

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

**IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION**

**MDL No. 2445**

**Master File No. 2:13-MD-2445-MSG**

**THIS DOCUMENT RELATES TO:**

*All Direct Purchaser Class Actions*

**NOTICE OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT, APPROVAL OF THE  
FORM AND MANNER OF NOTICE TO THE CLASS AND PROPOSED SCHEDULE  
FOR A FAIRNESS HEARING**

**PLEASE TAKE NOTICE** that upon the accompanying Memorandum of Law, and Declaration of Bruce E. Gerstein and Exhibits 1-3 thereto, Direct Purchaser Class Plaintiffs hereby move for the entry of the Preliminary Approval Order proposed herewith, which provides for: preliminary approval of the proposed Settlement Agreement; approval of a proposed Escrow Agreement; approval of the proposed form and manner of notice to the Direct Purchaser Class; and the establishment of a proposed schedule leading up to and including the Fairness Hearing.

Dated: October 25, 2023

Respectfully Submitted,

/s/ Bruce E. Gerstein

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2023, I caused the above to be publicly filed on the Court's CM/ECF system.

Respectfully submitted,

/s/ Bruce E. Gerstein  
Bruce E. Gerstein

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

**IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION**

**MDL No. 2445**

**Master File No. 2:13-MD-2445-MSG**

**THIS DOCUMENT RELATES TO:**

*All Direct Purchaser Class Actions*

**DIRECT PURCHASER CLASS PLAINTIFFS' MEMORANDUM OF LAW IN  
SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF PROPOSED  
SETTLEMENT, APPROVAL OF THE FORM AND MANNER OF NOTICE TO THE  
CLASS AND PROPOSED SCHEDULE FOR A FAIRNESS HEARING**

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Direct Purchaser Class Plaintiffs Burlington Drug Company, Inc. (“BDC”), Rochester Drug Co-Operative, Inc. (“RDC”), and Meijer, Inc. and Meijer Distribution, Inc. (collectively “Meijer”) (BDC, RDC and Meijer collectively “Plaintiffs”), have reached an agreement on their own behalf and on behalf of the certified direct purchaser class,<sup>1</sup> with Indivior Inc., f/k/a Reckitt Benckiser Pharmaceuticals, Inc. (“Indivior” or “Defendant”) to settle the Direct Purchaser Class’s claims in this litigation against Indivior. Plaintiffs respectfully submit this Memorandum of Law in Support of their Motion for Preliminary Approval of Proposed Settlement, Approval of the Form and Manner of Notice to the Class and Proposed Schedule for a Fairness Hearing.

## **I. INTRODUCTION**

Under the terms of a settlement agreement dated October 22, 2023 (the “Settlement Agreement”), Indivior has agreed to make one (1) immediate cash payment of \$385,000,000 (Three Hundred Eighty-Five Million and no/100) to Plaintiffs in exchange for Plaintiffs’ agreement to dismiss their claims (on their behalf and on behalf of the Class) against Indivior with prejudice and to provide certain releases. *See* Settlement Agreement, Exhibit 1 to the Declaration of Bruce E. Gerstein (“Gerstein Decl.”). This settlement represents an outstanding result for Plaintiffs and the Class.

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<sup>1</sup> The settlement is on behalf of Plaintiffs and a class defined as follows (“Direct Purchaser Class” or “Class”):

All persons or entities in the United States and its territories who purchased branded Suboxone tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior, Inc.) at any time during the period January 1, 2012 through March 14, 2013 (“the Class”). Excluded from the Class are Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.) its officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

*See generally* ECF No. 588 (Order) (Certifying the Class) at ¶ 1.a.

Plaintiffs and Indivior entered into the Settlement Agreement after more than a decade of intense, fully developed litigation, weeks before a jury trial was set to begin. Counsel for both sides are highly experienced in pharmaceutical antitrust litigation and well-positioned to assess the risks and merits of the case. Plaintiffs were fully prepared to go to trial but concluded that the proposed settlement was in the best interests of the Class since, if finally approved, the settlement assures Class members of receiving substantial cash payments while putting the litigation against Indivior to rest and avoiding the inherent risks of jury trial and potential appeals. For these reasons, and as further detailed below, the settlement satisfies the requirements for preliminary approval.

