

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

In re Effexor XR Antitrust Litigation
No. 3:11-cv-5479

Si desea recibir esta notificación en español, llámenos al 866-742-4955

PROOF OF CLAIM AND RELEASE

Your claim must be postmarked by: July 2, 2024

Notice ID:

INTRODUCTION

On April 25, 2024, the Court in the above-entitled action (the “Action”) preliminarily approved a \$39,000,000 settlement in a class action lawsuit brought by Rochester Drug Co-Operative, Inc., Stephen L. LaFrance Holdings, Inc. d/b/a SAJ Distributors, and Uniondale Chemists, Inc., (collectively “Plaintiffs” or “Class Representatives”) against Wyeth LLC, Wyeth Pharmaceuticals, Inc., Wyeth-Whitehall Pharmaceuticals LLC, and Wyeth Pharmaceuticals Company (collectively, “Wyeth”) and Teva Pharmaceuticals USA, Inc., and Teva Pharmaceutical Industries Ltd. (collectively, “Teva”). The Settlement is with Wyeth only.

The notice of class action Settlement dated May 3, 2024, which was mailed to Class members with this claim form (and which is available at <https://bergermontague.com/cases/effexor-xr-antitrust-lawsuit/>, <https://www.hbsslaw.com>, <https://www.faruqilaw.com>, <https://nastlaw.com>, <https://tcllaw.com>, and <https://barrettlawgroup.com>), summarizes both the litigation and terms of the Settlement. As set forth in the notice, the Settlement is with Wyeth only and does not resolve any of the claims against Teva. The purpose of this Proof of Claim Form and Release is to ensure that you are able to participate in the distribution of the Settlement funds from the Settlement with Wyeth, net of attorneys’ fees, service awards to Class Representatives, and other costs awarded by the Court (the “Net Settlement Fund”).

In order for the Claims Administrator to make the proper calculation of your *pro rata* share of the Net Settlement Fund, please either (a) verify the accuracy of the net purchase volumes listed in Part II.A of this Proof of Claim and Release Form that are derived from purchase data produced in this Action or (b) submit the data required in Part II.B of this Proof of Claim and Release Form.

PART I: CLAIMANT IDENTIFICATION

Please provide this information. In addition, if purchases were made in a name other than the Claimant’s name (for example, if you are filing this Proof of Claim and Release Form based on an assignment), please include documentation of your right to assert a claim with respect to those claimed purchases.

Employer Tax Identification Number: _____

Claimant Name & Address:

Please make any changes or corrections below:

Person overseeing the claims process for Claimant (who can be contacted if there are questions regarding this claim):

First Name: _____ MI: _____ Last Name: _____

Phone Number: (_____) _____ - _____ Email Address: _____

PART II: CLASS MEMBER’S QUALIFYING PURCHASES OF BRAND AND/OR GENERIC EFFEXOR XR CAPSULES

A. The Claims Administrator, in conjunction with the direct purchaser plaintiffs’ economic expert, has calculated each Class member’s qualifying direct purchases of brand Effexor XR capsules directly from Wyeth during the period of from June 14, 2008 through May 31, 2011, and direct purchases of generic Effexor XR capsules directly from Teva during the period of July 1, 2010 through May 31, 2011. The initial calculations are based upon brand and generic Effexor XR sales data produced by Wyeth and Teva in the Action. If and when the Claims Administrator learns of additional data or claims, the calculations may change. In addition, your calculation may change as a result of other information submitted during the claims administration process. **To repeat, the initial calculations are subject to change.**

Each Class member should verify the accuracy of the total net purchase volumes listed below. **If you agree that the total net purchase volumes listed below are accurate, you should sign on page 7 of this Proof of Claim and Release Form and mail it to the Claims Administrator postmarked no later than July 2, 2024.** If you verify the accuracy of the total net purchase volumes listed below, you will not be required to produce any purchase data as part of the claims administration process, but you are waiving the right to challenge or appeal the Claims Administrator’s determination regarding your pro rata distribution amount on the basis that the distribution amount would have been different had it been calculated using your own purchase records. **If you believe the total net purchase volumes for your company listed below are not accurate, you may submit purchase records, in electronic format as described in Part II.B below; any such data must be mailed to the Claims Administrator postmarked no later than July 2, 2024.**

If you are filing a claim based on an assignment, you will have to submit documentation of your right to assert a claim with respect to those claimed purchases along with data showing the volume of purchases covered by your assignment.

