plaintiffs also argued against the reasons articulated by Defendants in their letters opposing Mr. Harvey's appointment. *See id.*

55. On April 17, 2019, Mr. Harvey submitted an affidavit in support of his appointment to serve as special master for this Action. ECF No. 120. On April 18, 2021, the Court asked the Parties to respond to Mr. Harvey's affidavit. ECF No. 121. On April 24, 2019, Plaintiffs filed a letter in support of Mr. Harvey's appointment. ECF No. 122. On April 25, 2019, Valeant filed a letter reiterating its opposition to the appointment of Mr. Harvey as special master due to purported conflicts, notwithstanding the explanations included in the April 17, 2019 Harvey affidavit. ECF No. 123. On May 16, 2019, the Court issued two orders: first, the Court ordered that Mr. Harvey should submit any response to the Parties' letters regarding his appointment following the

submission of his affidavit on April 17, 2019 (ECF No. 125); and second, the Court referred the appointment of a special master to Hon. Lois H. Goodman, U.S.M.J., for resolution because it had become a contested matter (ECF No. 126). On May 31, 2019, Judge Goodman found that Mr. Harvey's appointment as a special master in the Action would be inappropriate due to his and his law firm's conflicts. ECF No. 128.

56. On July 10, 2019, the Court entered an order informing the parties that it was considering appointing Judge Dennis M. Cavanaugh, U.S.D.J. (ret.), as special master for this Action. ECF No. 135. The Court invited the Parties to submit correspondence regarding Judge Cavanaugh's appointment by July 16, 2019. *Id.* The same day, Judge Cavanaugh submitted a declaration in connection with his potential appointment as special master for this Action. ECF No. 136.

57. On July 16, 2019, Plaintiffs submitted a letter in support of Judge Cavanaugh's appointment as special master in this Action. ECF No 137. That same day, Defendant Valeant submitted a letter consenting to Judge Cavanaugh's appointment as well. ECF No. 138.

58. On September 10, 2019, the Court referred the case to Judge Cavanaugh as special master for "all pending and future motions pursuant to Rules 12, 15, 23, 50, 56, and all other pre-trial motions." ECF No. 147. Pursuant to the order appointing Judge Cavanaugh as special master, the Parties drafted and submitted joint correspondence identifying pending discovery disputes and other issues on September 30, 2019. ECF No. 148.

G. Plaintiffs' Amended Complaint

59. On June 21, 2019, Plaintiffs filed a motion to amend the complaint. ECF No. 130. Plaintiffs attached a proposed Amended Consolidated Class Action Complaint ("Amended Complaint"), which among other things, incorporated evidence submitted during the *United States*

v. Tanner, et al., trial. *Id.* In the same motion, Plaintiffs sought to substitute the Estate of Matthew S. Davenport for Defendant Matthew Davenport. *Id.*

60. On June 24, 2019, Davenport and Philidor requested an extension of the briefing deadline for their opposition to Plaintiffs' motion to amend the complaint, which Plaintiffs did not oppose. ECF Nos. 131, 132. On July 1, 2019, the Court granted Davenport and Philidor's extension request. ECF No. 133.

61. On July 22, 2019, Defendants Davenport and Philidor filed a cross-motion to dismiss and opposition to Plaintiffs' motion for leave to amend the consolidated class action complaint and to substitute the Estate of Matthew S. Davenport for Defendant Matthew Davenport. ECF No. 139. Also on July 22, 2019, Defendant Valeant filed a letter informing the Court that it did not oppose Plaintiffs' motion to amend the complaint. ECF No. 140.

62. On July 25, 2019, the Parties filed a stipulation and order proposing that: first, within two business days of entry of the order, Plaintiffs would be required to file the Amended Complaint; second, the Estate would be substituted for Matthew S. Davenport as a party; third, establishing a motion to dismiss briefing schedule; and fourth, terminating Davenport and Philidor's cross-motion (ECF No. 139) without prejudice. ECF No. 141. On July 26, 2019, the Court so-ordered the Stipulation. ECF No. 142. Plaintiffs timely filed the Amended Complaint on July 30, 2019. ECF No. 143.

H. Defendants' Motions to Dismiss the Amended Complaint

63. On August 28, 2019, Defendants Valeant, Davenport, Philidor, and the Estate filed three separate motions to dismiss the Amended Complaint. ECF Nos. 144, 145, 146. Davenport, Philidor, and the Estate submitted arguments along the same lines that they had made in 2017, including that Plaintiffs lacked standing, failed to plead a racketeering claim under RICO, and failed to plead a conspiracy claim. Similarly, Defendant Valeant also raised the same arguments

it had during the 2017 motion to dismiss briefing but also added arguments that Plaintiffs failed to adequately plead the elements of a RICO violation because Davenport's criminal conviction for defrauding Valeant precluded the argument that Valeant had formed an enterprise with Davenport.

64. On October 7, 2019, Plaintiffs filed an omnibus opposition to Defendants' motions to dismiss, responding to Defendants' 109 pages of briefing. ECF No. 149. As during the 2017 motion to dismiss briefing, Plaintiffs responded to Defendants' motions to dismiss point-by-point. Plaintiffs also responded to Valeant's newly raised arguments by arguing that Defendant Davenport's criminal conviction did not immunize Valeant from liability as a member of the Valeant Enterprise because Davenport's activities with Tanner effectuated the main purpose of the Valeant Enterprise—to expand the Philidor network of pharmacies filling Valeant prescriptions—and evidence from the criminal trial showed that Davenport worked closely with Valeant to advance Valeant's interests through Philidor.

65. On October 25, 2019, Defendants filed three replies in further support of their motions to dismiss, which reinforced the main arguments made in their opening briefs. ECF Nos. 151, 152, 153.

66. On August 24, 2020, Special Master Cavanaugh issued a report and recommendation granting in part and denying in part Defendants' motions to dismiss. ECF No. 167. While dismissing Plaintiffs' claims against the Estate, Special Master Cavanaugh upheld Plaintiffs' claims against Davenport, Philidor, and Valeant, except for the Travel Act claims.

I. Defendant Valeant's Objection to the Special Master's Report and Recommendation on Its Motion to Dismiss

67. On September 14, 2020, Defendant Valeant objected to the Special Master's report and recommendation. ECF No. 174. Valeant principally objected for three reasons: (1) the TPPs purportedly failed to plead a single instance in which they were harmed by an alleged RICO

violation or paid for or reimbursed a prescription as a result of fraud, which defeated a showing of standing; (2) Plaintiffs purportedly attempted to repackage securities claims as RICO claims; and (3) the Complaint purportedly demonstrated nothing more than a business relationship between Philidor and Valeant. Valeant also insisted that Davenport's criminal conviction in *United States v. Tanner, et al.*, precluded the argument that Valeant conspired with Davenport.

68. On September 28, 2020, Plaintiffs filed a response to Valeant's objection to the Special Master's report and recommendation. ECF No. 177. Plaintiffs responded to Defendant Valeant's arguments about the supposed weakness in its case by contending that Plaintiffs had standing to bring RICO claims, that the Complaint adequately alleged predicate acts, and that Davenport's criminal conviction for paying a kickback to Gary Tanner did not immunize Valeant's RICO violations.

69. On September 29, 2020, Defendants Davenport and Philidor filed an untimely letter objection to the Special Master's report and recommendation. ECF No. 178. Plaintiffs filed an immediate letter in response to the untimely submission on September 30, 2020. ECF No. 179. On October 2, 2020, Defendants Davenport and Philidor acknowledged their submission was untimely but reiterated their objection the Special Master's report and recommendation. ECF No. 180.

70. On October 5, 2020, Defendant Valeant filed a reply in further support of its objection to the Special Master's report and recommendation, which largely reinforced the arguments made in its initial brief. ECF No. 181.

71. Defendants' objections to the Special Master's report and recommendation on their motions to dismiss remain pending.

J. Second Circuit Affirms Davenport's Criminal Conviction

72. On November 4, 2019, Defendant Valeant submitted a letter to Special Master Cavanaugh regarding the United States Court of Appeals for the Second Circuit's affirmance of Defendant Davenport's criminal conviction for defrauding Valeant, arguing that this result undermined one of Plaintiffs' main arguments that Valeant conspired with Davenport to defraud TPPs and other payors. On November 5, 2019, Defendants Davenport and Philidor also submitted a letter regarding the Second Circuit's opinion but focused on the panel's decision to remand for the determination of the amount of restitution Davenport needed to pay and its impact on Defendants Davenport and Philidor's ability to pay the Special Master's fees in this Action. ECF No. 154. On November 15, 2019, Plaintiffs filed their own letter in response to Defendants' submissions, outlining how Davenport's conviction and the Second Circuit's affirmance had no bearing on Plaintiffs' case in this Action, which involved an entirely different scheme than the one at issue in *United States v. Tanner, et al.* ECF No. 155. The Special Master denied Davenport and Philidor's request to not pay his firm's fees on December 4, 2019, in an order dated November 26, 2019. ECF No. 156.

K. Discovery

73. On October 22, 2019, Plaintiffs served their first set of requests for production on Defendants. On November 15, 2019, Defendants Davenport and Philidor served their first set of requests for production on Plaintiffs, as did the Estate. On November 21, 2019, Valeant served its responses and objections to Plaintiffs' first set of requests for production, with the remaining Defendants serving their responses and objections the next day. Plaintiffs served their responses and objections to the Davenport/Philidor and Estate's first sets of requests for production on December 16, 2019. On January 7, 2020, Valeant served its first set of requests for production on Plaintiffs, to which Plaintiffs served their responses and objections on February 6, 2020.

74. On January 8, 2020, Plaintiffs filed the Stipulation and Proposed Confidentiality Order, which the parties jointly negotiated. ECF No. 158. Special Master Cavanaugh entered the Stipulation and Proposed Confidentiality Order on January 13, 2020. ECF No. 162.

75. On August 27, 2020, Defendant Valeant filed a letter with the Court requesting a conference to discuss discovery in this Action. ECF No. 168. Specifically, Defendants sought guidance from Special Master Cavanaugh regarding Plaintiffs' discovery obligations, including a contention that Plaintiffs refused to participate in a Rule 26(f) conference and that Plaintiffs claimed discovery was "stayed." *Id.* On September 2, 2020, Plaintiffs responded to Defendants' discovery letter and clarified that no discovery schedule was in place for the Action, that Plaintiffs' case contained elements distinct from the securities cases, and that Plaintiffs would participate in depositions scheduled in the securities cases for efficiency's sake but noted that not every aspect of the Action and the securities cases needed to be coordinated, especially when Defendants had stated they would object to the Special Master's report and recommendation on their motions to dismiss. ECF No. 169.

76. On October 13, 2020, the parties submitted a joint case schedule for Special Master Cavanaugh's approval. Special Master Cavanaugh approved the schedule on October 14, 2020. ECF No. 182.

77. In the fall of 2020, the parties began coordinated depositions with the Securities Action and Securities Opt-Out actions, most of which occurred over two days. In total, Plaintiffs participated in 39 depositions, including of employees, former employees, and representatives of both Valeant and Philidor, as well as certain third parties who participated in events relevant to the Action.

78. On December 10, 2020, Valeant served its first set of interrogatories on Plaintiffs. Plaintiffs served their responses and objections to Valeant's first set of interrogatories on January 11, 2021.

79. On May 19, 2021, Plaintiffs served their first set of interrogatories on Defendants Davenport and Philidor.

80. Over the course of discovery, Plaintiffs received, reviewed, and analyzed more than 8.6 million pages of documents from Defendants and third parties. Plaintiffs also produced more than 92,000 pages of documents to Defendants in response to their discovery requests.

L. Defendants Davenport and Philidor's Motion to Quash

81. On February 12, 2021, Defendants Davenport and Philidor moved to quash Plaintiffs' subpoena to Duane Morris LLP and Bass, Berry & Sims. ECF No. 185. Davenport and Philidor argued that the subpoena improperly sought communications between the two firms and their former clients, Davenport and Philidor. Davenport and Philidor claimed these communications were protected by the attorney-client privilege. On March 1, 2021, Plaintiffs opposed Davenport and Philidor's motion to quash, arguing that any privilege attached to the communications Plaintiffs sought from Duane Morris and Bass, Berry & Sims had been waived on multiple instances, including during testimony in Philidor's arbitration with CVS Caremark, during which such privileges had not been raised and the substance of the legal advice Philidor had received regarding Philidor's pharmacy license strategy had been divulged. ECF No. 186. Plaintiffs also argued that any attorney-client privilege had been pierced by the crime-fraud exception. On April 26, 2021, Special Master Cavanaugh issued a report and recommendation denying Davenport and Philidor's motion to quash Plaintiffs' subpoena to Duane Morris and Bass, Berry & Sims. ECF No. 188.

82. On May 17, 2021, Defendants Davenport and Philidor objected to Special Master Cavanaugh's report and recommendation denying the motion to quash. ECF No. 189.

M. Work with Economic Damages Expert

83. Plaintiffs worked extensively with a team of economic experts at The Brattle Group to design a damages model to measure the injury to Plaintiffs as a result of the Valeant Enterprises' actions. Plaintiffs' work with The Brattle Group included lengthy discussion and review of analysis of drug spending models for the Valeant drugs at issue in the case and the development of a model to show what prices Plaintiffs should have paid absent the Valeant Enterprise's interference.

N. The Parties Agree to Mediate and Eventually Reach a Settlement

84. Plaintiffs and Valeant agreed to an arm's-length mediation process, facilitated by Jed D. Melnick, Esq. of JAMS. Plaintiffs and Davenport, Philidor, and the Estate conducted their own arm's-length settlement negotiations independent of the JAMS process.

85. In preparation for an April 2, 2021 mediation session with JAMS, Plaintiffs drafted a mediation statement and provided it to Valeant and JAMS one week before the mediation session. Valeant submitted a similar mediation statement. These statements detailed issues of liability, damages, class certification, and Valeant's defenses. During the April 2, 2021 session, the parties engaged in extensive discussions and exchanged several rounds of settlement demands and offers, but the mediation session ended without the parties reaching an agreement.

86. Following the April 2, 2021 mediation session, Plaintiffs and Valeant engaged in several direct communications in an effort to close the differential in their negotiating positions, with assistance from Mr. Melnick. These conversations included substantive exchanges concerning the merits of the Action with a particular focus on Plaintiffs' damages model. Plaintiffs and Valeant held a second mediation session on June 24, 2021. After further arm's-length

negotiations and continued discussion, Plaintiffs and Valeant reached an agreement to settle the action for \$23,000,000 on June 25, 2021. Counsel for Plaintiffs and Valeant informed Special Master Cavanaugh of the settlement on July 2, 2021.

87. Separately from the JAMS mediation with Valeant, Plaintiffs conducted arm's-length negotiations with Davenport, Philidor, and the Estate. During a Zoom meeting on June 21, 2021, Plaintiffs and the Philidor Defendants discussed a potential resolution of the litigation. Following this initial meeting, counsel for the Philidor Defendants and Plaintiffs continued discussions and reached an agreement to settle the litigation for \$125,000 on July 14, 2021.

88. Thereafter, the Parties negotiated the terms of the Stipulations, which set forth the final terms of the respective Settlements, and executed the Stipulations on August 4, 2021. Pursuant to the Stipulations, Plaintiffs have agreed to settle and release all claims asserted against Defendants in this Action in return for a cash payment of \$23,125,000 for the benefit of the Settlement Class.

O. The Court Grants Preliminary Approval of the Settlements

89. On August 5, 2021, Plaintiffs filed their Unopposed Motions for (I) Preliminary Approval of the Settlements and (II) Approval of the Notice to the Settlement Class ("Motions for Preliminary Approval"). ECF Nos. 194, 195. In those motions, Plaintiffs asserted that the Settlements should be preliminarily approved because of the substantial benefits afforded to the Settlement Class, and because they were the result of good-faith negotiations. The Motions for Preliminary Approval also sought the certification of the Settlement Class for purposes of the Settlements and approval of a proposal for notifying the Settlement Class Members of their rights with respect to the Settlements.

90. On August 17, 2021, the Court entered the Preliminary Approval Orders, which, among other things: (i) preliminarily approved the Settlements; (ii) certified the Settlement Class

for purposes of the Settlements; and (iii) approved the Notice, Summary Notice, and Claim Form, and authorized notice to be given to the Settlement Class Members through first-class mailing of the Notice and Claim Form, posting of the Notice and Claim Form on a Settlement website, and publication of the Summary Notice over *PR Newswire*; and (iv) set a schedule for the filing of opening papers and reply papers in support of the proposed Settlements, Plan of Allocation, and the fee and expense application. The Preliminary Approval Orders also set a Settlement Hearing for December 2, 2021, to determine if the Settlements should be finally approved. (ECF No. 196, 197).

91. Defendants have paid the Settlement Amounts—\$23 million and \$125,000, respectively—into escrow accounts controlled by Lead Counsel under the jurisdiction of the Court.

III. RISKS OF CONTINUED LITIGATION

92. The Settlements provide an immediate and certain benefit to the Settlement Class in the form of an aggregate cash payment of \$23,125,000. While Plaintiffs believe that the claims asserted against Defendants are meritorious, they recognize that this Action presents a number of significant risks to establishing both liability and damages.

A. Risks Concerning Liability

93. As detailed above, the core allegations in this case are that Defendants conspired to conceal a secret network of pharmacies in order to sell expensive Valeant-branded drugs and that the TPPs (a) overpaid for these drugs when less expensive generic drugs were available, and (b) paid for a greater number of prescriptions for those drugs than they would have absent the fraud. However, it is possible that evidence developed by Plaintiffs through discovery might not be found to support Plaintiffs' liability case. For example, while Plaintiffs had alleged (based on media reports quoting former Philidor employees) that Valeant and Philidor engaged in wide-scale alterations of prescriptions to avoid generic substitution, the evidentiary record in support of the

theory that Philidor employees altered doctors' prescriptions was mixed. In their depositions, several Valeant and Philidor employees denied this occurred.

94. Other evidence concerning the role of Valeant's salesforce in generating prescriptions filled through the Philidor network posed potential issues for Plaintiffs' success at trial. Defendants would have argued that these marketing and sales efforts were the true (and legitimate) reason for the volume of sales through Philidor. Defendants would have also contended, as supported by parts of the evidentiary record, that the relationship between Philidor and Valeant was known to the prescribing physicians whose patients' prescriptions were reimbursed by Plaintiffs and other TPPs. Defendants would have argued that such knowledge negated any fraud, or any causation owing to such fraud, and reflected the doctors' knowing medical decision to prescribe Valeant-brand drugs.

95. Moreover, Plaintiffs alleged that many of the features of the Valeant Enterprise operated to avoid compulsory "generic substitution"—where a name-brand drug is automatically substituted for its generic equivalent. However, discovery revealed that several of the Valeant-branded drugs sold through Philidor, including the medicines generating the greatest dollar volume of sales through Philidor and its network, lacked generic equivalents during the Class Period. As such, those prescriptions would not have been subject to automatic generic substitution.

96. While Plaintiffs had arguments in response, these facts would have also made it challenging for Plaintiffs to establish their theory of liability in order to overcome summary judgment or succeed at trial. In addition, Plaintiffs may have faced challenges in establishing all the elements of their RICO claims including that Defendants participated in a RICO enterprise and/or engaged in a conspiracy to make TPPs and other payors overpay for Valeant-branded drugs.

Given the age of the case, which relates to events dating back to 2013, proof at trial would have also been impacted by the fading memories of witnesses.

B. Risks Related to Loss Causation and Damages

97. Even if Plaintiffs overcame each of the above risks and successfully established liability, Plaintiffs faced serious risks in proving loss causation and damages. Indeed, while they were not before the Court at the motion to dismiss stage, these issues were an important driver of the settlement value of this case.

98. Specifically, Defendants would have argued that Plaintiffs could not establish that Defendants conspired to sell Valeant-branded drugs at inflated prices through the Philidor network of pharmacies. Defendants would also have argued that Plaintiffs could not prove that they suffered any damages by reimbursing members for Valeant-branded drugs as opposed to generic alternatives, especially where no generic alternatives existed. Defendants would have further argued that proving damages was impossible given the hypothetical underpinnings of Plaintiffs' damages model and would raise individualized issues that would preclude class certification.

