EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MYLAN PHARMACEUTICALS, INC., et al. **Plaintiff,** **v.** **WARNER CHILCOTT PUBLIC LIMITED COMPANY, et al.,** **Defendants.**	**Civ. No. 12-3824** **CONSOLIDATED**

[PROPOSED] FINAL ORDER AND JUDGMENT APPROVING SETTLEMENT

The Court, having considered (a) Direct Purchaser Plaintiffs' Motion and Memorandum of Law In Support of Unopposed Motion For Class Certification For Purposes of Settlement, Preliminary Approval of Proposed Settlement, Appointment of Class Counsel, Approval of the Form and Manner of Notice to the Class And Setting the Final Settlement Schedule and Date for A Fairness Hearing and accompanying exhibits (ECF No. 452) ("Motion for Preliminary Approval"); (b) Direct Purchaser Plaintiffs' Motion and Memorandum In Support of Unopposed Motion for Final Approval of Settlement and accompanying exhibits and the Declaration of Co-Lead Counsel Peter Kohn In Support of Direct Purchaser Plaintiffs' Unopposed Motion for Final Approval of Settlement (collectively, the "Motion for Final Approval"); (c) Direct Purchaser Plaintiffs' Motion for An Award of Attorneys' Fees, Reimbursement of Expenses, and Payment of Incentive Awards to the Class Representatives and the Declaration of Co-Lead Counsel Peter Kohn In Support of Direct Purchaser Plaintiffs' Motion for An Award of Attorneys' Fees, Reimbursement of Expenses, and Payment of Incentive Awards to the Class Representatives

(collectively, "Motion for Fees and Expenses"); and (d) arguments presented to the Court at the June 9, 2014 final approval hearing and all other prior proceedings herein; and

PURSUANT TO FED. R. CIV. P. 23 AND 54(b), and in accordance with the terms of the settlement agreement between Plaintiffs Rochester Drug Co-Operative, Inc. ("RDC"), American Sales Company, LLC ("American Sales"), and Meijer, Inc. and Meijer Distribution, Inc. ("Meijer") (collectively "Plaintiffs" or "Class Representatives") and Defendants Warner Chilcott (US) LLC, Warner Chilcott Public Limited Company, Warner Chilcott Company LLC, Warner Chilcott Holdings Company III, Ltd., and Warner Chilcott Laboratories Ireland Limited (collectively, "Warner Chilcott"), and Mayne Pharma Group Limited and Mayne Pharma International Pty. Ltd. (collectively, "Mayne") (together, "Defendants") dated December 24, 2013 (the "Settlement");

IT IS HEREBY ORDERED as follows:

1. This Court has jurisdiction over this action and over each of the parties and over all members of the Class (defined below).

2. This final order and judgment incorporates by reference the definitions in the December 24, 2013 Settlement Agreement that was attached as Exhibit A to the Motion for Preliminary Approval (ECF 452-2) ("Settlement Agreement"), and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

A. Certification of the Class.

3. This Court's February 18, 2014 Order granting Plaintiffs' Motion for Preliminary Approval (ECF No. 484) preliminarily certified and ordered that notice of the Settlement be directed by the Court appointed Claims Administrator, Rust Consulting Inc. ("Rust"), to the following class:

All persons and entities in the United States who purchased Doryx directly from one or more of the Defendants at any time from July 18, 2008 through December 31, 2013 (the "Class Period"). Excluded from the class are Defendants, their parents, employees, subsidiaries and affiliates, and federal government entities (the "Class").