Accordingly, Plaintiffs respectfully request that the Court enter a proposed order (in the form of Exhibit A to the Settlement Agreement) which provides for the following:

1. Preliminary approval of the proposed Settlement Agreement and the documents necessary to effectuate the Settlement, including a proposed form of notice to the Class (in the form appearing as Exhibit B to the Settlement Agreement) and a proposed plan of allocation to be used to allocate the settlement funds among the Class members, as set forth in Exhibits 2 and 3 to the Gerstein Decl.;
2. Re-appointment of RG/2 Claims Administration LLC (“RG/2”), previously appointed by the Court as Notice Administrator, as Claims Administrator;
3. Appointment of First State Trust Company as escrow agent for the settlement funds as set forth in Exhibit D to the Settlement Agreement; and
4. A proposed settlement schedule, including the scheduling of a Fairness Hearing during which the Court will consider: (a) Plaintiffs’ request for final approval of the Settlement Agreement and entry of a proposed order and final judgment (in the form appearing as Exhibit C to the Settlement Agreement); (b) Plaintiffs’ Counsel’s application for an award of attorneys’ fees and reimbursement of expenses, payment of administrative costs, and service awards to the named class plaintiffs; and (c) Plaintiffs’ request for dismissal of this action against Indivior with prejudice.

## II. BACKGROUND

### A. Procedural Background & Settlement Negotiations

On December 21, 2012, before any FDA referral of Indivior (then known as Reckitt) to the FTC, and before any Department of Justice (“DOJ”) enforcement activity, the undersigned counsel filed the first direct purchaser complaint alleging that Indivior violated the antitrust laws with respect to Suboxone, in the District of Vermont, following an extensive private investigation. *See Burlington Drug Co., Inc. v. Reckitt Benckiser Group plc et al.*, No. 2:12-cv-282 (D. Vt.). Shortly thereafter, other substantially similar direct and indirect purchaser class complaints were filed in different districts, and as a result, on June 6, 2013, the United States Judicial Panel on Multidistrict Litigation centralized all then-pending actions (two direct purchaser and one indirect purchaser) in this District and assigned them to this Court. *See* MDL No. 2445, Doc. 60 (Transfer Order). On August 7, 2013, the Court appointed Garwin Gerstein & Fisher LLP, Faruqi & Faruqi LLP and Hagens Berman Sobol Shapiro LLP as Interim Co-Lead Counsel for the Direct Purchaser Class and Garwin Gerstein & Fisher LLP as Interim Liaison Counsel for same. *See* ECF No. 44 (Pretrial Order No. 2). On September 27, 2019, in its order certifying the Class, the Court ruled that these firms had “prosecuted this litigation effectively to date” and “confirm[ed] their appointments as Lead Counsel for the Class.” ECF No. 588 (Order) at ¶ 1.b.

Over the course of the next ten years, the undersigned counsel vigorously litigated this case. During 2013, the parties engaged in motion to dismiss briefing, and on December 3, 2013 the Court rejected Defendant’s arguments and largely denied Defendant’s motion to dismiss. *See* ECF No. 97 (Mem. Op.). The parties then engaged in extensive fact and expert discovery, which proceeded for many years. Plaintiffs secured the production of approximately 6.7 million pages of documents from Defendant and third parties, took 29 fact depositions, several expert

depositions, and defended 12 plaintiff-witness depositions (including experts). The parties also exchanged a total of 17 expert reports. Extensive discovery motion practice occurred. For instance, Plaintiffs filed two motions to compel against non-party Actavis, one of the earliest sellers of generic Suboxone tablets, which were granted in part. *See* ECF Nos. 257 & 461 (motions to compel) and ECF Nos. 289 & 471 (Orders on motions to compel). Separately, after the parties reached impasse concerning the depositions of certain witnesses who intended to invoke their Fifth Amendment rights, Plaintiffs opposed Indivior's motion to "temporarily defer" the depositions of those witnesses during the DOJ criminal investigation into Reckitt's marketing of Suboxone, resulting in this Court establishing a protocol for such witnesses. *See* ECF No. 393 (Order). It is notable that the DOJ (and FTC) investigation into Indivior and its employees followed the initial complaint in this matter, not the other way around.

During 2018 and into 2019, the parties briefed class certification. Defendant also filed a *Daubert* motion to exclude Plaintiffs' class certification expert. On September 27, 2019, the Court granted Plaintiffs' motion for class certification and denied Defendant's *Daubert* motion. *See* ECF Nos. 587 & 588 (Mem. Op. and Order). Defendant appealed this ruling to the Third Circuit Court of Appeals, which, following argument, unanimously affirmed this Court's grant of class certification in a precedential opinion. 967 F.3d 264 (3d Cir. 2020).