In order to have a valid claim, you must be a member of the certified Direct Purchaser Class or have an assignment of rights from a Direct Purchaser Class member allowing you to recover as an assignee of a Class member. The certified Direct Purchaser Class (or “Class”) is defined as follows:

All persons or entities in the United States and its territories who purchased Effexor XR and/or AB-rated generic versions of Effexor XR directly from any of the Defendants at

any time during the period June 14, 2008 through and until May 31, 2011 (the “Class Period”).

Excluded from the Direct Purchaser Class are Defendants and their officers, directors, management, employees, subsidiaries, or affiliates, all governmental entities, and all persons or entities that purchased Effexor XR directly from Wyeth during the Class Period that did not also purchase generic Effexor XR directly.

Also excluded from the Class for purposes of this Settlement Agreement are the following: Walgreen Co., The Kroger Co. (including Peytons), Safeway, Inc., United Natural Foods, Inc. f/k/a Supervalu Inc., H-E-B, L.P. f/k/a HEB Grocery Company, L.P., American Sales Company, Inc., Rite Aid Corporation, Rite Aid Hdqtrs. Corporation, JCG (PJC) USA, LLC, Maxi Drug, Inc. d/b/a/ Brooks Pharmacy, Eckerd Corporation, Meijer, Inc., Meijer Distribution, Inc., Giant Eagle, Inc., and CVS Caremark Corporation (including Caremark and Omnicare) (collectively, “Retailer Plaintiffs”).

The Court-approved Plan of Allocation provides that the allocated share of the Net Settlement Fund for each Claimant with a valid claim will be determined by taking (a) each Claimant’s combined total net purchases of branded Effexor XR capsules from Wyeth from June 14, 2008 through May 31, 2011, and generic Effexor XR capsules from Teva from July 1, 2010 through May 31, 2011, (b) removing any purchases for which the rights to damages in this litigation have been assigned by agreement, and dividing it by (c) the combined total purchases by all Claimants who timely submit valid, accepted Claim Forms of brand Effexor XR from Wyeth from June 14, 2008 through May 31, 2011, and generic Effexor XR from Teva from July 1, 2010 through May 31, 2011, net of any purchases for which the rights to damages in this litigation have been assigned by agreement.

Allocations to any Claimant whose right to an allocation in whole or in part arises by virtue of an assignment(s) from a Class member(s) would be determined in this same fashion. In these cases, the volumes of brand and generic Effexor XR capsule purchases used to determine the allocation would be the volumes assigned to the Claimant by an otherwise eligible Class member(s) (and the assignor Class member’s brand and generic Effexor XR capsule purchase volumes would be reduced by the same amount).

Please note that related documents, including the Plan of Allocation and the Court’s Order approving the Plan of Allocation, are available at <https://bergermontague.com/cases/effexor-xr-antitrust-lawsuit/>, <https://www.hbsslaw.com>, <https://www.faruqilaw.com>, <https://nastlaw.com>, <https://tcllaw.com>, and <https://barrettlawgroup.com>. This summary of the Plan of Allocation is only a summary and is not meant to, and does not, alter the terms of the Court-approved Plan of Allocation. Claimants should refer to the Plan of Allocation for further details of how the allocation will work.

INITIAL ESTIMATE OF YOUR PURCHASE VOLUMES

According to the direct purchaser plaintiffs’ economic expert’s analysis of the data produced in the Action, your net qualifying volumes of brand and generic Effexor XR purchases are as follows:

_____ Capsules of brand Effexor XR purchased directly from Wyeth (net of returns and free samples) from June 14, 2008 through May 31, 2011.