4. For purposes of settlement only, certification of the above-defined Class is granted and the Court makes the following findings pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3):

a. the Class consists of 23 members spread throughout the United States, which is sufficient to satisfy the impracticality of joinder requirement of Rule 23(a)(1);

b. the following issues related to the claims or defenses present common, class-wide questions under Rule 23(a)(2):

i. Whether the conduct challenged by the Class as anticompetitive in the Consolidated Amended Class Action Complaint filed August 13, 2012 (the "Complaint") (ECF No. 62) constitutes a restraint of trade in violation of Section 1 of the Sherman Act 15 U.S.C. § 1 or constitutes monopolization or attempted monopolization in violation Section 2 of the Sherman Act, 15 U.S.C. § 2;

ii. Whether Defendants' challenged conduct substantially affected interstate commerce and caused antitrust injury-in-fact to the Class through overcharges paid as a result of the higher prices direct purchasers paid for delayed-release doxycycline hyclate; and

iii. The amount of overcharge damages, if any, owed to the Class in the aggregate under Section 4 of the Clayton Act, 15 U.S.C. § 4.

c. the claims of Plaintiffs are typical of the claims of the Class and meet the typicality requirement of Rule 23(a)(3);

d. Plaintiffs and previously appointed Co-Lead Counsel for the Class (ECF No. 484) ("Co-Lead Counsel") will fairly and adequately protect the interests of the Class. Fed R. Civ. P. 23(a)(4);

e. common questions of law and fact predominate over questions affecting only individual Class members. Fed R. Civil P. 23(b)(3);

f. resolving the claims of the Class in a single action is "superior to other available methods for fairly and efficiently adjudicating the controversy" particularly because there are few manageability problems presented in light of the Settlement. Fed R. Civ. P. 23(b)(3).

B. Notice to the Class.

5. As required by this Court in the Preliminary Approval Order, timely notice of the proposed Settlement was mailed by first-class mail to all members of the Class to the last known address found in Warner Chilcott's sales database and verified by Rust. The notice was also posted, along with relevant litigation and Settlement documents, on the website of one of Co-Lead Counsel, Faruqi & Faruqi, LLP, for the purpose of further advising members of the Class of the fact and terms of the Settlement. *See* www.faruqilaw.com.

6. Such notice to members of the Class is hereby determined to be fully in compliance with requirements of Fed. R. Civ. P. 23(e) and due process of law and is found to be the best notice practicable under the circumstances and to constitute due and sufficient notice to all entities entitled thereto.

7. Due and adequate notice of the proceedings having been given to the Class and a full opportunity having been offered to the Class to participate in the fairness hearing, it is hereby determined that all Class members are bound by this Order and Final Judgment.

C. Approval of the Settlement.

8. As set forth in more detail in the Settlement Agreement, Defendants have agreed to pay a total of $15 million, plus accrued interest, to settle this action.

9. The Settlement between Plaintiffs and Defendants was not the product of collusion between Class Representatives, the Class, and Defendants or their respective counsel, but rather was the result of *bona fide* and arm's-length negotiations conducted in good faith between Class Counsel and Defendants' counsel.

10. The Court has held a hearing to consider the fairness, reasonableness and adequacy of the proposed Settlement, and has been advised that there have been no objections to the Settlement from any members of the Class.

11. Pursuant to Fed. R. Civ. P. 23, this Court hereby approves the Settlement and finds that the Settlement is, in all respects, fair, reasonable and adequate to Class members. Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement. The Settlement is fair, reasonable and adequate in light of the factors set forth in *Girsh v. Jepson*, 521 F.2d 153 (3d Cir. 1975), as follows:

a. this case was and is highly complex, expensive and time consuming, and will continue to be so if the case had not settled;

b. there were no objections to the Settlement by Class members;

c. because the case settled after the conclusion of fact discovery, after millions of pages of documents had been produced and reviewed, after more than 75 depositions had been taken, after opening merits and responsive expert reports were exchanged and some experts had been deposed, Class Counsel had an appreciation of the strengths and weaknesses of their case;

d. Class Counsel and the Class would have faced uncertainty in establishing liability and damages if they had decided to continue to litigate rather than settle;

e. the Settlement amount is well within the range of reasonableness in light of the best possible recovery and the risks the parties would have faced if the case had continued to verdict; and

f. the settlement also satisfies the additional factors for evaluating class settlements set forth in *In re Prudential Ins. Co. of America Sales Practices Litigation*, 148 F.3d 283 (3d Cir. 1998).