99. In addition, several issues threatened to substantially limit the range of possible damages that could be established for the class at trial, including discovery evidence showing that a substantial volume of the Valeant drugs filled through Philidor were not "covered" by TPPs in their reimbursement process or were otherwise not approved for reimbursement—and thus did not result in damages to Plaintiffs or any class member. In addition, Defendants' arguments with respect to Valeant drugs that lacked generic equivalents were strongest with respect to two drugs that constituted roughly half the Valeant sales through Philidor. Thus, Defendants' success on that issue might have substantially decreased any potential damages to the class.

C. Risks Related to Class Certification

100. Furthermore, while Plaintiffs had overcome Defendants' motions to dismiss and were confident that the Court would have adopted Special Master Cavanaugh's thorough and well-reasoned report and recommendation granting in part and denying in part Defendants' motions to dismiss, in order to succeed Plaintiffs would have to prevail at several further stages in the litigation, including class certification, summary judgment, and trial.

101. Defendants would have vigorously opposed class certification based on the same arguments, discussed above, concerning Plaintiffs' inability to establish the existence of the Valeant Enterprise and that the TPPs suffered no damages at all. Defendants would also contend that liability could not be proven on a class-wide basis because of individualized differences among class members, based on arguably distinct arrangements between TPPs and their PBMs, and PBMs' different policies and procedures. In addition, Defendants would likely argue that individualized issues of proximate cause preclude class certification. There was some support in discovery for the contention that the main method of driving prescriptions of Valeant drugs through Philidor was Valeant's deployment of its own salesforce to encourage doctors to write prescriptions for Valeant-branded drugs and route them through Philidor. Those prescriptions were reimbursed only if they conformed to each specific PBM's requirements. Thus, Defendants would argue that for each prescription, whether Defendants' alleged fraud resulted in a fraud-induced cost to TPPs is an individualized question and cannot be resolved on a common, class-wide basis. Moreover, to the extent that prescriptions filled through Philidor reflected the independent medical judgment of prescribing physicians—who may have specifically designated Valeant-branded drugs for prescription—those issues may have resulted in individualized questions that precluded a finding that class-wide issues of proof predominate.

D. Risks Related to the Philidor Defendants

102. With respect to the Philidor Defendants, in addition to all of the same risks related to achieving class certification and establishing liability and damages discussed above, Plaintiffs also faced extremely significant ability-to-pay concerns. Philidor is a defunct entity; Matthew Davenport is deceased, and his Estate has limited assets; and Andrew Davenport is subject to a multi-million-dollar forfeiture order as a result of his criminal conviction. Accordingly, the prospect of obtaining any significantly larger recovery from the Philidor Defendants was remote, if not impossible, and this further supports the reasonableness of the Philidor Defendants Settlement.

E. Risks Related to Further Litigation

103. Defendants' expected motions for summary judgment and any trial would also pose further significant risks. In addition, it is likely that Defendants would object to each adverse report and recommendation against them from Special Master Cavanaugh and appeal further to the Third Circuit Court of Appeals where permitted to do so. Thus, there was no guarantee that any further litigation would have resulted in a higher recovery, or any recovery at all. Even if Plaintiffs prevailed at trial, Defendants would likely have appealed any such verdict and would have been able to renew the substantive arguments discussed above on their appeal.

F. The Settlements Are Reasonable in Light of Maximum Damages That Could Reasonably Be Established at Trial

104. The Settlements are also reasonable in light of the maximum damages that could be reasonably established at trial. With respect to damages, the Parties did not agree on the methodology to determine damages, the assumptions to be used, or the amount. Plaintiffs' damages expert used a number of different models to estimate damages based on certain assumptions about the amounts TPPs spent on reimbursement of Valeant drugs fulfilled through

Philidor. The most refined of the models produced an estimate that the maximum reasonably recoverable damages ranged from \$169 million to \$242 million. The range depends on whether liability could be established for drugs without an FDA-approved generic equivalent, and might be substantially lower (likely under \$100 million) once information on TPP reimbursement levels is considered. Thus, the Settlements represent a recovery of 9.6% to 23.1% of the likely damages, which Plaintiffs' Counsel believe is highly favorable in light of the substantial risks of establishing liability here. Notably, Plaintiffs expected Defendants to contend that the Settlement Class had no cognizable damages at all.

105. In the context of all these significant litigation risks, Plaintiffs and Lead Counsel believe that the \$23,125,000 recovery for the Settlement Class is a very favorable result, and is fair, reasonable, adequate, and in the best interest of the Settlement Class.

IV. PLAINTIFFS' COMPLIANCE WITH THE COURT'S PRELIMINARY APPROVAL ORDERS REQUIRING ISSUANCE OF NOTICE

106. The Court's Order Preliminary Approving Settlement and Providing for Notice dated August 17, 2021 (ECF No. 197) ("Valeant Preliminary Approval Order") and Order Preliminary Approving Settlement and Providing for Notice dated August 17, 2021 (ECF No. 196) ("Philidor Defendants Preliminary Approval Order," and collectively with the Valeant Preliminary Approval Order, the "Preliminary Approval Orders"), directed that the Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys' Fees and Litigation Expenses ("Notice") and Proof of Claim and Release Form ("Claim Form") be disseminated to the Settlement Class. The Preliminary Approval Orders also set a November 11, 2021 deadline for Settlement Class Members to submit objections to the Settlements, the Plan of Allocation and/or the Fee and Expense Application or to request exclusion from the Settlement Class, and set the Settlement Hearing for December 2, 2021.

107. Pursuant to the Preliminary Approval Orders, Lead Counsel instructed A.B. Data, Ltd. (“A.B. Data”), the Court-approved Claims Administrator, to begin disseminating copies of the Notice and the Claim Form by mail and to publish the Summary Notice. The Notice contains, among other things, a description of the Action, the Settlements, the proposed Plan of Allocation and Settlement Class Members’ rights to participate in the Settlements, object to the Settlements, the Plan of Allocation and/or the Fee and Expense Application, or exclude themselves from the Settlement Class. The Notice also informs Settlement Class Members of Lead Counsel’s intent to apply for attorneys’ fees in an amount not to exceed 30% of the Settlement Funds, for litigation expenses in an amount not to exceed \$750,000 and service awards for Plaintiffs in amount not to exceed \$100,000 in total. To disseminate the Notice, A.B. Data used a mailing list of 41,424 known TPPs and their representatives, which was compiled from sources including U.S. Department of Labor Form 5500 filings, the Pharmacy Benefits Management Institute, and prior pharmaceutical litigations that A.B. Data has administered (“TPP Mailing List”). *See* Declaration of Eric J. Miller Regarding (A) Mailing of the Notice and Claim Form; (B) Publication of the Summary Notice; and (C) Report on Requests for Exclusion Received to Date (“Miller Decl.”), attached as Exhibit 6, at ¶ 3.

108. On September 8, 2021, A.B. Data disseminated 41,424 copies of the Notice and Claim Form (together, the “Notice Packet”) to potential Settlement Class Members by first-class mail based on the TPP Mailing List and sent 1,211 emails to TPPs and their representatives where email addresses were available. *See* Miller Decl. ¶¶ 4-5.

109. Lead Counsel also caused A.B. Data to establish a dedicated settlement website, www.ValeantTPPSettlement.com, to provide potential Settlement Class Members with information concerning the Settlements. That website, which became operational on September

8, 2021, provides access to copies of the Notice, Claim Form, Stipulations, Preliminary Approval Orders, and the Complaint. *See* Miller Decl. ¶ 9. In addition, copies of the Notice and Claim Form and other documents were also made available on BLB&G's website, www.blbglaw.com.

110. On September 22, 2021, in accordance with the Preliminary Approval Order, A.B. Data caused the Summary Notice to be transmitted over *PR Newswire*. *See* Miller Decl. ¶ 7. On September 22, 2021, A.B. Data also began a 30-day digital banner ad campaign on the following websites frequented by health plans administrators: ThinkAdvisor.com/life-heath; BenefitNews.com; and SHRM.org. When clicked, the banner ads directed potential members of the Settlement Class to the settlement website, www.ValeantTPPSettlement.com. *See id.* ¶ 6.

111. As set forth above, the deadline for Settlement Class Members to file objections to the Settlements, the Plan of Allocation and/or the Fee and Expense Application, or to request exclusion from the Settlement Class, is November 11, 2021. To date, no requests for exclusion have been received (*see* Miller Decl. ¶ 10), and no objections to the Settlements, the Plan of Allocation or Lead Counsel's Fee and Expense Application have been received. Lead Counsel will file reply papers on November 24, 2021 that will address any requests for exclusion or objections that may be received.

V. ALLOCATION OF THE PROCEEDS OF THE SETTLEMENTS

112. Pursuant to the Preliminary Approval Orders, and as stated in the Notice, all Settlement Class Members who want to participate in the distribution of the Net Settlement Funds (*i.e.*, the Settlement Funds less (a) any Taxes, (b) any Notice and Administration Costs, (c) any Litigation Expenses awarded by the Court (including any service awards to Plaintiffs), (d) any attorneys' fees awarded by the Court, and (e) any other costs or fees approved by the Court) must submit a valid Claim Form postmarked no later than January 6, 2022. As set forth in the Notice, the Net Settlement Funds will be distributed among Settlement Class Members according to the

plan of allocation approved by the Court. Plaintiffs' proposed plan of allocation ("Plan of Allocation") is set forth at pages 9 to 10 of the Notice. *See* Miller Decl. Ex. A at pp. 9-10.

113. Lead Counsel believes that the proposed Plan of Allocation provides a fair and reasonable method to equitably allocate the Net Settlement Funds among Settlement Class Members who suffered losses as result of the conduct alleged. As described in the Notice, calculations under the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover at trial or estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlements. Instead, the calculations under the plan are only a method to weigh the claims of Settlement Class Members against one another for the purposes of making an equitable allocation of the Net Settlement Funds.

114. Under the Plan of Allocation, a "Recognized Claim" will be calculated for each Claimant who submits a valid Claim Form. The "Recognized Claim" shall be calculated as 80% of the total dollars spent by the Claimant to pay or provide reimbursement for some or all of the purchase price of one or more Valeant-branded drugs that were purchased from or fulfilled by Philidor or a Philidor Network Pharmacy during the Class Period.

115. Claimants with a Recognized Claim of \$100,000 or more are required to submit "Claim Documentation," such as itemized receipts, cancelled checks, invoices, statements, or other business or transaction records documenting payment for the purchases or reimbursement paid for Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy during the Class Period. In addition, the Claims Administrator may also require Claimants below the \$100,000 threshold to submit Claim Documentation where the Claims Administrator disputes a material fact concerning the Claim Form. If a Claimant fails to submit acceptable Claim

Documentation, the Claims Administrator may, in consultation with Class Counsel, deny all or part of a claim, or may cap payment of a claim at 80% of the amount claimed.

116. The Net Settlement Funds will be distributed to Authorized Claimants on a *pro rata basis* based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be calculated for each Authorized Claimant, which shall be the Authorized Claimant’s Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Funds. If an Authorized Claimant’s Distribution Amount calculates to less than \$100.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

117. In sum, the Plan of Allocation was designed to fairly and rationally allocate the proceeds of the Net Settlement Funds among Settlement Class Members based on the losses they suffered as a result of purchasing or reimbursing the purchases of Valeant drugs whose prices were allegedly inflated as a result of the scheme with Philidor. Accordingly, Lead Counsel respectfully submit that the Plan of Allocation is fair and reasonable and should be approved by the Court.

118. In addition, as noted above, as of October 27, 2021, more than 41,000 copies of the Notice, which contains the Plan of Allocation, and advises Settlement Class Members of their right to object to the proposed Plan of Allocation, had been sent to potential Settlement Class Members (*see* Miller Decl. ¶ 4), and, to date, no objections to the proposed Plan of Allocation have been received.

VI. THE FEE AND EXPENSE APPLICATION

119. In addition to seeking final approval of the Settlements and Plan of Allocation, Lead Counsel are applying to the Court on behalf of all Plaintiffs’ Counsel for an award of attorneys’ fees of 30% of the Settlement Funds, or \$6,937,500, plus interest earned at the same rate as the Settlement Funds (“Fee Application”). Lead Counsel also request payment for litigation expenses

incurred by Plaintiffs' Counsel in connection with the prosecution and settlement of the Action in the amount of \$720,335.39. Lead Counsel further request case-contribution or service awards of \$20,000 for each of the Plaintiffs in recognition of the time and effort Plaintiffs have dedicated to the Action. The legal authorities supporting the requested fee and expenses are discussed in Lead Counsel's Fee Memorandum. The primary factual bases for the requested fee and expenses are summarized below.

A. The Fee Application

120. For their efforts on behalf of the Settlement Class, Lead Counsel are applying for a fee award to be paid from the Settlement Funds on a percentage basis. As set forth in the accompanying Fee Memorandum, the percentage method is the appropriate method of fee recovery in a "common fund" case such as this one, because it aligns the lawyers' interest in being paid a fair fee with the interest of the Settlement Class in achieving the maximum recovery in the shortest amount of time required under the circumstances, and has been recognized as appropriate by the Supreme Court and Third Circuit for cases of this nature.

121. Based on the quality of the result achieved, the extent and quality of the work performed, the significant risks of the litigation and the fully contingent nature of the representation, Lead Counsel respectfully submit that the requested fee award is reasonable and should be approved. As discussed in the Fee Memorandum, a 30% fee award is fair and reasonable for attorneys' fees in common fund cases such as this and is within the range of percentages awarded in comparable class action settlements in this Circuit.

2. Plaintiffs Have Authorized the Fee Application

122. Each of the Plaintiffs has submitted a declaration approving the Settlements and the fee requested by Lead Counsel. *See* Exs. 1, 2, 3, 4, and 5. Plaintiffs were regularly consulted during the Action, and participated in and were advised of all material aspects of its prosecution,

as well as of the negotiation of the Settlements. Plaintiffs believe that Lead Counsel's request for an award of attorneys' fees in the amount of 30% of the Settlement Funds is reasonable in light of the work Lead Counsel performed and the risks of the Action, and have authorized the fee request to the Court for its ultimate determination.

3. The Time and Labor of Plaintiffs' Counsel

123. The time and labor expended by Lead Counsel and the other Plaintiffs' Counsel in pursuing this Action and achieving the Settlements strongly demonstrate the reasonableness of the requested fee. Attached as Exhibits 7A, 7B, 7C, and 7D are the declaration of each Plaintiffs' Counsel firm in support of Lead Counsel's motion for attorneys' fees and litigation expenses ("Fee and Expense Declarations"). The Fee and Expense Declarations indicate the amount of time spent by each attorney and the professional support staff employed by each firm, and the lodestar calculations based on their current hourly rates, as well as a schedule of expenses incurred by the firm, delineated by category. These declarations were prepared from contemporaneous daily time records and expense records regularly maintained and prepared by the respective firms, which are available at the request of the Court.

124. As set forth in the Fee and Expense Declarations, Plaintiffs' Counsel have collectively expended 16,277.25 hours in the prosecution of this Action, with a total lodestar of \$9,438,433.75. Accordingly, the requested fee of \$6,937,500 plus interest results in a "negative" multiplier of approximately 0.74 on Plaintiffs' Counsel's lodestar. In other words, Lead Counsel's requested fee represents substantially *less* than the lodestar value of time that Plaintiffs' Counsel dedicated to the Action—only 74% of that amount.

4. The Skill and Experience of Plaintiffs' Counsel

125. The skill and expertise of Plaintiffs' Counsel also support the requested fee. The experience and track record of BLB&G and Carella Byrne are well known and reflected in both

firms' public websites. Lead Counsel believe that the skill and experience of BLB&G and Carella Byrne and their willingness and ability to prosecute cases through trial added valuable leverage in the settlement negotiations. Plaintiffs Counsel will provide firm resumes upon request of the Court.

5. Standing and Caliber of Defendants' Counsel

126. The quality of the work performed by Lead Counsel in attaining the Settlements should also be evaluated in light of the quality of their opposition. Valeant was represented ably by Simpson Thacher & Bartlett LLP, a prominent and skillful firm. All Defendants' Counsel vigorously opposed Plaintiffs' claims. In the face of this opposition, Lead Counsel were nonetheless able to develop a case that was sufficiently strong to persuade Defendants and their counsel to settle on terms that will significantly benefit the Settlement Class.

6. The Risks of Litigation and the Need to Ensure the Availability of Competent Counsel in High-Risk Contingent Cases

127. The prosecution of these claims was undertaken entirely on a contingent-fee basis. The considerable risks assumed by Lead Counsel in bringing this Action to a successful conclusion are described above. Those risks are relevant to the Court's evaluation of an award of attorneys' fees. Here, the risks assumed by Lead Counsel, and the time and expenses incurred without any payment, were extensive.

128. From the outset, Lead Counsel understood that they were embarking on a complex, expensive, and lengthy litigation with no guarantee of ever being compensated for the substantial investment of time and the outlay of money that vigorous prosecution of the case would require. In undertaking that responsibility, Lead Counsel were obligated to ensure that sufficient resources were dedicated to the litigation, and that funds were available to compensate vendors and consultants and to cover the considerable out-of-pocket costs that a case such as this typically

demands. Because class action litigation often proceeds for several years before reaching a conclusion, as this case did, the financial burden on contingent-fee counsel is far greater than on a firm that is paid on an ongoing basis. Indeed, Plaintiffs' Counsel have received no compensation during the course of this Action and no reimbursement of out-of-pocket expenses, yet they have incurred \$720,355.39 in expenses in prosecuting this Action for the benefit of Settlement Class Members.

129. Plaintiffs' Counsel also bore the risk that no recovery would be achieved. As discussed above, Plaintiffs' Counsel faced substantial risks in proving their claims against Defendants and achieving a substantial recovery.

130. Furthermore, had this litigation continued, Plaintiffs would have been required to continue the extensive discovery already underway, including additional depositions, both in terms of merits and class certification. The Parties would have had to engage in substantial expert discovery. After the close of discovery, Defendants would have moved for summary judgment, which would require additional briefing and argument, a pre-trial order would have to be prepared, proposed jury instructions would have to be submitted, and motions *in limine* would have to be filed and argued. Substantial time and expense would need to be expended in preparing the case for trial. The trial itself would be expensive and uncertain. Moreover, even if the jury returned a favorable verdict after trial, it is likely that any verdict would be the subject of numerous post-trial motions and a complex multi-year appellate process.

131. Lead Counsel's persistent efforts in the face of significant risks and uncertainties have resulted in a substantial benefit for the Settlement Class – the considerable monetary recovery of \$23,125,000. In light of this recovery and Lead Counsel's investment of time and resources

over the course of more than four years of litigation, the requested attorneys' fee of 30% of the Settlement Funds is reasonable and should be approved.

B. The Litigation Expense Application

132. Lead Counsel also seek payment or reimbursement of \$720,335.39 in litigation expenses reasonably incurred by Plaintiffs' Counsel in connection with the prosecution of the Action ("Expense Application").

133. From the outset of the Action, Plaintiffs' Counsel have been aware that they might not recover any of their expenses (if the litigation was unsuccessful), and, further, that if there were to be reimbursement of expenses, it would not occur until the Action was successfully resolved, often a period lasting several years. Plaintiffs' Counsel also understood that, even assuming that the case was ultimately successful, reimbursement of expenses would not necessarily compensate them for the lost use of funds they advanced to prosecute the Action. Consequently, Plaintiffs' Counsel were motivated to, and did, take significant steps to minimize expenses whenever practicable without jeopardizing the vigorous and efficient prosecution of the case.

134. As set forth in the Fee and Expense Declarations included in Exhibit 7 hereto, Plaintiffs' Counsel have incurred a total of \$720,335.39 in unreimbursed litigation expenses in connection with the prosecution of the Action. The expenses are summarized in Exhibit 8, which was prepared based on the declarations submitted by each firm and identifies each category of expense, such as expert fees, Special Master fees, mediation fees, online legal and factual research, telephone costs, and copying expenses, and the amount incurred for each category. As attested to in each firm's Fee and Expense Declaration (Exhibits 7A-7D hereto), these expenses are reflected on the books and records maintained by Plaintiffs' Counsel. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of

the expenses incurred. These expenses were recorded separately by Plaintiffs' Counsel and are not duplicated among the respective firms' hourly rates.

135. Of the total amount of expenses, \$98,501.25, or approximately 14%, was expended for the retention of experts. As noted above, Lead Counsel consulted extensively with an expert to determine class damages and related loss causation issues. This expert's advice was instrumental in Lead Counsel's appraisal of the claims and in helping achieve the favorable result.

136. Another significant component of the expenses, \$190,076.91, or approximately 26% of the total, was for Plaintiffs' share of the fees charged by the Special Master for his active oversight of the Action.