During the pendency of the class certification appeal, the parties briefed "Phase I" *Daubert* motions, *i.e.*, motions directed primarily to non-economic expert opinions that would not be impacted by the Third Circuit's resolution of the appeal. *See* ECF No. 612 (Order). In August 2020, the Court set a schedule for the remaining *Daubert* ("Phase II") motions and summary judgment motions. *See* ECF No. 644 (Order). During this time, the parties also extensively litigated both Indivior's motion to disqualify RDC as a class representative and

Indivior's opposition to Plaintiffs' motion to approve notice to the class of the pendency of this action and the grant of class certification. On November 24, 2020, the Court issued a 96-page opinion ruling on the "Phase I" *Daubert* motions, including ruling on Indivior's motion to preclude opinion on whether its "safety" messages were false and misleading. *See* ECF No. 677 (Mem. Op.). Shortly thereafter, the Court denied Indivior's motion to disqualify RDC from serving as a class representative, approved the notice to Class members of the certification of a direct purchaser class, and ruled on the balance of the parties' *Daubert* motions. *See* ECF Nos. 683 (Order) & 685 (Mem. Op.).

On February 22, 2021, the Court-approved notice was disseminated to all Class members via first-class mail, informing them about the litigation, that a direct purchaser class had been certified, and that Class members could elect to opt out if they wished. *See* ECF No. 736-1 (Declaration of RG/2, the Notice Administrator). All Class members were informed that the deadline to opt-out of the Class was April 9, 2021. *Id.* at ¶ 9. No Class member requested exclusion. *Id.* at ¶ 2.

The parties filed lengthy summary judgment motions. Plaintiffs filed a motion for partial summary judgment as to the relevant antitrust market, and Indivior filed two summary judgment motions (one seeking to dismiss all of Plaintiffs' claims and one challenging, *inter alia*, Plaintiffs' damages calculations as well as the validity of Plaintiff Meijer's assignment). On August 22, 2022, in an 87-page opinion, the Court denied both of Indivior's summary judgment motions. *See* ECF Nos. 812 & 813 (Mem. Op. and Order). The Court denied Plaintiffs' motion for partial summary judgment as to the relevant antitrust market on August 30, 2023. *See* ECF Nos. 937 & 938 (Mem. Op. & Order).

On December 14, 2022, by agreement of all counsel and the parties, mediation before this Court was ordered, commencing on January 24, 2023, representing the third effort at mediation in this case. *See* ECF No. 851 (Order). On December 16, 2022, the case was set for trial on September 18, 2023, and a pre-trial schedule was ordered. *See* ECF No. 852 (Order). The parties continued to mediate while also engaging in trial preparation activities. On July 14, 2023, the trial date was reset for October 30, 2023. *See* ECF No. 912 (Order).

Those trial preparation activities included exchanging witness lists, exhibits, deposition designations, jury instructions, verdict forms, *voir dire* and jury questionnaires (and objections to same), and filing their respective pretrial memoranda, forty-two motions *in limine*, two sets of motions relating to the criminal and False Claims Act proceedings and the Fifth Amendment invocations of numerous former Indivior employees, among numerous other pretrial motions. During this time Plaintiffs also took the depositions of four former Reckitt employees who had previously invoked their Fifth Amendment right but now represented that they were willing to testify. On October 4, 2023, just weeks before trial was set to commence, and with the assistance of this Court as mediator, Plaintiffs and Indivior reached an agreement-in-principle, which then resulted in the Settlement Agreement.

#### **B. The Proposed Settlement**

Under the Settlement Agreement, Indivior will pay \$385,000,000 (Three Hundred Eighty-Five Million and no/100) in cash for the benefit of all Class members in exchange for dismissal of the litigation between Plaintiffs and Indivior with prejudice and certain releases. In agreeing on the settlement, Plaintiffs' Counsel assessed the merits of Plaintiffs' claims against Indivior, Indivior's defenses thereto, and the risks of trial.

Plaintiffs have proposed the form and manner of providing notice of the proposed Settlement Agreement to the Class, and the procedures by which: (a) Class members may receive

their share of Settlement funds; (b) Class members may object to the proposed Settlement Agreement; and (c) Class members may object to Plaintiffs' Counsel's application for attorney's fees, reimbursement of reasonable expenses incurred in prosecuting this action, and service awards to the three class representatives, BDC, RDC and Meijer, for their decade-long efforts on behalf of the Class. Plaintiffs' proposed notice plan and procedures are fair and reasonable and similar to those utilized by this Court and others in other pharmaceutical antitrust cases involving similar claims and many of the same Class members.

### **III. THE PROPOSED SETTLEMENT MEETS THE STANDARD FOR PRELIMINARY APPROVAL**

As the Third Circuit has recognized, "a strong public policy exists, which is particularly muscular in class action suits, favoring settlement of disputes, finality of judgments and the termination of litigation." *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 593 (3d Cir. 2010). *See also In re GMC Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 784 (3d Cir. 1995) ("The law favors settlement, particularly in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation").