D. Approval of the Plan of Distribution.

12. The Court approves the plan of distribution of the Settlement proceeds, net of attorneys' fees, reimbursed expenses and incentive awards (the "Plan") (ECF No. 452-3), proposed by Plaintiffs. The Plan proposes to distribute the net settlement proceeds *pro rata*, with the assistance of Class Counsel's expert economist, based on Class members' purchases of Doryx during the Class Period, and does so fairly and efficiently. It directs Rust to distribute the net settlement proceeds to Class members in the manner provided in the Plan.

E. Approval of the Proposed Claim Form.

13. The Court approves the proposed Doryx Direct Purchaser Proof of Claim and Release (ECF No. 452-5) ("Claim Form") to be used by Rust to notify each Class member of Rust's estimate of the Class member's purchases of Doryx during the Class Period, prepared with the assistance of Class Counsel's expert economist, based on data produced by Warner Chilcott and Retailer plaintiffs in the litigation and provided to Rust by Class Counsel, as well as Rust's estimate of the Class member's *pro rata* share of the Net Settlement Fund.[1]

F. Dismissal of Claims.

14. All claims in the above-captioned action against Defendants are hereby dismissed with prejudice and without costs.

15. In accordance with Paragraph 11 the Settlement Agreement, upon the Settlement becoming final, the Court finds that:

a. Plaintiffs and all Class Members, on behalf of themselves and their respective past and present parents, subsidiaries, affiliates, officers, directors, employees, agents, attorneys, servants, 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 (the "Releasors"), hereby release and forever discharge, and covenant not to sue Defendants and their past and present parents, subsidiaries, affiliates, officers, directors, employees, agents, attorneys, servants, representatives (and the parents', subsidiaries', and affiliates' past and present officers, directors, employees, agents, attorneys, servants, and representatives), and the predecessors, successors, heirs, executors, administrators and representatives of each of the foregoing (the "Releasees"), with respect to, in connection with, or relating to any and all past, present, or future liabilities, claims, demands, obligations, suits, injuries, damages, levies, executions, judgments, debts, charges, actions, or causes of action, at law or in equity, whether class, individual, or otherwise in nature, and whether known or unknown, foreseen or unforeseen, suspected or unsuspected, contingent or non-contingent, arising out of or relating to purchases of Doryx at any time prior to the Effective Date and arising under the Sherman Act, 15 U.S.C. §§ 1 & 2, *et seq.*, or any other federal or state

[1] The "Net Settlement Fund" is the amount remaining after attorneys' fees, reimbursement of litigation expenses, class representative incentive awards, and settlement administration costs approved by the Court are deducted.

statute or common law relating to antitrust or unfair competition (the "Released Claims"). The Released Claims include, but are not limited to, any and all claims relating to or arising out of the facts, occurrences, transactions, or other matters alleged or asserted in this Action, or that could have been alleged or asserted in this Action. However, this Settlement Agreement is not intended to release anyone other than the Releasees, is not on behalf of anyone other than the Releasors, and does not affect the claims of the proposed end-payor class, the claims of the Retailer Plaintiffs who filed their own complaints in this matter, or the claims of Mylan Pharmaceuticals, Inc. or its affiliates, nor is it intended to release any actual or potential claims described in Paragraph 13 of the Settlement Agreement.

b. In addition, in accordance with Paragraph 12 of the Settlement Agreement, upon the Settlement becoming final, the Court finds that each Class member has expressly waived and released any and all provisions, rights, and/or benefits conferred by § 1542 of the California Civil Code, which reads:

> Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor; or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims that are the subject matter of Paragraph 10. Nonetheless, upon the Settlement becoming final each Releasor hereby expressly waives and fully, finally and forever settles and releases any known or unknown, foreseen or unforeseen, suspected or unsuspected, contingent or non-contingent claim that is the subject matter of Paragraph 10 of the Settlement Agreement, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