137. Another large component of the expenses, \$125,634.90, or approximately 17% of the total, was for the necessary costs and services relating to obtaining, storing and reviewing the large number of documents produced in this Action, including costs incurred for the creation and maintenance of an electronic database that enabled Plaintiffs' Counsel to efficiently and effectively manage and review the more than 8.6 million pages of documents produced to Plaintiffs.

138. In addition to these costs, a significant percentage of Plaintiffs' Counsel's expenses are the combined costs of online legal and factual research, which total \$79,250.40, or approximately 11% of the total expenses.

139. Another significant component of the expenses, \$18,825.75, was for mediation fees charged by JAMS for the services of Mr. Melnick.

140. In addition, Plaintiffs or Lead Counsel incurred \$87,378.00 in fees paid to certain law firms that acted as outside counsel for certain of the Plaintiffs and provided advice and assisted them with matters necessarily related to their service as Class Representatives in the Action.

141. The other expenses for which Plaintiffs' Counsel seek reimbursement are the types of expenses that are necessarily incurred in litigation and routinely charged to clients billed by the hour. These expenses include, among others, court fees, service of process, long distance telephone charges, postage and delivery expenses, copying, and travel costs.

142. The Notice informed potential Settlement Class Members that Lead Counsel would be seeking payment for Plaintiffs' Counsel's litigation expenses in an amount not to exceed \$750,000. The total amount requested, \$720,355.39, is below the \$750,000 that Settlement Class Members were advised could be sought. To date, no objection has been raised as to the maximum amount of expenses set forth in the Notice. The expenses incurred by Plaintiffs' Counsel were reasonable and necessary to represent the Settlement Class and achieve the Settlements. Accordingly, Lead Counsel respectfully submit that the litigation expenses should be reimbursed in full from the Settlement Funds.

143. In addition, Lead Counsel request that Plaintiffs be awarded service awards of \$20,000 each, or \$100,000 in total, to be paid from the Settlement Funds. As discussed in their respective declarations, each Plaintiffs has dedicated substantial time to the prosecution of this Action for the benefit of the Settlement Class. *See* Ex. 1, at ¶ 4; Ex. 2, at ¶ 4; Ex. 3, at ¶ 4; Ex. 4, at ¶ 4; and Ex. 5, at ¶ 4. As discussed in the Fee Memorandum, such service awards are standard in class actions and the amounts sought are justified based the significant time and effort that Plaintiffs have committed to this litigation.

VII. ADDITIONAL EXHIBITS AND INFORMATION

144. Attached as Exhibit 9 is a true and correct copy of an order issued by the United States District Court for the Northern District of California in an unrelated action where BLB&G has been serving as Lead Counsel for Lead Plaintiff SEB Investment Management, and Class Counsel for the certified Class. *See SEB Inv. Mgmt. v. Symantec Corp.*, 2021 WL 1540996 (N.D.

Cal. Apr. 20, 2021). As reflected in the order, counsel for an unsuccessful lead plaintiff movant raised questions about BLB&G's hiring of a former employee of the Lead Plaintiff in that case. Following discovery and extensive briefing, the court found that the evidence did not establish a *quid pro quo*, and allowed BLB&G to continue as Class Counsel. *See id.* at *1-2. The court nevertheless ordered BLB&G to bring the order to the attention of any court in which BLB&G seeks appointment as class counsel, and to the decision-maker for the plaintiff who is selecting class counsel. *See id.* at *2.

145. Also attached are true and correct copies of the following documents cited in the Fee Memorandum:

Exhibit 10: *In re Heckmann Corp. Sec. Litig.*, No. 1:10-cv-00378-LPS-MPT, slip op. (D. Del. June 26, 2014), ECF No. 308.

Exhibit 11: *In re Veritas Software Corp. Sec. Litig.*, No. 1:04-cv-00831-SLR, slip op. (D. Del. Aug. 5, 2008), ECF No. 14.

VIII. CONCLUSION

146. For all the reasons set forth above, Plaintiffs and Lead Counsel respectfully submit that the Settlements and the Plan of Allocation should be approved as fair, reasonable and adequate. Lead Counsel further submit that the requested fee in the amount of 30% of the Settlement Funds should be approved as fair and reasonable, payment of litigation expenses in the amount of \$720,335.39 should be approved, and that service awards of \$20,000 each should be awarded to Plaintiffs.

We declare, under penalty of perjury, that the foregoing is true and correct. Executed this 28th day of October, 2021.

s/ James A. Harrod
James A. Harrod

s/ James E. Cecchi
James E. Cecchi

CERTIFICATION OF SERVICE

I hereby certify that on October 28, 2021, I caused a true and correct copy of the foregoing Joint Declaration of James A. Harrod and James E. Cecchi in Support of (I) Plaintiffs' Motion for Final Approval of Settlements and Approval of Plan of Allocation; and (II) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses to be electronically filed with the Clerk of the Court using the ECF system. Notice of this filing will be sent to counsel of record by operation of the Court's electronic filing system.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: October 28, 2021

s/ James E. Cecchi

James E. Cecchi
**CARELLA, BYRNE, CECCHI, OLSTEIN,
BRODY & AGNELLO, P.C.**
5 Becker Farm Road
Roseland, NJ 07068
Telephone: (973) 994-1700
Facsimile: (973) 994-1744
jcecchi@carellabyrne.com

*Lead Counsel for Plaintiffs and
the Settlement Class*

Exhibit 1

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF KRISTI WAGNER, TRUST ADMINISTRATOR OF
THE AIRCONDITIONING AND REFRIGERATION INDUSTRY HEALTH AND
WELFARE TRUST FUND, IN SUPPORT OF: (I) PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION; AND (II) LEAD
COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, Kristi Wagner, hereby declare under penalty of perjury as follows:

1. I am the Trust Administrator of the Airconditioning and Refrigeration Industry Health and Welfare Trust Fund ("ACR Trust"), one of the named Plaintiffs and Class Representatives in this class action (the "Action").¹ I submit this declaration in support of (i) Plaintiffs' motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. ACR Trust is a health and welfare benefit fund with its principal place of business at 3500 W. Orangewood Avenue, Orange, California 92868. ACR Trust is a multi-employer welfare benefit plan, within the meaning of the Employee Retirement Income Security Act

¹ Unless otherwise defined in this Declaration, all capitalized terms have the meanings set out in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the "Valeant Stipulation") or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the "Philidor Defendants Stipulation").

(“ERISA”), 29 U.S.C. §§ 1002(1), (3) and 1003(a), which provides health benefits to eligible participants and their beneficiaries. ACR Trust’s members include various union members who are involved in the air conditioning and refrigeration industries. Throughout the Class Period, ACR Trust paid or reimbursed eligible ACR Trust participants’ prescription-drug benefits for Valeant drugs purchased through the Philidor Network Pharmacies and was injured as a result.

I. ACR Trust’s Oversight of the Action

3. I am aware of and understand the requirements and responsibilities of a class representative in a class action.

4. ACR Trust, through my active and continuous involvement, closely supervised, carefully monitored, and was actively involved in all material aspects of the prosecution and resolution of the Action. ACR Trust received periodic status reports from co-Lead Counsel Bernstein Litowitz Berger & Grossmann LLP (“BLB&G”) on case developments and participated in regular discussions with attorneys from BLB&G concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. Throughout the course of this Action, I and other employees at ACR Trust devoted a substantial amount of time to the prosecution of the Action, including: (a) discussing with BLB&G and with ACR Trust’s outside counsel, Wohlner Kaplon Cutler Halford & Rosenfeld (“Wohlner Kaplon”) and Seyfarth Shaw LLP, the decision to become involved in the litigation and serve as a Plaintiff in the Action; (b) communicating with BLB&G, Wohlner Kaplon, and Seyfarth Shaw LLP by email and telephone calls regarding the posture and progress of the case; (c) reviewing all significant pleadings and briefs filed in the Action; (d) searching for and collecting relevant documents to respond to Defendants’ document requests; (e) participating in the settlement process and consulting with BLB&G concerning the

settlement negotiations as they progressed; and (f) evaluating and approving the proposed Settlement.

II. ACR Trust Strongly Endorses Approval of the Settlement

5. Based on its involvement throughout the prosecution and resolution of the claims asserted in the Action, ACR Trust believes that the proposed Settlement is fair, reasonable, and adequate to the Settlement Class. ACR Trust believes that the Settlement represents a favorable recovery for the Settlement Class, particularly in light of the substantial risks of continuing to prosecute the claims in this case and in recovering a judgment larger than the proposed Settlement. Therefore, ACR Trust strongly endorses approval of the Settlement by the Court.

III. ACR Trust Supports Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses

6. While it is understood that the ultimate determination of Lead Counsel's request for attorneys' fees and expenses rests with the Court, ACR Trust believes that Lead Counsel's request for an award of attorneys' fees in the amount of 30% of the Settlement Fund is fair and reasonable in light of the result achieved in the Action, the risks undertaken, and the quality of the work performed by Plaintiffs' Counsel on behalf of Plaintiffs and the Settlement Class. The fee requested is consistent with the fee that could be sought pursuant to a retainer agreement entered into between ACR Trust and BLB&G at the outset of the litigation. After the agreement to settle the Action was reached, ACR Trust again evaluated the fee request by considering the recovery obtained for the Settlement Class in this Action, the risks of the Action, and its observations of the high-quality work performed by Plaintiffs' Counsel throughout the litigation, and has authorized this fee request to the Court for its ultimate determination.

7. ACR Trust further believes that Plaintiffs' Counsel's Litigation Expenses are reasonable and represent costs and expenses necessary for the prosecution and resolution of the

claims in the Action. Based on the foregoing, and consistent with its obligation to the class to obtain the best result at the most efficient cost, ACR Trust fully supports Lead Counsel's motion for attorneys' fees and Litigation Expenses.

8. ACR Trust understands that a person or entity which serves as class representative in a class action may apply for an "incentive award" or "case contribution award" to reflect the substantial time and effort that the class representative has devoted to the action.

9. As discussed above, I and other employees at ACR Trust spent a substantial amount of time—dozens, if not hundreds of hours—on the Action, including communicating extensively with counsel, reviewing status reports, reviewing significant pleadings and briefs, searching for relevant documents, and participating in the settlement negotiations. The time that I and other employees of ACR Trust devoted to the representation of the Settlement Class in this Action was time that we otherwise would have expected to spend on other work for ACR Trust and, thus, represented a cost to ACR Trust. ACR Trust seeks a case contribution award of \$20,000 in recognition of the substantial time and effort it devoted to the Action and to provide an incentive for class representatives in similar cases to undertake such efforts.

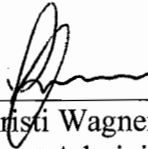
IV. Conclusion

10. In conclusion, ACR Trust, one of the named Plaintiffs and a Class Representative for the Settlement Class, which was closely involved throughout the prosecution and settlement of the Action, strongly endorses the Settlement as fair, reasonable, and adequate, and believes it represents a favorable recovery for the Settlement Class in light of the risks of continued litigation. ACR Trust further supports Lead Counsel's motion for attorneys' fees and Litigation Expenses and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Settlement Class, the substantial work conducted, and the litigation risks. And

finally, ACR Trust requests a case contribution award of \$20,000. Accordingly, ACR Trust respectfully requests that the Court approve (i) Plaintiffs' motion for final approval of the proposed Settlement and Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses.

I declare under penalty of perjury that the foregoing is true and correct, and that I have authority to execute this Declaration on behalf of ACR Trust.

Executed this 21st day of October, 2021.



Kristi Wagner
Trust Administrator
Airconditioning and Refrigeration Industry
Health and Welfare Trust Fund

#3059502

Exhibit 2

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF JAMES BOUNDS, GENERAL COUNSEL OF
THE FIRE AND POLICE HEALTH CARE FUND, SAN ANTONIO IN SUPPORT OF:
(I) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT
AND PLAN OF ALLOCATION; AND (II) LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, James Bounds, hereby declare under penalty of perjury as follows:

1. I am the Executive Director of the Fire and Police Health Care Fund, San Antonio ("San Antonio"), one of the named Plaintiffs and Class Representatives in this class action (the "Action").¹ I submit this declaration in support of (i) Plaintiffs' motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. San Antonio is a public healthcare fund located at 11603 W. Coker Loop, Suite 130, San Antonio, Texas 78216, which provides health benefits to over 12,000 eligible participants and beneficiaries. Throughout the Class Period, San Antonio paid or reimbursed eligible participants'

¹ Unless otherwise defined in this Declaration, all capitalized terms have the meanings set out in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the "Valeant Stipulation") or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the "Philidor Defendants Stipulation").

prescription-drug benefits for Valeant drugs purchased through the Philidor Network Pharmacies and was injured as a result.

I. San Antonio's Oversight of the Action

3. I am aware of and understand the requirements and responsibilities of a class representative in a class action.

4. San Antonio, through my active and continuous involvement, closely supervised, carefully monitored, and was actively involved in all material aspects of the prosecution and resolution of the Action. San Antonio received periodic status reports from co-Lead Counsel Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") on case developments and participated in regular discussions with attorneys from BLB&G concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. Throughout the course of this Action, I and other employees at San Antonio devoted a substantial amount of time to the prosecution of the Action, including: (a) discussing with BLB&G and with San Antonio's outside counsel, Martin & Drought, P.C., the decision to become involved in the litigation and serve as a Plaintiff in the Action; (b) communicating with BLB&G and Martin & Drought, P.C. by email and telephone calls regarding the posture and progress of the case; (c) reviewing all significant pleadings and briefs filed in the Action; (d) searching for and collecting relevant documents to respond to Defendants' document requests; (e) participating in the settlement process and consulting with BLB&G concerning the settlement negotiations as they progressed; and (f) evaluating and approving the proposed Settlement.

II. San Antonio Strongly Endorses Approval of the Settlement

5. Based on its involvement throughout the prosecution and resolution of the claims asserted in the Action, San Antonio believes that the proposed Settlement is fair, reasonable, and adequate to the Settlement Class. San Antonio believes that the Settlement represents a favorable

recovery for the Settlement Class, particularly in light of the substantial risks of continuing to prosecute the claims in this case and in recovering a judgment larger than the proposed Settlement. Therefore, San Antonio strongly endorses approval of the Settlement by the Court.

III. San Antonio Supports Lead Counsel’s Motion for Attorneys’ Fees and Litigation Expenses

6. While it is understood that the ultimate determination of Lead Counsel’s request for attorneys’ fees and expenses rests with the Court, San Antonio believes that Lead Counsel’s request for an award of attorneys’ fees in the amount of 30% of the Settlement Fund is fair and reasonable in light of the result achieved in the Action, the risks undertaken, and the quality of the work performed by Plaintiffs’ Counsel on behalf of Plaintiffs and the Settlement Class.

7. San Antonio further believes that Plaintiffs’ Counsel’s Litigation Expenses are reasonable and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action. Based on the foregoing, and consistent with its obligation to the class to obtain the best result at the most efficient cost, San Antonio fully supports Lead Counsel’s motion for attorneys’ fees and Litigation Expenses.

8. San Antonio understands that a person or entity which serves as class representative in a class action may apply for an “incentive award” or “case contribution award” to reflect the substantial time and effort that the class representative has devoted to the action.

9. As discussed above, I and other employees at San Antonio spent a substantial amount of time—dozens, if not hundreds of hours—to the Action, including communicating extensively with counsel, reviewing status reports, reviewing significant pleadings and briefs, searching for relevant documents, and participating in the settlement negotiations. The time that I and other employees of San Antonio devoted to the representation of the Settlement Class in this Action was time that we otherwise would have expected to spend on other work for San Antonio

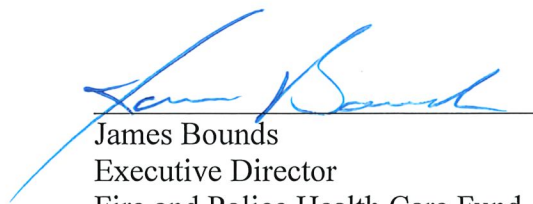
and, thus, represented a cost to San Antonio. San Antonio seeks a case contribution award of \$20,000 in recognition of the substantial time and effort it devoted to the Action and to provide an incentive for class representatives in similar cases to undertake such efforts.

IV. Conclusion

10. In conclusion, San Antonio, one of the named Plaintiffs and a Class Representative for the Settlement Class, which was closely involved throughout the prosecution and settlement of the Action, strongly endorses the Settlement as fair, reasonable, and adequate, and believes it represents a favorable recovery for the Settlement Class in light of the risks of continued litigation. San Antonio further supports Lead Counsel's motion for attorneys' fees and Litigation Expenses and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Settlement Class, the substantial work conducted, and the litigation risks. And finally, San Antonio requests a total case contribution award, including reimbursement for its expenses, of \$20,000. Accordingly, San Antonio respectfully requests that the Court approve (i) Plaintiffs' motion for final approval of the proposed Settlement and Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses.

I declare under penalty of perjury that the foregoing is true and correct, and that I have authority to execute this Declaration on behalf of San Antonio.

Executed this 19 th day of October, 2021.


James Bounds
Executive Director
Fire and Police Health Care Fund, San Antonio

#3059519

Exhibit 3

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF WALTER SARACENI, ADMINISTRATOR
FOR THE TRUSTEES OF PLUMBERS LOCAL UNION NO.1 WELFARE FUND,
IN SUPPORT OF: (I) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF
SETTLEMENT AND PLAN OF ALLOCATION; AND (II) LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, Walter Saraceni, hereby declare under penalty of perjury as follows:

1. I am the Administrator for the Trustees of Plumbers Local Union No.1 Welfare Fund ("NY Plumbers"), one of the named Plaintiffs and Class Representatives in this class action (the "Action").¹ I submit this declaration in support of (i) Plaintiffs' motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. NY Plumbers is a multi-employer welfare benefit plan within the meaning of ERISA, 29 U.S.C. §§ 1002(1), (3), and 1003(a), which provides prescription-drug, hospital, major-medical, dental, and optical benefits to eligible participants and their beneficiaries. NY Plumbers'

¹ Unless otherwise defined in this Declaration, all capitalized terms have the meanings set out in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the "Valeant Stipulation") or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the "Philidor Defendants Stipulation").

office is located at 50-02 Fifth Street, 2nd Floor, Long Island City, New York 11101. Throughout the Class Period, NY Plumbers paid or reimbursed eligible NY Plumbers participants' prescription-drug benefits for Valeant drugs purchased through the Philidor Network Pharmacies and was injured as a result.

I. NY Plumbers' Oversight of the Action

3. I am aware of and understand the requirements and responsibilities of a class representative in a class action.

4. NY Plumbers, through my active and continuous involvement, closely supervised, carefully monitored, and was actively involved in all material aspects of the prosecution and resolution of the Action. NY Plumbers received periodic status reports from co-Lead Counsel Bernstein Litowitz Berger & Grossmann LLP ("BLB&G") on case developments and participated in regular discussions with attorneys from BLB&G concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. Throughout the course of this Action, I and other employees at NY Plumbers devoted a substantial amount of time to the prosecution of the Action, including: (a) discussing with BLB&G and NY Plumbers' outside counsel, Kauff McGuire & Margolis LLP and O'Donoghue & O'Donoghue LLP, the decision to become involved in the litigation and serve as a Plaintiff in the Action; (b) communicating with BLB&G, Kauff McGuire & Margolis LLP, and O'Donoghue & O'Donoghue LLP by email and telephone calls regarding the posture and progress of the case; (c) reviewing all significant pleadings and briefs filed in the Action; (d) searching for and collecting relevant documents to respond to Defendants' document requests; (e) participating in the settlement process and consulting with BLB&G concerning the settlement negotiations as they progressed; and (f) evaluating and approving the proposed Settlement.

II. NY Plumbers Strongly Endorses Approval of the Settlement

5. Based on its involvement throughout the prosecution and resolution of the claims asserted in the Action, NY Plumbers believes that the proposed Settlement is fair, reasonable, and adequate to the Settlement Class. NY Plumbers believes that the Settlement represents a favorable recovery for the Settlement Class, particularly in light of the substantial risks of continuing to prosecute the claims in this case and in recovering a judgment larger than the proposed Settlement. Therefore, NY Plumbers strongly endorses approval of the Settlement by the Court.