_____ Capsules of generic Effexor XR purchased directly from Teva (net of returns and free samples) from July 1, 2010 through May 31, 2011.

The National Drug Codes (NDCs) for the relevant products and strengths are listed below in Exhibit A.

If you accept and verify that the above figures for your net direct brand and generic Effexor XR purchases are correct, please check here:

Regardless of whether you accept these figures, if you have assigned part or all of your claim by entering assignment agreements with any of the Retailer Plaintiffs (Walgreen Co., The Kroger Co. (including Peytons), Safeway, Inc., United Natural Foods, Inc. f/k/a Supervalu Inc., H-E-B, L.P. f/k/a HEB Grocery Company, L.P., American Sales Company, Inc., Rite Aid Corporation, Rite Aid Hdqtrs. Corporation, JCG (PJC) USA, LLC, Maxi Drug, Inc. d/b/a/ Brooks Pharmacy, Eckerd Corporation, Meijer, Inc., Meijer Distribution, Inc., Giant Eagle, Inc., and CVS Caremark Corporation (including Caremark and Omnicare)), then you must submit with your Claim Form copies of those assignment agreements and data showing the volumes covered by such assignments.

*Please note that, even if you accept these figures, they may be reduced if you have assigned part or all of your claim by entering an assignment agreement with any of the Retailer Plaintiffs or with any other entity. The only assignment that has been accounted for in the above purchase figures is an assignment from QK Healthcare to Uniondale Chemists, Inc. (one of the Class Representatives in this case). Otherwise, the above purchase figures do **not** account for assignments that may reduce these totals.*

B. To the extent that you do not elect to rely upon the calculation of net purchase volumes as set forth above in Part II.A, please identify all purchases of brand Effexor XR **directly** from Wyeth (net of returns, free samples, and assignments) from June 14, 2008 through May 31, 2011 and generic Effexor XR **directly** from Teva (net of returns, free samples, and assignments) from July 1, 2010 through May 31, 2011, by providing the information below in electronic format. The relevant NDC codes are listed below in Exhibit A. The Claims Administrator may require additional information.

In addition, if you have assigned part or all of your claim by entering assignment agreement(s) with any of the Retailer Plaintiffs, provide data below showing the volumes covered by such assignments.

Date of Purchase (MM/DD/YYYY)	Supplier (Purchased From)	NDC (#####-###-##)	Transaction Type (Purchase or Return)	Purchase Volume # of Capsules

C. Assignments

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

If you are submitting a claim pursuant to an assignment, please identify with particularity that assignment here. Please also attach documentation in support of such assignment, including the assignment agreement and data showing your qualifying purchases from your assignor that are covered by any such assignment of purchases of brand Effexor XR directly from Wyeth (net of returns, free samples) from June 14, 2008 through May 31, 2011 and generic Effexor XR directly from Teva (net of returns, free samples,) from July 1, 2010 through May 31, 2011.

Please provide the following data:

Date of Purchase (MM/DD/YYYY)	Assignor (Purchased From)	NDC (#####-####-##)	Transaction Type (Purchase or Return)	Purchase Volume # of Capsules

Please note that the Claims Administrator may require additional information and documents for any claim made based on an assignment. Also please note that your claim, including the documentation and data submitted therewith, may be shared with your assignor as part of the Claims Administration process. By submitting a claim by virtue of an assignment, you are agreeing that such data and documentation, and calculations based on such data and documentation, may be shared with your assignor. Also note that, if the assignor Class member and Claimant filing by assignment from that assignor Class member cannot reach agreement about the Claimant’s right to recover, including agreement regarding the purchase volumes covered by such assignment, then the disputed share of the Net Settlement Fund shall be placed into escrow and the assignee Claimant and the assignor Class member shall make application to the Court for any such monies held in escrow.