G. Award of Attorneys' Fees and Reimbursement of Expenses.

16. Class Counsel have moved for an award of attorneys' fees and reimbursement of expenses. Pursuant to Fed. R. Civ. P. 23(h)(3) and 54(d), and pursuant to the factors for assessing the reasonableness of a class action fee request as set forth in *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000), and *In re Prudential Ins. Co. of American*

Sales Practices Litig., 148 F.3d 283, 340 (3d Cir. 1998), this Court makes the following findings of fact and conclusions of law:

a. the Settlement confers a monetary benefit on the Class that is substantial both in absolute terms and when assessed in light of the risks of establishing liability and damages in this case;

b. there were no objections by Class members to the requested fee award of one-third of the Settlement fund;

c. Class Counsel have effectively and efficiently prosecuted this difficult and complex action on behalf of the members of the Class over two years, with no guarantee they would be compensated;

d. Class Counsel undertook numerous and significant risks of nonpayment in connection with the prosecution of this action;

e. Class Counsel have reasonably expended thousands of hours, and incurred over a million dollars in out-of-pocket expenses, in prosecuting this action, with no guarantee of recovery;

f. fee awards similar to the fee requested by Class Counsel here have been awarded in similar cases, including numerous Hatch-Waxman antitrust class actions similarly alleging impaired generic competition;

g. the Settlement achieved for the benefit of the Class was obtained as a direct result of Class Counsel's skillful advocacy;

h. the Settlement was reached following a mediation led by an experienced mediator and after negotiations held in good-faith and in the absence of collusion;

i. the "percentage-of-the-fund" method is the proper method for calculating attorneys' fees in common fund class action in this Circuit;[2]

j. Class members were advised in the notice of proposed settlement of class action, which notice was approved by this Court, that Class Counsel intended to move for an award of attorneys' fees in an amount up to 33⅓% of the gross settlement fund, in addition to reimbursement of reasonable costs and expenses incurred in the prosecution of this action;

[2] *See, e.g., In re Rite Aid Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005).

k. Class Counsel did, in fact, move for an award of attorneys' fees in the amount of 33⅓% of the gross settlement fund, plus reimbursement of reasonable costs and expenses incurred in the prosecution of this action, which motion has been publicly available since March 19, 2014 through public filing on the docket of this Court[3] and on the website of one of Co-Lead Counsel, Faruqi & Faruqi LLP;

l. a lodestar cross-check confirms the reasonableness of the fee request. A lodestar cross-check ensures that application of the percentage method results in a recovery that is "sensible."[4] Class Counsel's lodestar is in excess of $11,296,550. Based on a one-third fee ($5 million), the requested fee is less than lodestar, *i.e.*, there is a negative multiplier of 44 percent and below the range normally approved in comparable cases as the Third Circuit courts have often been presented with, and approved, lodestar multipliers in the 2-4 range, but accepted even higher multipliers;[5]

m. Class Counsel substantially developed this case through their investigation and efforts. Although other plaintiffs pursued claims against Defendants, Class Counsel took a primary role in leading the joint litigation efforts, including being lead questioner on a majority of the depositions of Defendants' employees, taking the lead in third party discovery, overseeing the work of numerous experts shared with other plaintiff groups for experts in dermatology, gastroenterology, pharmaceutics, pharmaceutical manufacturing and supply and, pharmacoeconomics as well as Plaintiffs' economic expert.

n. a one-third contingency is standard in individual litigation, and could be more in an antitrust case, given the complexities and risks involved;

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[3] On March 26, 2014 the Court denied without prejudice the Motion for Fees and Expenses and instructed Plaintiffs to resubmit it before the final fairness hearing (ECF No. 566). Plaintiffs refiled their Motion for Fees and Expenses on April 24, 2014, the same day as they filed their Motion for Final Approval.

[4] *Rite Aid*, 396 F.3d at 305-06; *see also In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 263 (D. Del. 2002) ("The Third Circuit suggests that the district court cross-check the percentage award against the 'lodestar' award to help ensure the reasonableness of the fee.").