III. NY Plumbers Supports Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses

6. While it is understood that the ultimate determination of Lead Counsel's request for attorneys' fees and expenses rests with the Court, NY Plumbers believes that Lead Counsel's request for an award of attorneys' fees in the amount of 30% of the Settlement Fund is fair and reasonable in light of the result achieved in the Action, the risks undertaken, and the quality of the work performed by Plaintiffs' Counsel on behalf of Plaintiffs and the Settlement Class. The fee requested is consistent with the fee that could be sought pursuant to a retainer agreement entered into between NY Plumbers and BLB&G at the outset of the litigation. After the agreement to settle the Action was reached, NY Plumbers again evaluated the fee request by considering the recovery obtained for the Settlement Class in this Action, the risks of the Action, and its observations of the high-quality work performed by Plaintiffs' Counsel throughout the litigation, and has authorized this fee request to the Court for its ultimate determination.

7. NY Plumbers further believes that Plaintiffs' Counsel's Litigation Expenses are reasonable and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action. Based on the foregoing, and consistent with its obligation to the class to

obtain the best result at the most efficient cost, NY Plumbers fully supports Lead Counsel’s motion for attorneys’ fees and Litigation Expenses.

8. NY Plumbers understands that a person or entity which serves as class representative in a class action may apply for an “incentive award” or “case contribution award” to reflect the substantial time and effort that the class representative has devoted to the action.

9. As discussed above, I and other employees at NY Plumbers spent a substantial amount of time—dozens, if not hundreds of hours—to the Action, including communicating extensively with counsel, reviewing status reports, reviewing significant pleadings and briefs, searching for relevant documents, and participating in the settlement negotiations. The time that I and other employees of NY Plumbers devoted to the representation of the Settlement Class in this Action was time that we otherwise would have expected to spend on other work for NY Plumbers and, thus, represented a cost to NY Plumbers. NY Plumbers seeks a case contribution award of \$20,000 in recognition of the substantial time and effort it devoted to the Action and to provide an incentive for class representatives in similar cases to undertake such efforts.

IV. Conclusion

10. In conclusion, NY Plumbers, one of the named Plaintiffs and a Class Representative for the Settlement Class, which was closely involved throughout the prosecution and settlement of the Action, strongly endorses the Settlement as fair, reasonable, and adequate, and believes it represents a favorable recovery for the Settlement Class in light of the risks of continued litigation. NY Plumbers further supports Lead Counsel’s motion for attorneys’ fees and Litigation Expenses and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Settlement Class, the substantial work conducted, and the litigation risks. And finally, NY Plumbers requests a total case contribution award, including reimbursement for its

expenses, of \$20,000. Accordingly, NY Plumbers respectfully requests that the Court approve
(i) Plaintiffs' motion for final approval of the proposed Settlement and Plan of Allocation; and
(ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses.

I declare under penalty of perjury that the foregoing is true and correct, and that I have
authority to execute this Declaration on behalf of NY Plumbers.

Executed this 28th day of October, 2021.



Walter Saraceni
Administrator for the Trustees
Plumbers Local Union No.1 Welfare Fund

#3059512

Exhibit 4

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF CARMINE D. RUSSO, EXECUTIVE DIRECTOR OF THE
DETECTIVES ENDOWMENT ASSOCIATION OF NEW YORK CITY, IN SUPPORT
OF: (I) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT AND
PLAN OF ALLOCATION; AND (II) LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, Carmine D. Russo, hereby declare under penalty of perjury as follows:

1. I am the Executive Director of the Detectives Endowment Association of New York City (the "DEA"), one of the named Plaintiffs and Class Representatives in this class action (the "Action").¹ I submit this declaration in support of (i) Plaintiffs' motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. The DEA is the second largest labor union representing police officers of the New York City Police Department. The DEA was founded in 1917 to represent active and retired detectives of the New York City Police Department. The DEA represents 5,500 active and over 12,400 retired New York City Police Detectives. The DEA has its principal place of business at

¹ Unless otherwise defined in this Declaration, all capitalized terms have the meanings set out in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the "Valeant Stipulation") or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the "Philidor Defendants Stipulation").

26 Thomas Street, New York, New York 10007. Throughout the Class Period, the DEA paid or reimbursed eligible DEA participants' prescription-drug benefits for Valcant drugs purchased through the Philidor Network Pharmacies and was injured as a result.

I. The DEA's Oversight of the Action

3. I am aware of and understand the requirements and responsibilities of a class representative in a class action.

4. The DEA, through my active and continuous involvement, closely supervised, carefully monitored, and was actively involved in all material aspects of the prosecution and resolution of the Action. The DEA received periodic status reports from its counsel Barrack, Rodos & Bacine ("Barrack Rodos") on case developments and participated in regular discussions with attorneys from Barrack Rodos concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. Throughout the course of this Action, I and other employees at the DEA devoted a substantial amount of time to the prosecution of the Action, including: (a) discussing with Barrack Rodos the decision to become involved in the litigation and serve as a Plaintiff in the Action; (b) communicating with Barrack Rodos by email and telephone calls regarding the posture and progress of the case; (c) reviewing all significant pleadings and briefs filed in the Action; (d) searching for and collecting relevant documents to respond to Defendants' document requests; (e) participating in the settlement process and consulting with Barrack Rodos concerning the settlement negotiations as they progressed; and (f) evaluating and approving the proposed Settlement.

II. The DEA Strongly Endorses Approval of the Settlement

5. Based on its involvement throughout the prosecution and resolution of the claims asserted in the Action, the DEA believes that the proposed Settlement is fair, reasonable, and adequate to the Settlement Class. The DEA believes that the Settlement represents a favorable

recovery for the Settlement Class, particularly in light of the substantial risks of continuing to prosecute the claims in this case and in recovering a judgment larger than the proposed Settlement. Therefore, the DEA strongly endorses approval of the Settlement by the Court.

III. The DEA Supports Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses

6. While it is understood that the ultimate determination of Lead Counsel's request for attorneys' fees and expenses rests with the Court, the DEA believes that Lead Counsel's request for an award of attorneys' fees in the amount of 30% of the Settlement Fund is fair and reasonable in light of the result achieved in the Action, the risks undertaken, and the quality of the work performed by Plaintiffs' Counsel on behalf of Plaintiffs and the Settlement Class.

7. The DEA further believes that Plaintiffs' Counsel's Litigation Expenses are reasonable and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action. Based on the foregoing, and consistent with its obligation to the class to obtain the best result at the most efficient cost, the DEA fully supports Lead Counsel's motion for attorneys' fees and Litigation Expenses.

8. The DEA understands that a person or entity which serves as class representative in a class action may apply for an "incentive award" or "case contribution award" to reflect the substantial time and effort that the class representative has devoted to the action.

9. As discussed above, I and other employees at the DEA spent a substantial amount of time to the Action, including communicating extensively with counsel, reviewing status reports, reviewing significant pleadings and briefs, searching for relevant documents, and participating in the settlement negotiations. The time that I and other employees of the DEA devoted to the representation of the Settlement Class in this Action was time that we otherwise would have expected to spend on other work for DEA and, thus, represented a cost to the DEA. The DEA

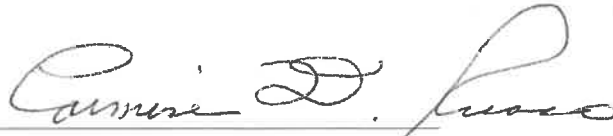
seeks a case contribution award of \$20,000 in recognition of the substantial time and effort it devoted to the Action and to provide an incentive for class representatives in similar cases to undertake such efforts.

IV. Conclusion

10. In conclusion, the DEA, one of the named Plaintiffs and a Class Representative for the Settlement Class, which was closely involved throughout the prosecution and settlement of the Action, strongly endorses the Settlement as fair, reasonable, and adequate, and believes it represents a favorable recovery for the Settlement Class in light of the risks of continued litigation. The DEA further supports Lead Counsel's motion for attorneys' fees and Litigation Expenses and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Settlement Class, the substantial work conducted, and the litigation risks. And finally, DEA requests a case contribution award of \$20,000. Accordingly, the DEA respectfully requests that the Court approve (i) Plaintiffs' motion for final approval of the proposed Settlement and Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses.

I declare under penalty of perjury that the foregoing is true and correct, and that I have authority to execute this Declaration on behalf of the DEA.

Executed this 21th day of October, 2021.



Carmine D. Russo
Executive Director
Detectives Endowment Association of New York City

Exhibit 5

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF JOHN HEIM, CHIEF FINANCIAL OFFICER OF
THE NEW YORK HOTEL TRADES COUNCIL & HOTEL ASSOCIATION OF NEW
YORK CITY, INC. HEALTH BENEFITS FUND, IN SUPPORT OF:
(I) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF SETTLEMENT
AND PLAN OF ALLOCATION; AND (II) LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, John Heim, hereby declare under penalty of perjury as follows:

1. I am the Chief Financial Officer of the New York Hotel Trades Council & Hotel Association of New York City, Inc. Health Benefits Fund ("NYHTC"), one of the named Plaintiffs and Class Representatives in this class action (the "Action").¹ I submit this declaration in support of (i) Plaintiffs' motion for final approval of the proposed Settlement and approval of the proposed Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses. I have personal knowledge of the matters set forth in this Declaration and, if called upon, I could and would testify competently thereto.

2. NYHTC is a jointly trusteed employee benefits fund that operates for the benefit of active and retired unionized hotel workers in the New York metropolitan area. NYHTC is a multi-employer welfare benefit plan within the meaning of ERISA, 29 U.S.C. §§ 1002(1), (3), and

¹ Unless otherwise defined in this Declaration, all capitalized terms have the meanings set out in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the "Valeant Stipulation") or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the "Philidor Defendants Stipulation").

1003(a), which provides prescription-drug, hospital, major-medical, dental, and optical benefits to eligible participants and their beneficiaries. NYHTC has its principal place of business at 305 West 44th Street, New York, New York 10036. Throughout the Class Period, NYHTC paid or reimbursed eligible NYHTC participants' prescription-drug benefits for Valeant drugs purchased through the Philidor Network Pharmacies and was injured as a result.

I. NYHTC's Oversight of the Action

3. I am aware of and understand the requirements and responsibilities of a class representative in a class action.

4. NYHTC, through my active and continuous involvement and that of my processors and other staff, closely supervised, carefully monitored, and was actively involved in all material aspects of the prosecution and resolution of the Action. NYHTC received periodic status reports from its counsel Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein") on case developments and participated in regular discussions with attorneys from Cohen Milstein concerning the prosecution of the Action, the strengths of and risks to the claims, and potential settlement. Throughout the course of this Action, I and other employees at NYHTC devoted a substantial amount of time to the prosecution of the Action, including: (a) discussing with Cohen Milstein the decision to become involved in the litigation and serve as a Plaintiff in the Action; (b) communicating with Cohen Milstein by email and telephone calls regarding the posture and progress of the case; (c) reviewing all significant pleadings and briefs filed in the Action; (d) searching for and collecting relevant documents to respond to Defendants' document requests; (e) participating in the settlement process and consulting with Cohen Milstein concerning the settlement negotiations as they progressed; and (f) evaluating and approving the proposed Settlement.

II. NYHTC Strongly Endorses Approval of the Settlement

5. Based on its involvement throughout the prosecution and resolution of the claims asserted in the Action, NYHTC believes that the proposed Settlement is fair, reasonable, and adequate to the Settlement Class. NYHTC believes that the Settlement represents a favorable recovery for the Settlement Class, particularly in light of the substantial risks of continuing to prosecute the claims in this case and in recovering a judgment larger than the proposed Settlement. Therefore, NYHTC strongly endorses approval of the Settlement by the Court.

III. NYHTC Supports Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses

6. While it is understood that the ultimate determination of Lead Counsel's request for attorneys' fees and expenses rests with the Court, NYHTC believes that Lead Counsel's request for an award of attorneys' fees in the amount of 30% of the Settlement Fund is fair and reasonable in light of the result achieved in the Action, the risks undertaken, and the quality of the work performed by Plaintiffs' Counsel on behalf of Plaintiffs and the Settlement Class. Lead Counsel's request for an award of attorneys' fees is consistent with the terms of a retainer agreement entered into between NYHTC and Cohen Milstein at the outset of the litigation. NYHTC has evaluated the fee request by considering the recovery obtained for the Settlement Class in this Action, the risks of the Action, and its observations of the high-quality work performed by Plaintiffs' Counsel throughout the litigation, and has authorized this fee request to the Court for its ultimate determination.

7. NYHTC further believes that Plaintiffs' Counsel's Litigation Expenses are reasonable and represent costs and expenses necessary for the prosecution and resolution of the claims in the Action. Based on the foregoing, and consistent with its obligation to the class to

obtain the best result at the most efficient cost, NYHTC fully supports Lead Counsel's motion for attorneys' fees and Litigation Expenses.

8. NYHTC understands that a person or entity which serves as class representative in a class action may apply for an "incentive award" or "case contribution award" to reflect the substantial time and effort that the class representative has devoted to the action.

9. As discussed above, I and other employees at NYHTC devoted a substantial amount of time to the Action, including communicating extensively with counsel, reviewing status reports, reviewing significant pleadings and briefs, searching for relevant documents, and participating in the settlement negotiations. The time that I and other employees of NYHTC devoted to the representation of the Settlement Class in this Action was time that we otherwise would have expected to spend on other work for NYHTC and, thus, represented a cost to NYHTC. NYHTC seeks a case contribution award of \$20,000 in recognition of the substantial time and effort it devoted to the Action and to provide an incentive for class representatives in similar cases to undertake such efforts.

IV. Conclusion

10. In conclusion, NYHTC, one of the named Plaintiffs and a Class Representative for the Settlement Class, which was closely involved throughout the prosecution and settlement of the Action, strongly endorses the Settlement as fair, reasonable, and adequate, and believes it represents a favorable recovery for the Settlement Class in light of the risks of continued litigation. NYHTC further supports Lead Counsel's motion for attorneys' fees and Litigation Expenses and believes that it represents fair and reasonable compensation for counsel in light of the recovery obtained for the Settlement Class, the substantial work conducted, and the litigation risks. And finally, NYHTC requests a case contribution award of \$20,000. Accordingly, NYHTC respectfully

requests that the Court approve (i) Plaintiffs' motion for final approval of the proposed Settlement and Plan of Allocation; and (ii) Lead Counsel's motion for attorneys' fees and Litigation Expenses.

I declare under penalty of perjury that the foregoing is true and correct, and that I have authority to execute this Declaration on behalf of NYHTC.

Executed this 21 day of October, 2021.



John Heim
Chief Financial Officer
New York Hotel Trades Council & Hotel
Association of New York City, Inc. Health
Benefits Fund

#3059502

Exhibit 6

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087(MAS)(LHG)

**DECLARATION OF ERIC J. MILLER REGARDING:
(A) MAILING OF THE NOTICE AND CLAIM FORM;
(B) PUBLICATION OF THE SUMMARY NOTICE; AND
(C) REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE**

I, ERIC J. MILLER, declare as follows:

1. I am a Senior Vice President of A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”), whose Corporate Office is located in Milwaukee, Wisconsin. Pursuant to the Court’s Order Preliminary Approving Settlement and Providing For Notice dated August 17, 2021 (ECF No. 197) (the “Valeant Preliminary Approval Order”) and the Order Preliminary Approving Settlement and Providing For Notice dated August 17, 2021 (ECF No. 196) (the “Philidor Defendants Preliminary Approval Order” and collectively with the Valeant Preliminary Approval Order, the “Preliminary Approval Orders”), A.B. Data was authorized to act as the Claims Administrator in connection with the Settlements of the above-captioned action (the “Action”).¹ I am over 21 years of age and am not a party to the Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

¹ Unless otherwise defined herein, all capitalized terms have the meanings set forth in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc. dated August 4, 2021 (ECF No. 194-2) (the “Valeant Stipulation”) and the Stipulation and Agreement of Settlement with the Philidor Defendants dated August 4, 2021 (ECF No. 195-2) (the “Philidor Defendants Stipulation”).

DISSEMINATION OF THE NOTICE PACKET

2. Pursuant to the Preliminary Approval Orders, A.B. Data mailed the Notice of (I) Pendency of Class Action and Proposed Settlements; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys' Fees and Litigation Expenses (the "Notice") and the Proof of Claim Form (the "Claim Form" and, collectively with the Notice, the "Notice Packet") to potential Settlement Class Members. A copy of the Notice Packet is attached hereto as Exhibit A.

3. A.B. Data established a mailing list of 41,424 potential members of the Settlement Class by identifying third-party payors ("TPPs") and their representatives (the "TPP Mailing List"). The TPP Mailing List was compiled using information from U.S. Department of Labor Form 5500 filings, the Pharmacy Benefits Management Institute, and prior pharmaceutical litigations that A.B. Data has administered.

4. On September 8, 2021, A.B. Data caused Notice Packets to be sent by First-Class Mail to the 41,424 entities included in the TPP Mailing List.

5. In addition, A.B. Data sent 1,211 emails to TPPs and their representatives where email addresses were available.

PUBLICATION NOTICE

6. In accordance with Paragraph 7(c) of the Preliminary Approval Orders, beginning on September 22, 2021, A.B. Data effectuated further notice efforts as summarized in the Notice Plan including a 30-day digital banner ad campaign on the following websites: ThinkAdvisor.com/life-heath; BenefitNews.com; and SHRM.org. When clicked, the banners directed potential members of the Settlement Class to the settlement website. A sample of the banner ads is attached hereto as Exhibit B.

7. In accordance with Paragraph 7(d) of the Preliminary Approval Orders, A.B. Data caused the Summary Notice to be released via *PR Newswire* on September 22, 2021. Copies of proof of publication of the Summary Notice over *PR Newswire* is attached hereto as Exhibit C.

TELEPHONE HELPLINE

8. On September 8, 2021, A.B. Data established a case-specific, toll-free telephone helpline, 1-877-888-6363, with an interactive voice response system and live operators, to accommodate potential Settlement Class Members with questions about the Action and the Settlements. The automated attendant answers the calls and presents callers with a series of choices to respond to basic questions. Callers requiring further help have the option to be transferred to a live operator during business hours. A.B. Data continues to maintain the telephone helpline and will update the interactive voice response system as necessary through the administration of the Settlements.

WEBSITE

9. On September 8, 2021, A.B. Data established a website dedicated to the Settlement, www.ValeantTPPSettlement.com, to assist potential Settlement Class Members. The website includes information regarding the Action and the proposed Settlements, including the exclusion, objection, and claim filing deadlines, and the date, time, and location of the Court's Settlement Hearing. Copies of the Notice, Claim Form, Valeant Stipulation, Philidor Defendants Stipulation, Preliminary Approval Orders, and Complaint are posted on the website and are available for downloading. In addition, the website provides Settlement Class Members with the ability to submit their Claim Form through the website. The website is accessible 24 hours a day, 7 days a week. A.B. Data will update the website as necessary through the administration of the Settlements.

REPORT ON REQUESTS FOR EXCLUSION RECEIVED TO DATE

10. The Notice informs potential Settlement Class Members that requests for exclusion from the Settlement Class are to be sent to the Claims Administrator, such that they are received no later than November 11, 2021. The Notice also sets forth the information that must be included in each request for exclusion. As of October 27, 2021, A.B. Data has received zero (0) requests for exclusion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 27th day of October 2021, at Palm Beach Gardens, FL.



ERIC J. MILLER

EXHIBIT A

United States District Court for the District of New Jersey

If you are a Third-Party Payor and made payments or reimbursements for Valeant-branded drugs fulfilled through Philidor from January 2, 2013 through November 9, 2015, you may be eligible for a payment from a class action settlement.

This Notice is being provided by Order of the U.S. District Court for the District of New Jersey. It is not a solicitation from a lawyer. You are not being sued.