PART III: SUBMISSION TO JURISDICTION OF THE COURT

By signing below, you agree to submit to the exclusive jurisdiction of the United States District Court for the District of New Jersey with respect to any suit, action, proceeding or dispute arising out of or relating to *In re Effexor XR Antitrust Litigation*, No. 3:11-cv-5479 (D.N.J.). (the “Action”), claims administration in the Action, the claim you or any other entity is making as a Class member or assignee thereof in the Action, and/or the Releases set forth below.

PART IV: RELEASES

A. By signing below, you hereby confirm that you and your respective past and present parents, subsidiaries, and affiliates, as well your past and present general and limited partners, officers, directors, employees, agents, attorneys, servants, predecessors, successors, heirs, executors, administrators, and representatives (“Releasing Parties”) shall release and forever discharge, and covenant not to sue Wyeth and its respective past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, general partners, limited partners, officers, directors, management, supervisory boards, insurers, employees, agents, servants, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors,

successors, heirs, executors, administrators, and assigns of each of the foregoing) (the “Wyeth Releasees”), with respect to, in connection with, or relating to any and all past, present, or future liabilities, claims, demands, obligations, suits, damages, penalties, levies, executions, judgments, debts, charges, actions, or causes of action, at law or in equity, whether class, individual, or otherwise in nature, and whether known or unknown, arising out of or relating to any conduct, events, or transactions up to the date of the Settlement Agreement, (a) alleged, or which could reasonably have been alleged, in the Direct Purchaser Class Action, (b) concerning purchases of Effexor XR and/or its generic equivalents and arising under the Sherman Act, 15 U.S.C. §§ 1 & 2, *et seq.*, any state or federal RICO statutes, or any other federal or state statute or common law doctrine relating to antitrust, fraud, unfair competition, unjust enrichment, or consumer protection, or (c) the sale, marketing, or distribution of Effexor XR or generic Effexor XR except as provided for in Paragraphs 13(c) and 14 of the Settlement Agreement (the “Released Claims”). You will be forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other proceeding in any forum whatsoever, including any court of law or equity, arbitration tribunal, or administrative forum, asserting the Released Claims against the Wyeth Releasees.

B. In addition, You, on behalf of yourself and all other Releasing Parties, expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and benefits conferred by Section 1542 of the California Civil Code, which reads:

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

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. The Releasing Parties may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of Paragraph 13 of the Settlement Agreement, but You hereby expressly waive and fully, finally, and forever settle, release, and discharge, upon the Settlement Agreement becoming final, any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. You also hereby expressly waive and fully, finally and forever settle, release and discharge any and all claims You and the Releasing Parties may have against any Wyeth Releasee under Section 17200, *et seq.*, of the California Business and Professions Code or any similar comparable or equivalent provision of the law of any other state or territory of the United States or other jurisdiction, which claims are expressly incorporated into the definition of Released Claims.

C. In addition, upon the Settlement becoming final, Wyeth on behalf of itself and its respective past, present, and future parents, subsidiaries, associates, affiliates, officers, directors, employees, insurers, general or limited partners, divisions, agents, attorneys, servants, trustees, joint ventures, heirs, executors, administrators, representatives (and the parents’, subsidiaries’, and affiliates’ past and present officers, directors, employees, agents, attorneys, servants, and representatives), and their predecessors, successors, heirs, executors, administrators, and representatives (collectively, the “Wyeth Releasers”), also release and forever discharge, and covenant not to sue, Class Members and their past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, attorneys, servants, representatives (and the parents’, subsidiaries’, and affiliates’ past, present, and future officers, directors, employees, agents, attorneys, servants, and representatives), and the

predecessors, successors, heirs, executors, administrators and representatives of each of the foregoing (collectively, the "Direct Purchaser Class Releasees") from all claims, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties and attorneys' fees, under federal or state laws, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, contingent or non-contingent, in law or equity, asserted in connection with the Action or that should have been asserted in the Action as compulsory counterclaims arising out of the alleged conduct that is the subject matter of Paragraph 13 of the Settlement Agreement.