[5] *See, e.g.*, *Meijer, Inc. v. 3M*, C.A. No. 04-5871, 2006 WL 2382718, *24 (E.D. Pa Aug. 14, 2006) (approving a percentage fee award that translated to a 4.77 multiplier in case that settled after one year); *Abbott Labs, Co. v. Teva Pharms. USA, Inc.*, C.A. No. 05-340, at 9 (D. Del. Apr. 23, 2009) (approving one-third fee where lodestar multiplier was 3.93); *In re Children's Ibuprofen Oral Suspension Antitrust Litig.*, C.A. No. 04-mc-00535-ESH (D.D.C. Apr. 24, 2006) (multiplier of 2.33); *In re Remeron Direct Purchaser Antitrust Litig.*, No. 03-0085, 2005 U.S. Dist. LEXIS 27013, *47-48 (multiplier of 1.86 is on the "low end of the spectrum"). *See also Segen v. OptionsXpress Holdings Inc.*, 631 F. Supp. 2d 645 (D. Del. 2009) (approving a fee award resulting in a lodestar multiplier of 2.06 in securities class action).

o. in light of the factors and findings described above, the requested 33⅓% fee award is within the applicable range of reasonable percentage fund awards.

17. Accordingly, Class Counsel are hereby awarded attorneys' fees in the amount of $5,000,000 from the Settlement fund plus interest accrued thereon, if any. The Court finds this award to be fair and reasonable. Co-Lead Counsel shall allocate the fees among Class Counsel.

18. Further, Class Counsel are hereby awarded $1,111,284.11 from the Settlement fund to reimburse them for the expenses they incurred in the prosecution of this lawsuit, which expenses the Court finds to be fair, and reasonably incurred to achieve the benefits to the Class obtained in the Settlement to the Class. The awarded fees and expenses shall be paid to Class Counsel from the Settlement fund in accordance with the terms of the Settlement Agreement. Co-Lead Counsel shall allocate the expenses among Class Counsel.

19. Without affecting the finality of this judgment, the Court retains exclusive jurisdiction over the Settlement Agreement, including the administration and consummation of the Settlement Agreement, the plan of distribution of the Settlement to the Class, and in order to determine any issues relating to attorneys' fees and expenses and any distribution to members of the Class. In addition, without affecting the finality of this judgment, Defendants and each member of the Class hereby irrevocably submit to the exclusive jurisdiction of the Court for any suit, action, proceeding or dispute arising out of or relating to the Settlement Agreement or the applicability of the Settlement Agreement, including, without limitation any suit, action, proceeding or dispute relating to the release provisions therein, except that this submission to the Court's jurisdiction shall not prohibit (a) the assertion in the forum in which a claim is brought that the release included in the Settlement Agreement is a defense, in whole or in part, to such

claim or, (b) in the event that such a defense is asserted in that forum, the determination of its merits in that forum.

20. RDC, American Sales and Meijer are each hereby awarded $50,000 from the Settlement fund. These payments are in recognition of the work these Plaintiffs undertook in representing the Class, which amount is in addition to whatever monies these Plaintiffs will receive from the Settlement fund pursuant to the Plan. The Court finds these awards to be fair and reasonable.

21. In the event the Settlement does not become final in accordance with the Settlement Agreement, this final order and judgment shall be rendered null and void as provided by the Settlement Agreement, shall be vacated, and all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

22. The Court hereby determines and directs under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that this judgment of dismissal with prejudice as to Defendants shall be final and entered by the clerk forthwith. The direction of the entry of final judgment pursuant to Rule 54(b) is appropriate and proper because this judgment fully and finally adjudicates the claims of the Plaintiffs and the Class against all Defendants in this action, allows consummation of the Settlement, and will expedite the distribution of the Settlement proceeds to Class members.

AND IT IS SO ORDERED:

Dated:

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Paul S. Diamond
United States District Judge