- Two proposed settlements have been proposed in a class action lawsuit brought on behalf of Third-Party Payors (“TPPs”) who paid or incurred costs for Valeant-branded drugs from January 2, 2013 through November 9, 2015 (the “Class Period”) that were purchased from Philidor Rx Services, LLC (“Philidor”) or any pharmacy in which Philidor had a direct or indirect ownership interest.
- The lawsuit, *In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation*, Civil Action No. 16-3087-(MAS)(LHG), is pending in the United States District Court for the District of New Jersey (the “Court”).
- The lawsuit claims that Valeant Pharmaceuticals International, Inc. (“Valeant”), Philidor, and the other Defendants (*see* Question 2 on page 2) violated the Racketeer Influenced and Corrupt Organizations (“RICO”) Act by causing Third-Party Payors to pay artificially inflated prices for Valeant drugs as a result of a fraudulent scheme in which Valeant secretly controlled a captive pharmacy network through Philidor.
- The proposed settlements provide a total cash payment of **\$23.125 million**. Plaintiffs have reached a proposed settlement with Valeant for \$23 million (the “Valeant Settlement”) and a proposed settlement with Philidor, Andrew Davenport, and the Estate of Matthew S. Davenport for \$125,000 (the “Philidor Defendants Settlement” and, with the Valeant Settlement, the “Settlements”).
- The combined Settlement Amounts, plus interest earned, are known as the “Settlement Funds.” The Net Settlement Funds (*i.e.*, the Settlement Funds less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses and service awards for Plaintiffs awarded by the Court; (iv) any attorneys’ fees awarded by the Court; and (v) any other costs or fees approved by the Court) will be distributed to eligible claimants in accordance with a plan of allocation to be approved by the Court.¹

¹ All capitalized terms not defined in this Notice shall have the meanings set forth in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (“Valeant Stipulation”), or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (“Philidor Defendants Stipulation”), which are available at www.ValeantTPPSettlement.com.

A Summary of Your Rights and Options:
Your Legal Rights Are Affected Even If You Do Not Act.
Read This Notice Carefully.

You May:	Brief Explanation:	Due Date:
File a Claim	Submit a Claim Form This is the only way you will receive any payment from the Settlements. <i>See Question 7.</i>	Postmarked (if mailed) or filed online by January 6, 2022
Exclude Yourself	Get out of the Settlements You may exclude yourself from the Settlement Class and keep your right to sue at your own expense. If you exclude yourself, you will not receive any payment from the Settlements. <i>See Question 12.</i>	Received by November 11, 2021
Object to the Settlements	Object or comment on the Settlements If you do not exclude yourself, you may object to or comment on one or both of the Settlements, the proposed Plan of Allocation, or the request for attorneys' fees and Litigation Expenses. <i>See Question 14.</i>	Received by November 11, 2021
Do Nothing	You are automatically part of the class action if you fit the definition of the Settlement Class below. However, if you do not file a claim by January 6, 2022, you will not receive any payment from the Settlements. <i>See Question 9.</i>	N/A

THESE RIGHTS AND OPTIONS
— AND THE DEADLINES TO EXERCISE THEM —
ARE EXPLAINED IN THIS NOTICE.

1. Why did I receive this Notice? What is this Notice about?

You received this Notice because you requested it or because records indicate that you are a Third-Party Payor who may have paid or incurred costs for Valeant-branded drugs from January 2, 2013 through November 9, 2015, purchased from Philidor or a Philidor Network Pharmacy (see list below). You may be entitled to money as part of the Settlements proposed to resolve this Action. You are not being sued.

This Notice explains:

- What the Action and the Settlements are about.
- Who is affected by the Settlements.
- Who represents you and the Settlement Class in the Action.
- What your legal rights and choices are.
- How and by when you need to act.

2. Who are the Defendants?

The Defendants (the companies and individuals that the lawsuit is being brought against) are Valeant Pharmaceuticals International, Inc. ("Valeant"); Philidor Rx Services, LLC ("Philidor"), Andrew Davenport, and the Estate of Matthew S. Davenport.

3. What is the Action about?

The Action alleges that Defendants violated the RICO Act by causing Plaintiffs² and other Third-Party Payors to pay for Valeant drugs that should never have been delivered and to pay artificially inflated prices for Valeant drugs through Valeant's secret captive pharmacy network, which was controlled by Philidor. The Action alleges that Valeant concealed its effective ownership and control of Philidor and that Defendants used the Philidor pharmacy network to inflate the price of Valeant drugs.

Defendants deny any wrongdoing and liability. They agreed to the Settlement to resolve the controversy and to avoid the burden and expense of further litigation.

4. Who is a member of the Settlement Class? Who is eligible under the Settlements?

The Settlement Class includes:

all health insurance companies, health maintenance organizations, self-funded health and welfare benefit plans, other Third-Party Payors, and any other health benefit provider in the United States of America or its territories, that paid or incurred costs for Valeant's branded drug products in connection with a claim submitted by Philidor, a claim submitted by any pharmacy in which Philidor had a direct or indirect ownership interest, or a claim by any pharmacy for which the amount sought for reimbursement was alleged to be inflated as a result of Defendants' allegedly fraudulent scheme, during the period from January 2, 2013 through November 9, 2015 (the "Class Period"), and allegedly suffered damages thereby.

A Third-Party Payor (or "TPP") is an entity in the United States of America or its territories that was (i) a party to a contract, issuer of a policy, or sponsor of a plan; and (ii) at risk, under such contract, policy, or plan, to pay or reimburse all or part of the cost of prescription drugs dispensed to covered natural persons. TPPs include insurance companies, union health and welfare benefit plans, and self-insured employers. Entities with self-funded plans that contract with a health insurance company or other entity to serve as a third-party claims administrator to administer their prescription drug benefits qualify as TPPs. Private plans that cover government employees and/or retirees are also included.

Excluded from the Settlement Class are Pharmacy Benefit Managers³, Defendants, Defendants' successors and assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the Settlement Class are any entities that submit a Request for Exclusion that is accepted by the Court. *See* Question 12 below.

To be a member of the Settlement Class, you must have paid or incurred costs for a Valeant-branded drug that was purchased from or fulfilled by Philidor or a pharmacy in which Philidor had a direct or indirect ownership interest (a "Philidor Network Pharmacy"). The list of **Philidor Network Pharmacies** is:

- Cambria Pharmacy
- D&A Pharmacy
- Heritage Compounding Pharmacy
- Orbit Pharmacy
- Parkwest Pharmacy
- Philidor Rx Services, LLC
- Prescription Shoppe
- R&O Pharmacy
- Safe Rx Pharmacy
- West Wilshire Pharmacy

² "Plaintiffs or "Class Representatives" are Air Conditioning and Refrigeration Industry Health and Welfare Trust Fund, Fire and Police Health Care Fund, San Antonio, Plumbers Local Union No. 1 Welfare Fund, New York Hotel Trades Council & Hotel Association of New York City, Inc. Health Benefits Fund, and the Detectives Endowment Association of New York City.

³ "Pharmacy Benefit Managers" means pharmacy benefit managers and comparable entities such as third-party administrators and administrative service organizations that contract with Third-Party Payors to perform administrative and/or management services in connection with the Third-Party Payors' purchase of prescription drugs.

The Valeant-branded drugs that were affected by the alleged wrongdoing in this Action include:

- Addyi
- Aldara
- Atralin
- Carac
- Cuprimine
- Edecrin
- Glumetza
- Jublia
- Lodosyn
- Loprox
- Luzu
- Mephyton
- Migranal Nasal Spray (dihydroergotamine mesylate)
- Noritate
- Retin-A Micro
- Solodyn
- Syprine
- Targretin
- Tretinoin
- Vanos
- Wellbutrin
- Xerese
- Ziana

If you are a TPP and you paid or reimbursed costs from January 2, 2013 through November 9, 2015, for a Valeant-branded drug that was purchased from or fulfilled by Philidor or a Philidor Network Pharmacy, you are a member of the Settlement Class and are eligible to participate in the Settlement.

5. What do the proposed Settlements provide?

The Valeant Settlement provides that Valeant will pay \$23,000,000.00 into a Settlement Fund for the benefit of the Settlement Class, and the Philidor Defendants Settlement provides that Philidor, Andrew Davenport, and the Estate of Matthew S. Davenport will pay \$125,000.00 into a Settlement Fund for the benefit of the Settlement Class. Both Settlements are subject to approval by the Court. In addition, the effectiveness of the Philidor Defendants Settlement is contingent upon final approval of the Valeant Settlement.

Each of the Settlements provides a release of all claims by members of the Settlement Class. This means that if you remain in the Settlement Class you cannot sue the Defendants in another lawsuit relating to the claims in this lawsuit. The full release language is found in the Claim Form included in this Notice package. Attorneys' fees, Litigation Expenses, any service awards to Plaintiffs, and Notice and Administration Costs, as approved by the Court, will be paid from the Settlement Funds before distribution to Settlement Class Members.

Class Counsel conducted a thorough investigation of the law and facts in the Action. The Action was litigated for several years, including through discovery resulting in production and review of 4 million pages of documents and 39 depositions. The Settlement is a result of arm's-length negotiations among the parties. Class Counsel compared the benefits of the Settlements to the risks of going to trial and concluded that the Settlements are fair, reasonable, adequate, and in the best interests of the Settlement Class.

Complete details of the Settlements are found in the Valeant Stipulation and the Philidor Defendants Stipulation, which are available at www.ValeantTPPSettlement.com.

6. How do I know if I am included in the Settlements being proposed?

You are automatically included in the Settlements if you meet the definition of the Settlement Class above.

If you do not want to be included, you must exclude yourself. Details on how to exclude yourself are found in the answer to Question 12.

7. What do I need to do to get a payment?

To receive payment from the Settlements, you must submit a valid Claim Form either online at www.ValeantTPPSettlement.com by **January 6, 2022**, or by mail, postmarked by **January 6, 2022**, to the Claims Administrator at the following address:

**Valeant TPP Settlements
c/o A.B. Data, Ltd.
P.O. Box 173052
Milwaukee, WI 53217**

A Claim Form is included with this Notice. *The Claim Form provides complete instructions for submitting a valid claim.*

8. How are payments determined?

At this time, it is not possible to make any determination as to how much any individual Settlement Class Member may receive from the Settlements. Under the two Settlements, Defendants shall pay or cause to be paid a total of \$23,125,000 in cash. The Net Settlement Funds, after deduction of attorneys' fees, Litigation Expenses, service awards to Plaintiffs, Taxes, and Notice and Administration Costs, as awarded or allowed by the Court, will be distributed in accordance with a plan of allocation to be approved by the Court.

Under Plaintiffs' proposed Plan of Allocation, the Net Settlement Funds will be distributed on a *pro rata* basis to Settlement Class Members who submit valid Claim Forms based on the amount that each Claimant paid for Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy (as defined in the Notice) during the Class Period, in proportion to the total amount that all eligible Claimants paid for Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy during the Class Period. The Plan of Allocation is set forth in Appendix A at the end of this Notice.

9. What happens if I do nothing?

If you are a member of the Settlement Class and you do nothing, you will be bound by the Settlement. However, to receive any money from the Settlements you must submit a valid Claim Form filed or postmarked (if mailed) by **January 6, 2022**, to the Claims Administrator. For details on how to exclude yourself ("opt out") from the Settlement Class, *see* Question 12.

10. If I remain in the Settlement Class, what claims am I settling?

If the Court approves the Settlements, the Action will be dismissed and you and all members of the Settlement Class may not sue the Defendants for the same claims. You and all members of the Settlement Class will release all claims concerning the conduct challenged in this lawsuit. The full texts of the releases are set forth in the Claim Form, which is included in this Notice package.

11. What if I don't want to be in the Settlement Class?

If you decide to exclude yourself from the Settlement Class, you will be free to sue Defendants on your own for their conduct alleged in this Action. However, you will not receive any money from the Settlements, and you will no longer be represented by Class Counsel. If you want to receive money from the Settlements, do not exclude yourself.

12. How do I exclude myself from the Settlement Class?

You can exclude yourself from the Settlement Class by sending a written "Request for Exclusion" to the Claims Administrator so that it is *received* by **November 11, 2021**. Your written request must:

- state the name, address, and telephone number of the person or entity requesting exclusion, and in the case of entities, the name and telephone number of the appropriate contact person;
- state that such person or entity "requests exclusion from the Settlement Class in *In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation*, Civil Action No. 16-3087-(MAS)(LHG) (D.N.J.)";

- state the total dollar amount that the person or entity requesting exclusion paid or incurred to purchase or reimburse purchases of Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy from January 2, 2013 through November 9, 2015; and
- be signed by the person or entity requesting exclusion or an authorized representative.

Requests for Exclusion must be sent to the following address:

**Valeant TPP Settlements
EXCLUSIONS
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217**

Please note that that you cannot request exclusion with respect to only the Valeant Settlement or only the Philidor Defendants Settlement. If you request exclusion from the Settlement Class, you will be excluded from participation in both Settlements.

Valeant has the right to terminate the Valeant Settlement if valid Requests for Exclusion are received from persons and entities entitled to be members of the Settlement Class in an amount that exceeds an amount agreed to by Plaintiffs and Valeant.

13. May I object to the Settlements?

Yes. If you are a member of the Settlement Class and you have not requested exclusion from the Settlement Class, you may object to any aspect of the Settlements, including their fairness, reasonableness, or adequacy, the proposed Plan of Allocation, or Class Counsel's motion for attorneys' fees and expenses.

14. How do I object to the Settlements?

To object to one or both of the Settlements, the proposed Plan of Allocation, or the request for attorneys' fees and expenses, you (or your lawyer if you have one) must file an objection with the Clerk of the Court, United States District Court for the District of New Jersey, Clarkson S. Fisher Building & U.S. Courthouse, 402 E. State St., Trenton, NJ 08608. This must be **received by November 11, 2021**. Your objection must contain the following information:

- The case name and number, *In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation*, Civil Action No. 16-3087-(MAS)(LHG);
- The name, address, and telephone number of the person or entity objecting, and if represented by counsel, the name, address, and telephone number of such counsel, and must be signed by the objector or an authorized representative;
- The objection, including any supporting papers, which must state with specificity the grounds for the objection, including any legal and evidentiary support the Settlement Class Member wishes to bring to the Court's attention and whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class;
- The objection must state the total dollar amount that the objecting Settlement Class Member paid or incurred to purchase or reimburse purchases of Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy from January 2, 2013 through November 9, 2015, and must provide supporting documentation establishing that the objector is a member of the Settlement Class; and
- The names and addresses of any witnesses to be presented at the Settlement Hearing, together with a statement as to the matters on which they wish to testify and a summary of the proposed testimony.
- The objection and any documentation that you file with the Court must also be mailed or delivered so that it is **received on or before November 11, 2021**, by the following:

<p>Class Counsel</p> <p>Bernstein Litowitz Berger & Grossmann LLP James A. Harrod, Esq. 1251 Avenue of the Americas New York, NY 10020</p>	<p>Valeant’s Counsel</p> <p>Simpson Thacher & Bartlett LLP Craig S. Waldman, Esq. 425 Lexington Avenue New York, NY 10017</p>
<p>Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. James E. Cecchi, Esq. 5 Becker Farm Road Roseland, NJ 07068</p>	<p>Philidor Defendants’ Counsel</p> <p>Ferrara Law Group, P.C. Ralph P. Ferrara, Esq. 1 Holtec Drive, Suite G102 Marlton, NJ 08053</p>

Settlement Class Members that wish to object must also email their objection and any supporting papers, on or before November 11, 2021, to settlements@blbglaw.com, jcecchi@carellabyrne.com, cwaldman@stblaw.com, and ralph@ferraralawgp.com.

Objections filed with the Court *after November 11, 2021* will *not* be considered.

Any lawyer representing a Settlement Class Member for the purpose of making objections must also file a Notice of Appearance with the Clerk of the Court no later than **November 11, 2021**, and must also serve copies by mail to Counsel listed above.

15. What is the difference between objecting to the Settlements and excluding myself from the Settlement Class?

To object to one or both of the Settlements, you must remain a member of the Settlement Class. An objection allows your views on the Settlements to be heard in Court. You will be bound by the terms and conditions of the Settlements if they are approved, even if the Court rules against your objection.

When you exclude yourself, or opt out, you are no longer a member of the Settlement Class. You will not be subject to the terms and conditions of the Settlements, and you keep your right to sue the Defendants for the same claims in another lawsuit. However, you lose the right to object to the Settlements and you will not receive any payment from the Settlements.

16. Do I have a lawyer representing my interests in this Action?

Yes. The Court has appointed lawyers to represent you and other Settlement Class Members. These lawyers are called Class Counsel. You will not be charged individually for these lawyers. They will ask the Court to approve an award of fees and expenses to be paid from the Settlement Funds. The following law firms represent the Settlement Class:

<p>James A. Harrod, Esq. Bernstein Litowitz Berger & Grossmann LLP 1251 Avenue of the Americas New York, NY 10020</p>	<p>James E. Cecchi Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. 5 Becker Farm Road Roseland, NJ 07068</p>
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17. How will the lawyers be compensated?

Class Counsel will request an award from the Court for attorneys’ fees and expenses for all Plaintiffs’ Counsel⁴ in an amount not to exceed 30% of the Settlement Funds. Class Counsel will also apply for payment of Plaintiffs’ Counsel’s Litigation Expenses in an amount not to exceed \$750,000. Plaintiffs may also apply for service awards, including for reimbursement

⁴ Plaintiffs’ Counsel are Class Counsel (Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.); Barrack, Rodos & Bacine; and Cohen Milstein Sellers & Toll PLLC.

of their costs and expenses related to their representation of the Settlement Class, in a total amount not to exceed \$100,000. All awards for attorneys' fees, Litigation Expenses, and Plaintiffs' service awards shall be paid from the Settlement Funds if approved by the Court. Individual Settlement Class Members are not responsible for these costs.

18. Should I get my own lawyer?

You do not need to hire your own attorney, but if you hire an attorney to speak for you or appear in Court, your lawyer must file a Notice of Appearance (*see* Question 14 above). If you hire your own lawyer, you will have to pay for that lawyer on your own.

19. When and where will the Court decide whether to grant final approval of the Settlements?

The Court will hold a hearing to consider the final approval of the Settlements, called a "Settlement Hearing," on **December 2, 2021, at 10:00 a.m. Eastern**, either in person at Courtroom 1 of the United States District Court for the District of New Jersey, Clarkson S. Fisher Building & U.S. Courthouse, 402 E. State St., Trenton, NJ 08608, or by telephone or videoconference (in the discretion of the Court). The Court may reschedule the Settlement Hearing without further notice to the Settlement Class.

The purpose of the Settlement Hearing is to:

- Decide if the Action should be certified as a class action and if Plaintiffs should be approved as Class Representatives and Class Counsel should be approved as counsel for the Settlement Class;
- Decide if the Valeant Settlement is fair, reasonable, and adequate, and should be approved, and if a judgment as to Valeant should be entered;
- Decide if the Philidor Defendants Settlement is fair, reasonable, and adequate, and should be approved, and if a judgment as to the Philidor Defendants should be entered;
- Decide if the Plan of Allocation of the Settlement Funds should be approved;
- Consider Class Counsel's motion for attorneys' fees and Litigation Expenses, including any requests for service awards for the Plaintiffs who represented the Settlement Class;
- Consider all comments or objections on the Settlements; and
- Consider any other issues the Court thinks it is necessary to consider.

20. Do I have to attend the Settlement Hearing?

No. Attendance is not required, even if you mailed a written objection. Class Counsel are prepared to answer questions on your behalf. Settlement Class Members who filed and served a written objection, however, may attend the Settlement Hearing, in person or through an attorney hired at their own expense.

21. Can I speak at the Settlement Hearing?

Yes, anyone can attend the Settlement Hearing and watch. If you want to appear at the Settlement Hearing and object, in person or through an attorney hired at your own expense, you need to file and serve a written objection with the Court no later than **November 11, 2021**. *See* Question 14.

22. Where do I get more information?

This Notice contains a summary of relevant Court papers. Complete copies of public pleadings, Court rulings, and other filings are available for review and copying at the Clerk's office. The address is United States District Court for the District of New Jersey, Clarkson S. Fisher Building & U.S. Courthouse, 402 E. State St., Trenton, NJ 08608. You can also review relevant documents on the website specifically created to provide information about the Settlements, at www.ValeantTPPSettlement.com.

Additional information about the Action is available by:

Questions? Visit www.ValeantTPPSettlement.com or call 1-877-888-6363.

- Visiting the Settlement website at www.ValeantTPPSettlement.com
- Calling the Claims Administrator, toll-free: 1-877-888-6363
- Writing to:

Valeant TPP Settlements
c/o A.B. Data, Ltd.
P.O. Box 173052
Milwaukee, WI 53217

- Emailing: info@ValeantTPPSettlement.com

Please do not contact Valeant, the other Defendants, or the Court.