D. The Settlement Agreement releases only the Wyeth Releasees and the Direct Purchaser Class Releasees with respect to the Released Claims. The Direct Purchaser Releasees specifically do not intend the Settlement Agreement, or any part thereof or any other aspect of the proposed Settlement Agreement, to compromise or otherwise affect in any way any rights the Direct Purchaser Releasees have or may have against any other person, firm, association, or corporation whatsoever. The release set forth in Paragraph 13 of the Settlement Agreement is not intended to and shall not release any claims other than the Released Claims.

E. The intent of the Settlement is to effect a complete and total resolution of this Action to the extent of the claims of the Direct Purchaser Class against Wyeth, as well as any compulsory counterclaims of Wyeth, relating to the allegations in this Action that were or should have been asserted, but the Settlement is not intended to, and does not, release any claims (1) arising in the ordinary course of business between any Direct Purchaser Class member and Wyeth arising under Article 2 of the Uniform Commercial Code (pertaining to sales), the laws of negligence or product liability or implied warranty, breach of contract, breach of express warranty, or personal injury; (2) unrelated to purchases of Effexor XR or generic Effexor XR; or (3) arising out of or in any way relating to the alleged claims against Wyeth and other manufacturers of generic pharmaceutical products that are alleged in *In re Generic Pharmaceuticals Pricing Antitrust Litig.*, MDL No. 2724, 16-MD-2724 (E.D. Pa.).

F. The releases set forth above will become effective when the Settlement receives final court approval.

PART V: VERIFICATION/RELEASE

I declare under penalty of perjury under the laws of the United States of America that the foregoing information provided by the undersigned is true and correct and that this proof of claim and release was executed this _____, day of _____, _____ in _____, _____
(Day) (Month) (Year) (City) (State/Country)

Sign your name here: _____

Type/print your name here: _____

Type/print your company name here: _____

Capacity or job title of person signing (e.g., President, Partner): _____

RETURN YOUR COMPLETED PROOF OF CLAIM AND RELEASE AND RETURN TO:

In re: Effexor XR Antitrust Litigation

c/o RG/2 Claims Administration

P.O. Box 59479

Philadelphia, PA 19102-9479

Questions? Contact the Notice and Claims Administrator at 866-742-4955.

Remember, your signed Proof of Claim and Release must be mailed and postmarked by July 2, 2024.

Again, if you have assigned part or all of your claim by entering assignment agreements with any of the Retailer Plaintiffs (Walgreen Co., The Kroger Co. (including Peytons), Safeway, Inc., United Natural Foods, Inc. f/k/a Supervalu Inc., H-E-B, L.P. f/k/a HEB Grocery Company, L.P., American Sales Company, Inc., Rite Aid Corporation, Rite Aid Hdqtrs. Corporation, JCG (PJC) USA, LLC, Maxi Drug, Inc. d/b/a/ Brooks Pharmacy, Eckerd Corporation, Meijer, Inc., Meijer Distribution, Inc., Giant Eagle, Inc., and CVS Caremark Corporation (including Caremark and Omnicare)), then you must submit with your Claim Form copies of those assignment agreements and data showing the volumes covered by such assignments.

Exhibit A: Relevant NDCs of Brand and Generic Effexor XR Capsules

<u>NDC</u>	<u>Strength</u>	<u>Package Size</u>
<u>Brand Effexor XR (sold by Wyeth):</u>		
00008083303	75MG	100
00008083320	75MG	15
00008083321	75MG	30
00008083322	75MG	90
00008083603	150MG	100
00008083620	150MG	15
00008083621	150MG	30
00008083622	150MG	90
00008083703	37.5MG	100
00008083720	37.5MG	15
00008083721	37.5MG	30
00008083722	37.5MG	90
<u>Generic Effexor XR (sold by Teva):</u>		
00093738456	37.5MG	30
00093738498	37.5MG	90
00093738556	75MG	30
00093738598	75MG	90
00093738656	150MG	30
00093738698	150MG	90