APPENDIX A

PROPOSED PLAN OF ALLOCATION

1. This Plan of Allocation will govern distributions from (a) the net proceeds of the \$23,000,000 settlement fund created by the August 4, 2021 Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc. (the “Valeant Net Settlement Fund”) and (b) the net proceeds of the \$125,000 settlement fund created by the August 4, 2021 Stipulation and Agreement of Settlement with the Philidor Defendants (the “Philidor Defendants Net Settlement Fund”). The Valeant Net Settlement Fund and the Philidor Defendants Net Settlement Fund are collectively referred to herein as the “Net Settlement Funds.”

2. The objective of the Plan of Allocation is to equitably distribute the Net Settlement Funds to those Settlement Class Members who suffered economic losses as a proximate result of the alleged violations of law asserted in the Amended Complaint. The calculations made pursuant to the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial. Nor are the calculations pursuant to the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlements. The computations under the Plan of Allocation are only a method to weigh the claims of Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Funds.

3. To receive a distribution under this Plan of Allocation, a person or entity must be a member of the Settlement Class and must submit a timely and valid Claim Form. Claimants who requested exclusion from the Settlement Class shall not receive any distributions pursuant to this Plan of Allocation.

4. The timeliness and validity of all Claims submitted by Settlement Class Members shall be determined by the Claims Administrator, subject to review by Class Counsel and approval by the Court. All determinations under this Plan of Allocation shall be made by the Claims Administrator, subject to review by Class Counsel and approval by the Court.

5. **Recognized Claim:** A Claimant’s “Recognized Claim” shall be calculated as 80% of the total dollars spent by the Settlement Class Member to pay or provide reimbursement for some or all of the purchase price of one or more Valeant-branded drugs that were purchased from or fulfilled by Philidor or a Philidor Network Pharmacy during the Class Period.

6. **Documentation Requirement:** All Claim Forms claiming a Recognized Claim of \$100,000 or more require Claim Documentation. In addition, Claim Forms below that threshold may be determined to require Claim Documentation by the Claims Administrator where the Claims Administrator disputes a material fact concerning the Claim Form. Absent acceptable Claim Documentation, the Claims Administrator may, in consultation with Class Counsel, deny all or part of a claim, or may cap payment of a claim at 80% of the amount claimed.

7. **“Claim Documentation”** means itemized receipts, cancelled checks, invoices, statements, or other business or transaction records documenting payment for purchases or reimbursement paid for Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy during the Class Period.

8. **Determination of Distribution Amount:** The Net Settlement Funds will be distributed to Authorized Claimants on a *pro rata* basis based on the relative size of their Recognized Claims. Specifically, a “Distribution Amount” will be

calculated for each Authorized Claimant, which shall be the Authorized Claimant's Recognized Claim divided by the total Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Funds.

9. If an Authorized Claimant's Distribution Amount calculates to less than \$100.00, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.

10. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies remain in the Net Settlement Fund after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determines that it is cost-effective to do so, the Claims Administrator, no less than seven (7) months after the initial distribution, will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$10.00 from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks and who would receive at least \$10.00 on such additional re-distributions may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determines that additional re-distributions, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions, would be cost-effective. At such time as it is determined that the re-distribution of funds remaining in the Net Settlement Funds is not cost-effective, the remaining balance will be contributed to one or more non-sectarian, not-for-profit, 501(c)(3) organization(s) to be determined by Class Counsel and approved by the Court.

11. Payment pursuant to the Plan of Allocation, or such other plan of allocation as may be approved by the Court, will be conclusive against all Claimants. No person or entity shall have any claim against Plaintiffs, Class Counsel, the Claims Administrator, or any other agent designated by Class Counsel, or Defendants' Releasees and/or their respective counsel, arising from distributions made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or any order of the Court. Plaintiffs and Defendants, and their respective counsel, and all other Releasees shall have no liability whatsoever for the investment or distribution of the Settlement Funds or the Net Settlement Funds, the plan of allocation, or the determination, administration, calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment or withholding of Taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

12. The Plan of Allocation set forth herein is the plan that is being proposed by Plaintiffs to the Court for its approval. The Court may approve this Plan as proposed or it may amend or modify the Plan of Allocation without further notice to the Class. Any Orders regarding any amendment or modification of the Plan of Allocation will be posted on www.ValeantTPPSettlement.com.

EXHIBIT B



Benefits



Viewpoint: Vaccination Accommodation—Is That Religious Request Sincere?

COMMUNICABLE DISEASES | HEALTH CARE BENEFITS



Consider Self-Funding Options When Renegotiating Health Benefits

HEALTH CARE COSTS | OPEN ENROLLMENT

ADVERTISEMENT

If You Made Payments or Reimbursements for VALEANT-BRANDED Drugs Fulfilled Through PHILIDOR

You May Be Eligible for a PAYMENT from a Class Action Settlement

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Recognition's Dark Past and Bright Future



SHRM Benefits Survey Finds Renewed Focus on Employee Well-Being

BENEFITS



Financial Wellness Could Be Key to Reducing Employee Turnover

EDUCATIONAL ASSISTANCE | RETIREMENT AND FINANCIAL PLANNING



Retirement

RETIREMENT

For one family, life insurance education was the missing link to financial stability

Almost 102 million Americans don't have life insurance, and most with coverage have far less than recommended.

By Amanda Schiavo

7h ago



RETIREMENT

Steps employers can take to help employees maximize their retirement

Anthony Bunnell, head of retirement for Morgan Stanley at Work, shared how to secure a financially sound retirement.

By Amanda Schiavo

September 16



If You Made Payments or Reimbursements for

VALEANT-BRANDED Drugs Fulfilled Through PHILIDOR

You May Be Eligible for a PAYMENT from a Class Action Settlement

[Learn More Here](#)

ValeantTPPSettlement.com

 An advertisement for a class action settlement. It features text about Valeant-branded drugs and a link to learn more. The background shows a spilled pill bottle.


EXHIBIT C

Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. Announce Proposed Settlements for Third-Party Payors That Purchased or Paid for Valeant-Branded Drugs

NEWS PROVIDED BY

Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. →
Sep 22, 2021, 14:00 ET

NEW YORK, Sept. 22, 2021 /PRNewswire/ --

Legal Notice

If you are a Third-Party Payor and made payments or reimbursements for Valeant-branded drugs fulfilled through Philidor from January 2, 2013 through November 9, 2015, **you may be eligible for payment from a class action settlement.**

Two settlements providing for a total cash payment of \$23.125 million have been proposed in a class action lawsuit brought on behalf of Third-Party Payors ("TPPs") who paid or incurred costs for Valeant-branded drugs from January 2, 2013 through November 9, 2015, that were purchased through Philidor Rx Services, LLC ("Philidor") or any pharmacy in which Philidor had a direct or indirect ownership interest.


The lawsuit, called *In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation*, Civil Action No. 16-3087-(MAS)(LHG), is pending in the United States District Court for the District of New Jersey (the "Court"). Plaintiffs in the lawsuit allege that Valeant Pharmaceuticals International, Inc. ("Valeant"), Philidor, and other Defendants violated the Racketeer Influenced and Corrupt Organizations Act by causing Third-Party Payors to pay artificially inflated prices for Valeant drugs as a result of a fraudulent scheme in which Valeant secretly controlled a captive pharmacy network through Philidor.

Plaintiffs have reached a proposed settlement with Valeant for \$23 million (the "Valeant Settlement") and a proposed settlement with Philidor, Andrew Davenport, and the Estate of Matthew S. Davenport for \$125,000 (the "Philidor Defendants Settlement" and, with the Valeant Settlement, the "Settlements"). The Settlements are subject to Court approval.

Who Is Included?

The Settlement Class includes all health insurance companies, health maintenance organizations, self-funded health and welfare benefit plans, other Third-Party Payors, and any other health benefit provider in the United States of America or its territories that paid or incurred costs for Valeant's branded drug products in connection with a claim submitted by Philidor, a claim submitted by any pharmacy in which Philidor had a direct or indirect ownership interest, or a claim by any pharmacy for which the amount sought for reimbursement was alleged to be inflated as a result of Defendants' allegedly fraudulent scheme, from January 2, 2013 through November 9, 2015, and allegedly suffered damages thereby.

Excluded from the Settlement Class are Pharmacy Benefit Managers, Defendants, Defendants' successors and assigns, and any entity in which any Defendant has or had a controlling interest. Also excluded from the Settlement Class are any persons or entities who submit a Request for Exclusion from the Settlement Class that is approved by the Court.

If you are a member of the Settlement Class, your rights will be affected by the pending Action and the Settlements, and you may be entitled to share in the Settlement Fund. If you have not yet received the full printed Notice and Claim Form, you may obtain copies of these documents by contacting the Claims Administrator at *Valeant TPP Settlements*, c/o A.B. Data, 

Case 3:16-cv-03087-MAS-LHG Document 201-6 Filed 10/28/21 Page 23 of 25 PageID: 4997
Ltd., P.O. Box 173052, Milwaukee, WI 53217, 1-877-888-6363. Copies of the Notice and Claim Form can also be downloaded from the website maintained by the Claims Administrator, www.ValeantTPPSettlement.com.

What Do the Settlements Provide?

The proposed Settlements provide a total Settlement Amount of \$23,125,000. Attorneys' fees (not to exceed 30% of the total fund), Plaintiffs' Counsel's Litigation Expenses, service awards to Plaintiffs, Taxes, and Notice and Administration Costs, as awarded by the Court, will be deducted from the fund before distribution to Settlement Class Members.

The Net Settlement Funds will be allocated to Settlement Class Members who submit valid Claim Forms based upon a plan of allocation to be approved by the Court. Under Plaintiffs' proposed Plan of Allocation, the Net Settlement Funds will be distributed on a *pro rata* basis based on the amount that a Claimant paid for Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy (as defined in the Notice) during the Class Period, in proportion to the total amount that all eligible Claimants paid for Valeant-branded drugs purchased from or fulfilled by Philidor or a Philidor Network Pharmacy during the Class Period.

How Do You Get a Payment?

To receive a payment from the Settlements, simply fill out a Claim Form, and provide the information requested on the Claim Form, and mail it no later than January 6, 2022. A Claim Form is available at www.ValeantTPPSettlement.com.

What Are My Legal Rights and Options?

If you are a Settlement Class Member, please review the full Notice, available at www.ValeantTPPSettlement.com, concerning your rights and options. Only a summary is provided here.

- **Remain in the Settlement Class and submit a Claim Form to get payment.** Claim Forms must be postmarked (if mailed) or submitted online by **January 6, 2022**. You give up your right to sue and are bound by all Court orders.
- **Exclude yourself** ("opt out") from the Settlement Class. A written Request for Exclusion must be **received by November 11, 2021**. You retain your right to sue and you will not receive any payment as a result of this lawsuit. Please see the full Notice for information on how to request exclusion.
- **Object** to one or both of the Settlements, the proposed Plan of Allocation, and/or counsel's request for attorneys' fees and expenses. Written objections must be **received by November 11, 2021**. You give up your right to sue and are bound by all Court orders even if your objection is rejected. If you file an objection, you may appear at the Settlement Hearing to explain your objection, but you are not required to attend. Please see the full Notice for information on how to file an objection.
- **Do nothing** and remain in the Settlement Class. You give up your right to sue and are bound by all Court orders. You must submit a Claim Form to get a payment.

The Court will determine whether to approve the Settlements, the Plan of Allocation, and attorneys' fees and expenses at a Settlement Hearing held on **December 2, 2021, at 10:00 a.m.**

The Court has appointed lawyers to represent you at no cost to you. You may choose to hire your own lawyer at your own expense.

Inquiries, other than requests for the Notice and Claim Form, should be made to Lead Counsel:

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

James A. Harrod, Esq.
1251 Avenue of the Americas
New York, NY 10020
(800) 380-8496
settlements@blbglaw.com

CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C.
James E. Cecchi, Esq.
5 Becker Farm Road
Roseland, NJ 07068

Requests for the Notice and Claim Form should be made to:

Valeant TPP Settlements
c/o A.B. Data, Ltd.
P.O. Box 173052



1-877-888-6363

www.ValeantTPPSettlement.com

SOURCE Bernstein Litowitz Berger & Grossmann LLP and Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.

Exhibit 7

EXHIBIT 7

In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation
Case No. 16-3087-(MAS)(LHG)

**SUMMARY OF PLAINTIFFS' COUNSEL'S
LODESTAR AND EXPENSES**

Exh.	FIRM	HOURS	LODESTAR	EXPENSES
7A	Bernstein Litowitz Berger & Grossmann LLP	11,824.25	\$5,997,567.50	\$525,460.74
7B	Carella, Byrne, Cecchi, Olstein, Brody & Agnello P.C.	1,971.00	\$1,620,135.00	\$108,316.80
7C	Cohen Milstein Sellers & Toll PLLC	1,391.75	\$1,089,665.00	\$47,891.46
7D	Barrack, Rodos & Bacine	1,090.25	\$731,066.25	\$38,666.39
	TOTAL:	16,277.25	\$9,438,433.75	\$720,335.39

Exhibit 7A

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF JAMES A. HARROD IN SUPPORT OF LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES
FILED ON BEHALF OF BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**

I, James A. Harrod, hereby declare as follows:

1. I am a partner in the law firm of Bernstein Litowitz Berger & Grossmann LLP ("BLB&G"). I submit this declaration in support of Lead Counsel's motion for an award of attorneys' fees in connection with services rendered in the Action, as well as for payment of expenses incurred by my firm in connection with the Action. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm served as one of the Lead Counsel in the Action. My firm was involved in all aspects of the litigation of the Action and its resolution, as described more fully in the accompanying Joint Declaration of James A. Harrod and James E. Cecchi in Support of (I) Plaintiffs' Motion for Final Approval of Settlements and Approval of Plan of Allocation; and (II) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by each BLB&G attorney and professional support staff employee who devoted ten (10) or more hours to the Action from its inception through and including August 4, 2021 and the lodestar calculation for those individuals based on their current hourly rate. For personnel who are no longer employed by my firm, the lodestar calculation is based upon his or

her hourly rate in their final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm.

4. As the partner responsible for supervising my firm's work on this case, I reviewed these time and expense records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the litigation. As a result of this review, reductions were made in the exercise of counsel's judgment. In addition, all time expended in preparing this application for fees and expenses has been excluded.

5. Following this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as stated in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. In addition, based on my experience in similar litigation, the expenses are all of a type that would normally be billed to a fee-paying client in the private legal marketplace.

6. The hourly rates for the BLB&G attorneys and professional support staff employees included in Exhibit 1 are their standard rates and are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other class action fee applications. My firm's rates are set based on periodic analysis of rates used by firms performing comparable work and that have been approved by courts. Different timekeepers within the same employment category (*e.g.*, partners, associates, paralegals, etc.) may have different rates based on a variety of factors, including years of practice, years at the firm, year in the current position (*e.g.*, years as a partner), relevant experience, relative expertise, and the rates of similarly experienced peers at our firm or other firms.

7. The total number of hours expended on this Action by my firm from the inception of the case through and including August 4, 2021, is 11,824.25 hours. The total lodestar for my firm for that period is \$5,997,567.50. My firm's lodestar figures are based upon the firm's hourly rates described above, which do not include expense items. Expense items are recorded separately, and these amounts are not duplicated in my firm's hourly rates.

8. As detailed in Exhibit 2, my firm is seeking payment for a total of \$525,460.74 in expenses incurred in connection with this Action. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred.

9. The following is additional information regarding certain of these expenses:

a. **Online Factual and Legal Research** (\$71,552.09). The charges reflected are for out-of-pocket payments to vendors such as Westlaw, Lexis/Nexis, Court Alert, and PACER for research done in connection with this litigation. These resources were used to obtain access to court filings, to conduct legal research and cite-checking of briefs, and to obtain factual information regarding the claims asserted through access to various financial databases and other factual databases. These expenses represent the actual expenses incurred by BLB&G for use of these services in connection with this litigation. There are no administrative charges included in these figures. Online research is billed to each case based on actual usage at a charge set by the vendor. When BLB&G utilizes online services provided by a vendor with a flat-rate contract, access to the service is by a billing code entered for the specific case being litigated. At the end of each billing period, BLB&G's costs for such services are allocated to specific cases based on the percentage of use in connection with that specific case in the billing period.

b. **Document Hosting & Management** (\$120,511.10). BLB&G seeks \$120,511.10 for costs associated with hosting and managing the large number of documents produced and reviewed in discovery in the Action. \$2,925.00 of this amount is for costs incurred by Plaintiff Plumbers Local Union No. 1 Welfare Fund in responding to the Defendants' document requests. The remaining amount, \$117,586.10 is BLB&G's cost for establishing and maintaining the internal document database that was used by all Plaintiffs' Counsel to process and review the 8.6 million pages of documents produced by Defendants and third parties in this Action. BLB&G charges a rate of \$4 per gigabyte of data per month and \$17 per user to recover the costs associated with maintaining its document database management system, which includes the costs to BLB&G of necessary software licenses and hardware. BLB&G has conducted a review of market rates charged for the similar services performed by third-party document management vendors and found that its rate was at least 80% below the market rates charged by these vendors, resulting in a savings to the class.

c. **Internal Copying & Printing** (\$13,164.90). Our firm charges \$0.10 per page for in-house copying and for printing of documents.

d. **Working Meals** (\$3,142.51). In-office working meals are capped at \$20 per person for lunch and \$30 per person for dinner.

e. **Out-of-Town Travel** (\$2,631.06). BLB&G's seeks reimbursement of \$2,631.06 in travel costs incurred in connection with client meetings. Airfare is at coach rates, hotel charges per night are capped at \$350 for higher-cost cities and \$250 for lower-cost cities (the relevant cities and how they are categorized are reflected on Exhibit 2); and meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.

f. **Plaintiffs' Outside Counsel** (\$87,378.00): Plaintiffs or Lead Counsel incurred \$87,378.00 in fees paid to certain law firms that acted as outside counsel for certain of the

Plaintiffs and provided advice and assisted them with matters necessarily related to their service as Class Representatives in the Action.

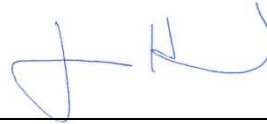
g. **Special Master Fees** (\$190,076.91): BLB&G paid \$12,128.80 directly to McElroy, Deutsch, Mulvaney & Carpenter, LLP, for the services of Special Master, the Honorable Dennis M. Cavanaugh, and paid an additional \$177,948.11 through the Litigation Fund, for a total of \$190,076.91 for Plaintiffs' share of the Special Master's fees and expenses to date. Lead Counsel recognize that the Special Master may incur additional fees in connection with reviewing and ruling on the Plaintiffs' motion for final approval of the Settlements and Lead Counsel's motion for attorneys' fees and litigation expenses. Lead Counsel may apply for reimbursement of any such additional costs from the Settlement Funds after final approval of the Settlements.

10. My firm was also responsible for maintaining a litigation expense fund (the "Litigation Fund") on behalf of Plaintiffs' Counsel to facilitate payment of certain common expenses in connection with the prosecution of this Action. As reflected in Exhibit 3 hereto, the Litigation Fund has received deposits from Plaintiffs' Counsel totaling \$340,042.24, and has incurred a total of \$336,342.50 in expenses. Accordingly, there is an excess balance of \$3,699.74 in the Litigation Fund, which will be refunded to BLB&G and has been deducted from my firm's expense report set forth in Exhibit 2 hereto.

11. BLB&G's firm resume and biographies of the attorneys in my firm who were principally involved in this action, are available upon request or can be found at www.blbglaw.com.

I declare, under penalty of perjury, that the foregoing facts are true and correct.

Executed on October 28, 2021, in New York, New York.

A handwritten signature in blue ink, appearing to read 'J. Harrod', is positioned above a horizontal line.

James A. Harrod

EXHIBIT 1

In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation
Case No. 16-3087-(MAS)(LHG)

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**TIME REPORT**

Inception through August 4, 2021

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Max Berger	20.00	\$1,300	\$26,000.00
Abe Alexander	264.50	\$825	\$218,212.50
Michael Blatchley	63.50	\$900	\$57,150.00
James A. Harrod	934.25	\$1,000	\$934,250.00
Avi Josefson	154.75	\$1,000	\$154,750.00
Hannah Ross	29.75	\$1,050	\$31,237.50
Gerald Silk	26.00	\$1,150	\$29,900.00
Senior Counsel			
Jai K. Chandrasekhar	907.00	\$800	\$725,600.00
David L. Duncan	55.75	\$775	\$43,206.25
Associates			
James M. Fee	1,147.25	\$525	\$602,306.25
Jake Nachmani	522.50	\$500	\$261,250.00
Senior Staff Attorneys			
Alex Dickin	48.25	\$450	\$21,712.50
Laura Lefkowitz	1,744.50	\$425	\$741,412.50
Staff Attorneys			
Ryan McCurdy	839.00	\$400	\$335,600.00
Amy Molberger	1,608.25	\$400	\$643,300.00
Megan Taggart	717.00	\$375	\$268,875.00
Jordan Wolff	403.00	\$375	\$151,125.00

Investigators			
Chris Altiery	124.00	\$255	\$31,620.00
Amy Bitkower	56.50	\$575	\$32,487.50
Victoria Kapastin	152.75	\$290	\$44,297.50
Joelle Landino	141.75	\$425	\$60,243.75
Case Managers & Paralegals			
Yvette Badillo	75.00	\$300	\$22,500.00
Martin Braxton	351.50	\$245	\$86,117.50
Nathan Donlon	414.75	\$335	\$138,941.25
Ellen Jordan	141.00	\$245	\$34,545.00
Janielle Lattimore	260.25	\$350	\$91,087.50
Ruben Montilla	23.50	\$255	\$5,992.50
Preya Rodriguez	127.25	\$325	\$41,356.25
Genevieve Sico	23.25	\$255	\$5,928.75
Gary Weston	11.75	\$375	\$4,406.25
Litigation Support			
Paul Charlotin	353.25	\$350	\$123,637.50
Johanna Pitcairn	10.50	\$400	\$4,200.00
Managing Clerk			
Mahiri Buffong	30.75	\$375	\$11,531.25
Errol Hall	41.25	\$310	\$12,787.50
TOTALS	11,824.25		\$5,997,567.50

EXHIBIT 2

In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation
Case No. 16-3087-(MAS)(LHG)

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP**EXPENSE REPORT**

CATEGORY	AMOUNT
Service of Process	\$ 1,172.00
On-Line Legal & Factual Research	71,552.09
Telephone	538.59
Postage & Express Mail	484.96
Messenger & Overnight Delivery	45.00
Local Transportation	1,491.29
Document Hosting & Management	120,511.10
Special Publications	75.56
Internal Copying & Printing	13,164.90
Outside Copying & Printing	2,478.66
Working Meals	3,142.51
Out-of-Town Travel*	2,631.06
Court Reporting & Transcripts	2,323.72
Experts / Consultants	10,000.00
Plaintiffs' Outside Counsel	87,378.00
Special Master Fees	12,128.80
Contributions to Litigation Fund	200,042.24
SUBTOTAL:	\$529,160.48
Refund of Excess Balance in Litigation Fund	(3,699.74)
TOTAL EXPENSES:	\$525,460.74

* Out of town travel includes hotels in the following lower-cost cities capped at \$250 per night:
Los Angeles and Orange, California.

EXHIBIT 3

In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation
Case No. 16-3087-(MAS)(LHG)

**CONTRIBUTIONS TO AND EXPENSES INCURRED BY
THE LITIGATION FUND**

CONTRIBUTIONS TO THE LITIGATION FUND	
	Amount
Bernstein Litowitz Berger & Grossmann LLP	\$200,042.24
Carella, Byrne, Cecchi, Olstein, Brody & Agnello P.C.	\$75,000.00
Cohen Milstein Sellers & Toll PLLC	\$37,500.00
Barrack, Rodos & Bacine	\$27,500.00
TOTAL:	\$340,042.24

EXPENSES INCURRED BY THE LITIGATION FUND	
	Amount
Special Master Fees	\$177,948.11
Experts / Consultants	\$88,501.25
Court Reporting and Transcripts	\$51,067.39
Mediation Fees	\$18,825.75
TOTAL EXPENSES PAID FROM LITIGATION FUND:	\$336,342.50
REMAINING BALANCE IN LITIGATION FUND, TO BE RETURNED TO BLB&G	\$3,699.74

*This amount is reflected in Exhibit 2 of this Declaration.

Exhibit 7B

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF JAMES E. CECCHI IN SUPPORT OF LEAD COUNSEL'S
MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES, FILED ON
BEHALF OF CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C.**

I, James E. Cecchi, hereby declare as follows:

1. I am a partner of the law firm Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. ("Carella Byrne").¹ I submit this declaration in support of Lead Counsel's motion for an award of attorneys' fees in connection with services rendered in the Action, as well as for payment of expenses incurred by my firm in connection with the Action. I have personal knowledge of the facts stated in this declaration and, if called upon, could and would testify to these facts.

2. My firm served as one of the Lead Counsel in the Action. My firm was involved in all aspects of the litigation of the Action and its resolution, as described more fully in the accompanying Joint Declaration of James A. Harrod and James E. Cecchi in Support of (I) Plaintiffs' Motion for Final Approval of Class Action Settlements and Plan of Allocation and (II) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by each Carella Byrne attorney and professional support staff employee who

¹ Capitalized terms that are not defined in this declaration have the same meanings as set forth in the Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the "Valeant Stipulation") or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the "Philidor Defendants Stipulation").

devoted ten (10) or more hours to the Action from its inception through and including August 4, 2021 and the lodestar calculation for those individuals based on their current hourly rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by Carella Byrne.

4. As the partner responsible for supervising my firm's work on this case, I reviewed these time and expense records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the litigation. In addition, all time expended in preparing this application for fees and expenses has been excluded.

5. The time reflected in the firm's lodestar calculation and the expenses for which payment is sought as stated in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. In addition, based on my experience in similar litigation, the expenses are all of a type that would normally be billed to a fee-paying client in the private legal marketplace.

6. The hourly rates for the Carella Byrne attorneys and professional support staff employees included in Exhibit 1 are their standard rates and are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other class action fee applications. My firm's rates are set based on periodic analysis of rates used by firms performing comparable work and that have been approved by courts. Different timekeepers within the same employment category (*e.g.*, partners, associates, paralegals, etc.) may have different rates based on a variety of factors, including years of practice, years at the firm, year in the current position (*e.g.*, years as a partner), relevant experience, relative expertise, and the rates of similarly experienced peers at our firm or other firms.

7. The total number of hours expended on this Action by my firm from the inception of the case through and including August 4, 2021, is 1,971 hours. The total lodestar for my firm for that period is \$1,620,135.00. My firm's lodestar figures are based upon the firm's hourly rates described above, which do not include expense items. Expense items are recorded separately, and these amounts are not duplicated in my firm's hourly rates.

8. As detailed in Exhibit 2, my firm is seeking payment for a total of \$108,316.62 in expenses incurred in connection with this Action.

9. The expenses reflected in Exhibit 2 are the expenses actually incurred by my firm.

10. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred.

11. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and the attorneys involved in this matter.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on October 28, 2021.

/s/ James E. Cecchi
JAMES E. CECCHI

EXHIBIT 1

In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation, Civil Action No. 3:16-cv-03087				
Firm: <u>Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.</u>				
Time Period: <u>Inception to October 2021</u>				
<u>Last Name, First Name</u>	<u>Status</u>	<u>Hourly Rate</u>	<u>Hours</u>	<u>Fees</u>
Cecchi, James	Partner	\$ 975.00	782.00	\$ 762,450.00
Agnello, John	Partner	\$ 975.00	211.00	\$ 205,725.00
Taylor, Lindsey	Partner	\$ 725.00	32.00	\$ 23,200.00
Ecklund, Donald	Partner	\$ 725.00	511.00	\$ 370,475.00
Bartlett, Caroline	Partner	\$ 725.00	80.90	\$ 58,652.50
Innes, Michael	Partner	\$ 650.00	232.00	\$ 150,800.00
O'Brien, James	Associate	\$ 650.00	61.20	\$ 39,780.00
Viera, Clara	Paralegal	\$ 225.00	1.70	\$ 382.50
Caraballo, Luis	Paralegal	\$ 225.00	1.40	\$ 315.00
Tempesta, Laura	Paralegal	\$ 125.00	28.10	\$ 3,512.50
Martinez, Kelly	Paralegal	\$ 225.00	1.00	\$ 225.00
Falduto, Jeff	Paralegal	\$ 225.00	10.30	\$ 2,317.50
Rago, Mary Ellen	Paralegal	\$ 125.00	0.80	\$ 100.00
Meehan, Amanda	Lawclerk	\$ 125.00	15.40	\$ 1,925.00
Michigan, Sarah	Lawclerk	\$ 125.00	0.50	\$ 62.50
Miller, Zachary	Lawclerk	\$ 125.00	1.70	\$ 212.50
		Total:	<u>1,971.00</u>	<u>\$ 1,620,135.00</u>

EXHIBIT 2

IN RE Valeant Pharmaceuticals International, Inc.	
Third-Party Payor Litigation,	
Civil Action No. 3:16-cv-03087	
Firm: <u>Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.</u>	
Time Period: <u>Inception to October 2021</u>	
Description	Expenses
Air Travel	\$ 15,286.95
Court Fees	\$ 2,238.50
Court Reporter	\$ 4,822.15
Ground Transportation	\$ 4,941.16
Litigation Fund	\$ 75,000.00
Meals	\$ 5,346.86
Photocopies	\$ 2.25
Reference Materials	\$ 230.18
Service of Process Fees	\$ 448.57
Total:	\$ 108,316.62

EXHIBIT 3

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.

**5 Becker Farm Road
Roseland, New Jersey 07068
Telephone No.: (973)994-1700
Telephone Fax: (973)994-1744
www.carellabyrne.com**

Formed in 1976, Carella Byrne is one of the leading law firms in the New Jersey - New York metropolitan area, serving a diverse clientele ranging from small businesses to Fortune 500 corporations. Indeed, Carella Byrne is the preeminent consumer class action firm in the State of New Jersey. Attorneys at the firm have held leadership positions in many of the nation's most complex and important consumer class actions. The most recent examples, to name a few, are: (1) *In re National Prescription Opiate Litigation*, (2) *In re Liquid Aluminum Sulfate Antitrust Litigation*, (3) *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, (4) *In re Takata Airbag Product Defect Litigation*, (5) *In re Volkswagen Timing Chain Product Liability Litigation*, (6) *In re Mercedes-Benz Emissions Litigation*, (7) *In re Insulin Pricing Litigation*, and (8) *In re American Medical Collection Agency, Inc., Customer Data Security Breach Litigation*. Carella Byrne brings a diversity of outstanding experience and reputation both in New Jersey and nationally.

Carella Byrne's attorneys have extensive capabilities and expertise in complex litigation. The firm's expertise is not only broad in scope but also diversified in perspective. Clients benefit from the dynamic interaction of the attorneys who have notably served as: judges, prosecutors, and trial and transactional lawyers; elected officials and members of regulatory agencies; scientists and engineers; directors of corporations and institutions; legal editors and educators. Each attorney provides an invaluable perspective and as an aggregate the firm provides unparalleled insight into client counseling.

Select Representative Matters

- *In re: Mercedes-Benz Emissions Litigation*, Civil Action No. 16-cv-881 (D.N.J.) (Hon. Kevin McNulty) (James Cecchi appointed as Interim Co-Lead Counsel for Plaintiffs and the Proposed Class in a case arising out of the alleged use of a defeat device to evade U.S. emissions regulations; settlement with potential value in excess of \$700,000,000 granted preliminarily approval and proceeding towards final approval.)
- *In re: Takata Airbag Products Liability Litigation*, MDL No. 2599 (S.D. Fla.) (Hon. Frederico A. Moreno) (James Cecchi appointed to Steering Committee and as Settlement Class Counsel; settlement in excess of \$1,500,000,000 for consumer fraud and warranty claims arising from use of defective and dangerous airbags; the case is ongoing as it pertains to second-wave defendants, including Mercedes Benz USA.)
- *In re: Mercedes-Benz Tele-Aid Contract Litigation*, MDL No. 1914 (Hon. Dickson R. Debevoise) (Co-Lead Counsel in \$40,000,000 settlement of consumer fraud claims arising from Mercedes' failure to notify Tele-Aid customers of mandated change from analog to digital system and charging customers to replace system Mercedes knew would be obsolete.)
- *In re: Liquid Aluminum Sulfate Antitrust Litigation*, MDL No. 2687 (D.N.J.) (Hon. Jose L. Linares) (James Cecchi appointed as Lead Counsel and secured a settlement of greater than \$90,000,000.)

- *In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litigation*, MDL No. 2904 (D.N.J.) (Hon. Madeline Cox Arleo) (James Cecchi appointed as Lead Counsel.)
- *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (N.D. Cal.) (Hon. Charles R. Breyer) (James Cecchi appointed to Steering Committee and as Settlement Class Counsel; settlement in excess of \$15,000,000,000 for consumer fraud and warranty claims arising from the use of a defeat device to evade U.S. emissions regulations.)
- *In re Rail Freight Fuel Surcharge Antitrust Litigation*, MDL No. 1969 (D.D.C.) (Hon. Paul L. Friedman) (claim that major U.S. railroads conspired to fix prices through fuel surcharges) (James Cecchi appointed to Plaintiffs’ five-person Executive Committee.)
- *Davis Landscape v. Hertz Equipment Rental*, Civ. Action No. 06-cv-3830 (D.N.J.) (Hon. Dennis M. Cavanaugh) (Co-Lead Counsel in settlement valued at over \$50,000,000 on behalf of contested nationwide class asserting claims that HERC’s loss/damage waiver charges violated the New Jersey Consumer Fraud Act because it provides no benefit to customers.)
- *In Re Effexor XR Antitrust Litigation*, Civil Action No. 11-cv-5661 (D.N.J.) (Hon. Joel A. Pisano) (claims on behalf of indirect purchasers of brand-name drug alleging that manufacturer obtained patent by fraud and enforced patent by sham litigation to maintain illegal monopoly of brand-name drug. James Cecchi appointed as Chair of Plaintiffs’ Indirect Purchaser Executive Committee.)
- *In Re: Vytorin/Zetia Marketing, Sales Practices and Products Liability Litigation*, MDL No. 1938 (D.N.J.) (Hon. Dennis M. Cavanaugh); *In re Schering-Plough/Enhance Securities Litigation*, Civil Action No.: 08-cv-397 (D.N.J.) (Hon. Dennis M. Cavanaugh); *In re Merck & Co., Inc. Vytorin/Zetia Securities Litigation*, Civil Action No.: 08-cv-2177 (D.N.J.) (Hon. Dennis M. Cavanaugh) (consumer and securities fraud claims arising from marketing and sale of anti-cholesterol drugs Vytorin and Zetia) (Co-Lead Counsel in Consumer Cases which settled for \$41,500,000 and Counsel in Securities Cases which collectively settled for \$688,000,000.)
- *In re Johnson & Johnson Derivative Litigation*, Civil Action No. 10-cv-2033 (Hon. Freda L. Wolfson); *Monk v. Johnson & Johnson*, Civ. Action No. 10-cv-4841 (Hon. Freda L. Wolfson) (Carella Byrne is co-lead counsel in an action asserting shareholder derivative claims and is liaison counsel in separate securities fraud claims relating to allegations that Johnson & Johnson undertook several massive secret recalls of products, violated anti-kickback laws, and engaged in off-label marketing products which led to expenses and governmental fines of hundreds of millions of dollars. These actions have been settled for significant recoveries on behalf of the respective classes.)
- *In Re: Merck & Co., Inc., Securities, Derivative & “ERISA” Litigation*, MDL No. 1658 (D.N.J.) (Hon. Stanley R. Chesler) (securities fraud claims arising from Merck’s failure to

disclose problems with commercial viability of anti-pain drug Vioxx which settled for more than \$1,000,000,000.)

The firm has prosecuted and defended cases throughout the United States at every level of the Federal and State trial and appellate court systems. The firm's attorneys practice in courts throughout Europe and the Middle East. The attorneys in the Complex Litigation Department are skilled practitioners who have conducted trials, both bench and jury, and appeals before the State and Federal Courts, as well as binding arbitrations, mediations, and alternative dispute resolution matters. State and Federal Courts have appointed the firm's attorneys as trustees, special agents, receivers, and other court-appointed positions in significant and complex judicial proceedings.

Exhibit 7C

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087-(MAS)(LHG)

**DECLARATION OF JULIE GOLDSMITH REISER IN SUPPORT OF LEAD
COUNSEL’S MOTION FOR ATTORNEYS’ FEES AND LITIGATION EXPENSES,
FILED ON BEHALF OF COHEN MILSTEIN SELLERS & TOLL PLLC**

I, Julie Goldsmith Reiser, hereby declare as follows:

1. I am a partner of the law firm Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”).¹ I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees in connection with services rendered in the Action, as well as for payment of expenses incurred by my firm in connection with the Action. I have personal knowledge of the facts stated in this declaration and, if called upon, could and would testify to these facts.

2. My firm served as counsel for Plaintiff New York Hotel Trades Council & Hotel Association of New York City, Inc. Health Benefits Fund (“NYHTC”) in the Action. Among other things, my firm researched allegations for, and assisted in drafting, the complaint in the Action; assisted in briefing the opposition to Defendants’ motion to dismiss and motion to stay; collected, reviewed, and produced NYHTC’s documents; prepared for and attended depositions; prepared for and attended the mediation; attended status conferences with the Special Master;

¹ Capitalized terms that are not defined in this declaration have the same meanings as set forth in the Stipulation and Agreement of Settlement with Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the “Valeant Stipulation”) or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the “Philidor Defendants Stipulation”).

reviewed both affirmative written discovery and responses and objections to written discovery; and attended and participated in meet and confer sessions with Defendants.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by each Cohen Milstein attorney and professional support staff employee who devoted ten (10) or more hours to the Action from its inception through and including August 4, 2021 and the lodestar calculation for those individuals based on their current hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the hourly rates for such personnel in their final year of employment with my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by Cohen Milstein.

4. As the partner responsible for supervising my firm's work on this case, I reviewed these time and expense records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the litigation. As a result of this review, reductions were made in the exercise of counsel's judgment. In addition, all time expended in preparing this application for fees and expenses has been excluded.

5. Following this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as stated in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. In addition, based on my experience in similar litigation, the expenses are all of a type that would normally be billed to a fee-paying client in the private legal marketplace.

6. The hourly rates for the Cohen Milstein attorneys and professional support staff employees included in Exhibit 1 are their standard rates and are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other class action fee applications. My firm's rates are set based on periodic analysis of rates used by firms performing comparable work and that have been approved by courts. Different timekeepers within the same employment category (*e.g.*, partners, associates, paralegals, etc.) may have different rates based on a variety of factors, including years of practice, years at the firm, year in the current position (*e.g.*, years as a partner), relevant experience, relative expertise, and the rates of similarly experienced peers at our firm or other firms.

7. The total number of hours expended on this Action by my firm from the inception of the case through and including August 4, 2021, is 1,391.75 hours. The total lodestar for my firm for that period is \$1,089,665.00. My firm's lodestar figures are based upon the firm's hourly rates described above, which do not include expense items. Expense items are recorded separately, and these amounts are not duplicated in my firm's hourly rates.

8. As detailed in Exhibit 2, my firm is seeking payment for a total of \$47,891.46 in expenses incurred in connection with this Action.

9. The expenses reflected in Exhibit 2 are the expenses actually incurred by my firm or reflect "caps" based on the application of the following criteria:

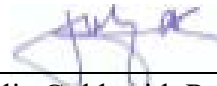
- (a) Out-of-Office Meals: Capped at \$25 per person for lunch and \$50 per person for dinner.
- (b) In-Office Working Meals: Capped at \$20 per person for lunch and \$30 per person for dinner.
- (c) On-Line Research: Charges reflected are for out-of-pocket payments to the vendors

for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

10. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred.

11. Further information about my firm and biographies of the attorneys involved in this matter are available upon request or can be accessed at www.cohenmilstein.com.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on October 21, 2021.



Julie Goldsmith Reiser

EXHIBIT 1

In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation
Case No. 16-3087-(MAS)(LHG)

COHEN MILSTEIN SELLERS & TOLL PLLC**TIME REPORT**

Inception through and including August 4, 2021

NAME	HOURS	HOURLY RATE	LODESTAR
Partners			
Bunch, S. Douglas	230.00	\$740	\$170,200.00
Gilden, Carol V.	10.00	\$1,025	\$10,250.00
Reiser, Julie Goldsmith	285.50	\$885	\$252,667.50
Sommers, Daniel S.	31.00	\$1,025	\$31,775.00
Toll, Steven J.	94.50	\$1,125	\$106,312.50
Of Counsel			
Lometti, Christopher	165.25	\$1,015	\$167,728.75
Torell, Catherine	135.25	\$825	\$111,581.25
Associates			
Bowen, Molly	62.25	\$605	\$37,661.25
Farra, Adam H.	182.75	\$570	\$104,167.50
Kistler, Megan	91.75	\$585	\$53,673.75
Staff Attorney			
Wallace, Lyzette	64.50	\$455	\$29,347.50
Paralegal			
Sebastian, Monica	26.00	\$325	\$8,450.00
Investigator			
Bournazian, Thea	13.00	\$450	\$5,850.00
TOTALS:	1,391.75		\$1,089,665.00

EXHIBIT 2

In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation
Case No. 16-3087-(MAS)(LHG)

COHEN MILSTEIN SELLERS & TOLL PLLC**EXPENSE REPORT**

CATEGORY	AMOUNT
Court Fees	\$1,219.00
Online Legal Research	\$1,692.86
Telephone	\$26.64
Postage & Express Mail	\$48.83
Local Transportation	\$7.66
Out-of-Town Travel	\$1,352.62
Working Meals	\$28.80
Court Reporting & Transcripts	\$891.25
Document Management	\$5,123.80
Litigation Fund Contributions	\$37,500.00
TOTAL:	\$47,891.46

Exhibit 7D

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE VALEANT PHARMACEUTICALS
INTERNATIONAL, INC. THIRD-PARTY
PAYOR LITIGATION

Civil Action No. 16-3087 (MAS)(LHG)

**DECLARATION OF JEFFREY W.
GOLAN IN SUPPORT OF LEAD
COUNSEL’S MOTION FOR
ATTORNEYS’ FEES AND
LITIGATION EXPENSES, FILED ON
BEHALF OF BARRACK RODOS &
BACINE**

I, Jeffrey W. Golan, hereby declare as follows:

1. I am a partner of the law firm Barrack, Rodos & Bacine (“Barrack Rodos”).¹ I submit this declaration in support of Lead Counsel’s motion for an award of attorneys’ fees in connection with services rendered in the Action, as well as for payment of expenses incurred by my firm in connection with the Action. I have personal knowledge of the facts stated in this declaration and, if called upon, could and would testify to these facts.

2. My firm served as counsel for Plaintiff Detectives Endowment Association of New York City (“DEA”) in the Action and as a member of the Plaintiffs’ Executive Committee. My firm researched and filed a complaint on behalf of the DEA; gathered, reviewed and produced DEA documents; and responded to interrogatories on behalf of the DEA. The firm further worked cooperatively with and under the supervision of co-lead counsel in research and drafting of amended complaints, on plaintiffs’ oppositions to motions to dismiss, in analyzing documents produced by defendants, through work undertaken in support of the motion for class certification,

¹ Capitalized terms that are not defined in this declaration have the same meanings as set forth in the Valeant Pharmaceuticals International, Inc., dated August 4, 2021 (ECF No. 194-2) (the “Valeant Stipulation”) or the Stipulation and Agreement of Settlement with the Philidor Defendants, dated August 4, 2021 (ECF No. 195-2) (the “Philidor Defendants Stipulation”).

by reviewing and analyzing transcripts and exhibits from the criminal matters, in working with plaintiffs' experts, by preparing for and attending and taking portions of depositions, by consulting on settlement strategies and positions, and by reviewing and providing input to the stipulation of settlement, briefs in support of the settlement, proposed notices and proof of claim form.

3. The schedule attached hereto as Exhibit 1 is a detailed summary indicating the amount of time spent by each Barrack Rodos attorney and professional support staff employee who devoted ten (10) or more hours to the Action from its inception through and including August 4, 2021 and the lodestar calculation for those individuals based on their current hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the hourly rates for such personnel in their final year of employment with my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by Barrack Rodos.

4. As the partner responsible for supervising my firm's work on this case, I reviewed these time and expense records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and expenses and the necessity for, and reasonableness of, the time and expenses committed to the litigation. In addition, all time expended in preparing this application for fees and expenses has been excluded.

5. Following this review, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought as stated in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. In addition, based on my experience in similar litigation, the expenses are all of a type that would normally be billed to a fee-paying client in the private legal marketplace.

6. The hourly rates for the Barrack Rodos attorneys and professional support staff employees included in Exhibit 1 are their standard rates and are the same as, or comparable to, the rates submitted by my firm and accepted by courts for lodestar cross-checks in other class action fee applications. My firm's rates are set based on periodic analysis of rates used by firms performing comparable work and that have been approved by courts. Different timekeepers within the same employment category (*e.g.*, partners, associates, paralegals, etc.) may have different rates based on a variety of factors, including years of practice, years at the firm, year in the current position (*e.g.*, years as a partner), relevant experience, relative expertise, and the rates of similarly experienced peers at our firm or other firms.

7. The total number of hours expended on this Action by my firm from the inception of the case through and including August 4, 2021, is 1090.25 hours. The total lodestar for my firm for that period is \$731,066.25. My firm's lodestar figures are based upon the firm's hourly rates described above, which do not include expense items. Expense items are recorded separately, and these amounts are not duplicated in my firm's hourly rates.

8. As detailed in Exhibit 2, my firm is seeking payment for a total of \$38,666.39 in expenses incurred in connection with this Action.

9. The expenses reflected in Exhibit 2 are the expenses actually incurred by my firm or reflect "caps" based on the application of the following criteria:

- (a) Out-of-town travel: Airfare is at coach rates, hotel charges per night are capped at \$350 for high-cost cities and \$250 for low-cost cities (the relevant cities and how they are categorized are reflected on Exhibit 2); meals are capped at \$20 per person for breakfast, \$25 per person for lunch, and \$50 per person for dinner.
- (b) Out-of-Office Meals: Capped at \$25 per person for lunch and \$50 per person for

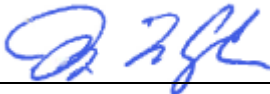
dinner.

- (c) Internal Copying: Charged at \$0.10 per page.
- (d) On-Line Research: Charges reflected are for out-of-pocket payments to the vendors for research done in connection with this litigation. On-line research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

10. The expenses incurred in this Action are reflected in the records of my firm, which are regularly prepared and maintained in the ordinary course of business. These records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred.

11. If requested, I would be pleased to submit a biography of Barrack, Rodos & Bacine to the Court, which is also accessible in abridged form on the firm's website at www.barrack.com.

I declare, under penalty of perjury, that the foregoing facts are true and correct. Executed on October 27, 2021.



Jeffrey W. Golan

Exhibit 1**In re Valeant Pharmaceutical Int'l, Inc. Third-Party Payor Litigation****Barrack, Rodos & Bacine****Time Report****Inception through August 4, 2021**

	<u>Total Hours</u>	<u>Rates</u>	<u>Lodestar</u>
<u>Partners:</u>			
Stephen R. Basser	44.75	\$820.00	\$36,695.00
Jeffrey W. Golan	206.25	\$820.00	\$169,125.00
Jeffrey A. Barrack	319.75	\$800.00	\$255,800.00
Jeffrey B. Gittleman	14.25	\$800.00	\$11,400.00
William J. Ban	10.75	\$710.00	\$7,632.50
Michael A. Toomey	22.50	\$550.00	\$12,375.00
<u>Associates:</u>			
Julie B. Palley	444.75	\$515.00	\$229,046.25
<u>Paralegals:</u>			
Nina L. McGarvey	27.25	\$330.00	\$8,992.50
Grand Totals:	1,090.25		\$731,066.25

Exhibit 2**In re: Valeant Pharmaceutical Int'l, Inc. Third-Party Payor Litigation****Expense Summary****Barrack, Rodos & Bacine****Inception through August 4, 2021**

<u>Description</u>	<u>Amount</u>
Computer and Other Research Fee(s)	\$6,005.45
Contributions to Litigation Fund	\$27,500.00
Courier & Overnight Delivery Services	\$151.46
Court and Filing Fee(s)	\$400.00
Postage	\$37.82
Reproduction/Scan (In-House)	\$52.40
Service Fees	\$496.00
Telephone	\$1,960.72
Travel/Meals/Meetings*	\$2,062.54
TOTAL:	<u>\$ 38,666.39</u>
* Out of town travel includes hotels in New York City, NY, a higher-cost city.	

Exhibit 8

EXHIBIT 8

In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation
Case No. 16-3087-(MAS)(LHG)

BREAKDOWN OF ALL EXPENSES BY CATEGORY

CATEGORY	AMOUNT
Court Fees	\$ 3,857.50
Service of Process	2,116.75
On-Line Factual and Legal Research	79,250.40
Telephone	2,525.95
Postage & Express Mail	571.61
Messenger & Overnight Delivery	196.46
Local Transportation	6,440.11
Document Hosting & Management	125,634.90
Special Publications & Reference Materials	305.74
Internal Copying and Printing	13,219.55
Outside Copying and Printing	2,478.66
Working Meals	8,518.17
Out-of-Town Travel	21,333.17
Court Reporting & Transcripts	59,104.51
Experts / Consultants	98,501.25
Plaintiff's Outside Counsel	87,378.00
Special Master Fees	190,076.91
Mediation Fees	18,825.75
TOTAL EXPENSES:	\$720,335.39

Exhibit 9

Seb Investment Management AB v. Symantec Corporation, Slip Copy (2021)

2021 WL 1540996

Only the Westlaw citation is currently available.
United States District Court, N.D. California.

SEB INVESTMENT MANAGEMENT AB,
individually and on behalf of all others
similarly situated, Plaintiff,

v.

SYMANTEC CORPORATION and
Gregory S. Clark, Defendants.

No. C 18-02902 WHA

|
Signed 04/20/2021

ORDER RE CONFLICT DISPUTE

WILLIAM ALSUP, United States District Judge

*1 This order resolves a pending question concerning the conduct of class counsel and lead plaintiff and an allegation that they engaged in play to pay, which means, “you hire me as counsel, and I’ll make it up to you down the road.” Such arrangements are adverse to the interests of the class because class counsel should be selected as the best lawyer for the class.

In this case, SEB Investment Management AB won the role of lead plaintiff. At the lead plaintiff selection hearing, SEB introduced Mr. Hans Ek as the staff member at SEB who would oversee the case if SEB won the job. SEB showcased his experience and abilities. The order appointing SEB said the following about him: “SEB identified Hans Ek, SEB’s Deputy Chief Executive Officer, as being the individual in charge of managing its litigation responsibilities. In addition, SEB’s in-house legal counsel will be advising Mr. Ek and assisting with overseeing the litigation” (Dkt. No. 88).

After SEB won the job, an order required Mr. Ek to interview law firms for the job of class counsel. SEB interviewed several firms but ultimately selected Bernstein, Litowitz, Berger & Grossmann, LLP (BLBG),

its existing counsel, even though BLBG asked for a richer fee proposal than others. The Court deferred to lead plaintiff’s judgment and appointed BLBG (*ibid.*).

Twenty-five months went by. Litigation churned forward. Then another law firm, Robbins, Geller, Rudman & Dowd, LLP, on behalf of a class member (Norfolk County Council as Administering Authority of the Norfolk Pension Fund) reported to the Court that Mr. Ek had left SEB and was now working for BLBG.

Upon inquiry by the Court, BLBG confirmed this.

Discovery was allowed into the problem and several hearings were held. After careful consideration of all the evidence and argument, the Court remains unable to determine whether the move of Mr. Ek to BLBG was coincidental versus culpable. It’s possible that there was a *quid pro quo* of sorts but, if so, it’s not clear in the evidence.

What is crystal clear is that BLBG held Mr. Ek out as the professional who would guide the class through the litigation and direct counsel. Also crystal clear is that BLBG and Mr. Ek failed to tell the Court that he had gone over to the counsel side, meaning had left SEB and joined BLBG. On his way out of SEB, he lateraled his case responsibilities to a colleague, another fact not disclosed to the Court.

The PLSRA established the statutory office of lead plaintiff, usually intended to be an institutional investor, for the very specific purpose of converting securities litigation from “lawyer driven” to “investor driven” wherein the lead plaintiff actually manages the case for the class, the lawyer no longer being in charge. When, as here, the very man or woman presented to the Court as the one who will carry out the PSLRA mandate winds up as an employee of the lawyer, one can easily ask whether a fundamental goal of the Act has been compromised.

Separate from this is the pay to play problem. If a law firm winks and nods and says, “Hire me as your class counsel and we’ll return the favor down the road,” then the class suffers because class counsel should instead be selected on the merits of who will best represent the class. The lead plaintiff owes a fiduciary duty to the class to select the best lawyer for the class, not to treat the selection as a tradeoff of favors.

*2 BLBG and SEB surely knew all these ramifications and knew how the undersigned judge felt about these issues. The appearance alone raises eyebrows, arched

Seb Investment Management AB v. Symantec Corporation, Slip Copy (2021)

eyebrows. BLBG should have avoided this spectacle. So should have SEB and so should have Mr. Ek. This is true even though discovery could not establish a clear-cut *quid pro quo*.

It's worth observing that while no clear-cut evidence of a *quid pro quo* emerged, discovery did show that BLBG's initial explanation to the Court proved misleading. At our hearing on January 21, 2021, Class Counsel Salvatore J. Graziano told the Court,

[F]irst and foremost, we never thought or raised the possibility of Mr. Ek joining our firm when he was at SEB. That was back in 2018. He had no intention of leaving. We never thought would he leave. He publicly left a year later, December 1 of 2019 (Tr. at 4-5). After that hearing, the Court permitted discovery. Mr. Ek testified at his deposition that he "was employed by SEB until the last day of March" in 2020 (Ek. Dep. at 51). Moreover, BLBG had sent Mr. Ek a recruitment email on December 19, 2019, while SEB still employed him. In it, a BLBG attorney (on this case) said, "I know you said that you wanted to transition your work at SEB towards the end of the year before thinking about next steps. Now that we are almost at the end of the year, please know that I would love to continue to work with you" but "of course, I don't know what your plans are or if you have given your next steps any thought yet" (van Kwawegen Dep. at 55). In his brief summarizing Mr. Ek's testimony (and other discovery), Attorney Graziano walked back his January 21 representation, conceding, "BLB&G raised for the first time the prospect of working with Mr. Ek in late December [2019]," but said it was

"irrelevant" (Dkt. No. 284-3 at 3). Attorney Graziano's brief continued, "[T]he sworn testimony on this issue confirms there was no "active recruitment" prior to February 2020" (*ibid.*). This shifting-sands set of explanations is concerning. But, still, it does not prove any *quid pro quo*.

We are too far into the case to replace SEB or BLBG, at least on this record. Instead, the Court believes these circumstances should be brought to the attention of the class and a new opportunity given to opt out. Counsel shall meet and confer on a form of notice and a timeline for distribution and opt-out. BLBG shall pay for the costs of notice, distribution, and opt-out. Please submit this within seven calendar days.

In addition, in future cases, both SEB in seeking appointment as a lead plaintiff and BLBG in seeking appointment as class counsel shall bring this order to the attention of the assigned judge and the decision-maker for the lead plaintiff who is to select counsel. This disclosure requirement shall last for three years from the date of this order.

IT IS SO ORDERED.

All Citations

Slip Copy, 2021 WL 1540996

Exhibit 10

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE HECKMANN CORPORATION
SECURITIES LITIGATION

Case No. 1:10-cv-00378-LPS-MPT

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

This matter having come before the Court for hearing on June 26, 2014 (the "Final Approval Hearing") on Co-Lead Counsel's Application for an Award of Attorneys' Fees and Litigation Expenses and Reimbursement of Costs to Lead Plaintiff (D.I. 297), and the Court having considered all matters submitted to it at the Final Approval Hearing and otherwise; and it appearing that notice of the Final Approval Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who or which could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *Investor's Business Daily* and was transmitted over *PR Newswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the application for an award of attorneys' fees, litigation expenses and reimbursement of costs to Lead Plaintiff, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Order incorporates by reference the definitions in the Stipulation of Settlement dated as of March 4, 2014 (D.I. 287) (the "Stipulation") and all terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

2. The Court has jurisdiction to enter this Order and over the subject matter of the Litigation and all parties to the Litigation, including all Settlement Class Members.

3. Notice of Co-Lead Counsel's Application for an Award of Attorneys' Fees and Litigation Expenses and Reimbursement of Costs to Lead Plaintiff was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the application for an award of attorneys' fees and reimbursement of litigation expenses and reimbursement of costs to Lead Plaintiff satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7), as amended, including by the Private Securities Litigation Reform Act of 1995, and the requirements of due process, constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

4. Co-Lead Counsel are hereby awarded attorneys' fees in the amount of 33 1/3% of the Cash Settlement Amount (totaling \$4,500,000) and 33 1/3% of the Settlement Shares (totaling 282,663 shares), which sum the Court finds to be fair and reasonable, and \$1,007,747.74 in reimbursement of Litigation Expenses, plus interest earned on this amount at the same rate as the Settlement Fund. The foregoing fees and expenses shall be paid from the Settlement Fund in accordance with the terms of the Stipulation.

5. Lead Plaintiff Matthew H. Haberkorn is hereby awarded \$58,065.00 from the Settlement Fund as reimbursement for his reasonable costs and expenses directly relating to his representation of the Settlement Class.

6. In making this award of attorneys' fees and reimbursement of Litigation Expenses to be paid from the Settlement Fund, the Court has considered and found that:

(a) The Settlement has created a fund consisting of: (i) \$13.5 million in cash; and (ii) 847,990 shares of Nuverra Environmental Solutions, Inc. (f/k/a Heckmann Corporation)

common stock. Numerous Settlement Class Members who submit acceptable Proofs of Claim will benefit from the Settlement that occurred because of the efforts of Co-Lead Counsel;

(b) The fee sought by Co-Lead Counsel has been reviewed and approved as fair and reasonable by the Court-appointed Lead Plaintiff, a sophisticated investor that was actively involved in the prosecution and resolution of the Litigation;

(c) Copies of the Notice were mailed to over 11,500 potential Settlement Class Members and nominees stating that Co-Lead Counsel would apply for attorneys' fees in an amount not to exceed 33 1/3% of the Settlement Fund, reimbursement of Litigation Expenses paid or incurred by Co-Lead Counsel in connection with the prosecution and resolution of the Litigation in an amount not to exceed \$1,500,000, plus interest, and reimbursement from the Settlement Fund for costs and expenses incurred by Lead Plaintiff in connection with his representation of the Settlement Class, in an amount not to exceed \$60,000. There were no objections to the requested award of attorneys' fees, costs and expenses.

(d) Co-Lead Counsel have conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy;

(e) The Litigation involves complex factual and legal issues and was actively prosecuted for over 3 ½ years;

(f) Had Co-Lead Counsel not achieved the Settlement there would remain a significant risk that Plaintiffs and the other members of the Settlement Class may have recovered less or nothing from the Defendants;

(g) Co-Lead Counsel devoted over 26,800 hours, with a lodestar value of \$11,174,447.75, to achieve the Settlement; and

(h) The amount of attorneys' fees awarded and Litigation Expenses to be reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar cases.

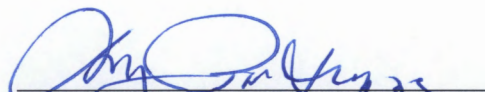
7. Any appeal or any challenge affecting this Court's approval regarding any attorneys' fees and expense application shall in no way disturb or affect the finality of the Judgment.

8. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class Members for all matters relating to this Litigation, including the administration, interpretation, effectuation or enforcement of the Stipulation and this Order.

9. In the event that the Settlement is terminated or the Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void to the extent provided by the Stipulation.

10. The Court finds no reason for delay in the entry of this Order and directs the Clerk to immediately enter this Order.

June 26, 2017



THE HONORABLE MARY PAT THIYNGE
UNITED STATES MAGISTRATE JUDGE

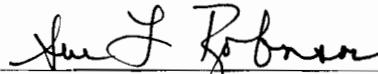
Exhibit 11

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Court, for purposes of this Order, adopts all defined terms as set forth in the Stipulation.

2. Co-Lead Counsel are hereby awarded attorneys' fees in the amount of \$6,450,000 and reimbursement of expenses in the amount of \$403,395.07. The attorneys' fees and expenses shall be paid to Co-Lead Counsel from the Settlement Fund with interest from the date such Settlement Fund was funded to the date of payment at the same net rate that the Settlement Fund earns. The awarded fees, costs and expenses shall be allocated among plaintiffs' counsel in such fashion agreed to by Co-Lead Counsel.

SO ORDERED this 5th day of August, 2008.



JUDGE SUE L. ROBINSON
UNITED STATES DISTRICT JUDGE