In deciding whether to give preliminary approval to a proposed settlement, "Rule 23(e) directs the court to consider whether the proposed settlement will ultimately achieve [final] approval" pursuant to the Rule 23(e)(2) factors. *In re Suboxone (Buprenorphine & Naloxone) Antitrust Litig.*, No. 13-md-2445, ECF No. 932 (Aug. 21, 2023 Order) (Goldberg, J.) ("*In re Suboxone*") at ¶ 10. *Accord McRobie v. Credit Prot. Ass'n*, 2020 U.S. Dist. LEXIS 217563, at \*6-7 (E.D. Pa. Nov. 20, 2020); *Caddick v. Tasty Baking Co.*, 2021 U.S. Dist. LEXIS 70016, at \*16 (E.D. Pa. Apr. 12, 2021). Under Rule 23 (e)(2), a court considers whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm's length;

(C) the relief provided for the class is adequate, taking into account:

- (i) the costs, risks, and delay of trial and appeal;
- (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
- (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
- (iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

*Id.* This analysis enables the court to determine “whether the proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies such as unduly preferential treatment of class representatives or segments of the class, or excessive compensation of attorneys, and whether it appears to fall within the range of possible approval.” *In re Suboxone*, ECF No. 932 (Aug. 21, 2023 Order) at ¶ 10 (internal quotation omitted). *Accord Checchia v. Bank of Am., N.A.*, 2023 U.S. Dist. LEXIS 26261, at \*8 (E.D. Pa. Feb. 16, 2023). Additionally, the Court can consider whether there was sufficient discovery to enable a significant investigation of the plaintiff's claims and objections (if any) to the proposed settlement. *See In re Suboxone*, ECF No. 932 (Aug. 21, 2023 Order) at ¶ 10; *Sweda v. Univ. of Pa.*, 2021 U.S. Dist. LEXIS 121336, at \*19 (E.D. Pa. Jun. 28, 2021).

As demonstrated below, consideration of each factor strongly supports preliminarily approving the Settlement Agreement and authorizing notice to the Class. While a hearing is not required under Rule 23(e) at the preliminary approval stage, should the Court desire to hold one, Plaintiffs' Counsel are, of course, available at the Court's convenience.



**A. Plaintiffs' Counsel are Highly Experienced in Pharmaceutical Antitrust Litigation**

In evaluating a proposed settlement, courts have recognized that the “professional judgment of counsel involved in the litigation is entitled to significant weight.” *Klingensmith v. Max & Erma's Rests., Inc.*, 2007 U.S. Dist. LEXIS 81029, at \*19 (W.D. Pa. Oct. 23, 2007) (internal quotation omitted). This is because experienced counsel familiar with the facts of the case are best positioned to produce a settlement that is in the best interests of the class. *See Taylor v. Populus Grp., Inc.*, 2022 U.S. Dist. LEXIS 137518, at \*19-20 (S.D. Cal. Aug. 1, 2022). *See also Myers v. Jani-King of Phila., Inc.*, 2019 U.S. Dist. LEXIS 79572, at \*11 (E.D. Pa. May 10, 2019) (“After ten years of litigation, the settlement was negotiated by experienced counsel with the help of an experienced mediator. It provides significant benefits to the class members. We are satisfied that preliminary approval is appropriate”).

Here, Plaintiffs' Counsel, who are highly experienced in pharmaceutical antitrust litigation, believe that the settlement with Indivior is fair and in the best interests of the Class. If finally approved, the settlement will result in a fund for Class members, providing them with immediate receipt of compensation versus litigating to final resolution. Accordingly, this factor weighs in favor of preliminary approval.

**B. The Settlement Negotiations Occurred at Arm's Length**

As noted *supra*, counsel reached the proposed settlement after more than ten years of hard-fought litigation on the eve of trial and almost ten (10) months of mediation with the assistance of this Court, in what was the third effort at mediation in this case. Consequently, a voluminous record enabled the parties and their counsel to amply explore the merits of the litigation before engaging in the settlement negotiations that led to this proposed resolution. Under this Court's supervision, the parties engaged in arm's length settlement negotiations that

were detailed, time-consuming, and hard fought. *See, e.g., Checchia*, 2023 U.S. Dist. LEXIS 26261, at \*8 (“[T]here is nothing to indicate that the proposed settlement is not the result of good faith, arms-length negotiations”); *id.* at 9 (“[S]ettlement in this case was aided by a mediator, which is compelling evidence that vigorous and arms-length negotiations occurred”).

Accordingly, this factor weighs in favor of preliminary approval.

**C. The Relief Provided to the Class is Adequate**

Consideration of each of the four factors relevant to determining whether the proposed settlement provides adequate relief to the Class weighs in favor of preliminary approval.

*The Costs, Risks, and Delay of Trial and Appeal.* This factor balances the relief that the settlement is expected to provide to class members versus the costs and risks of litigating to conclusion. *Caddick*, 2021 U.S. Dist. LEXIS 70016 at \*17. While Plaintiffs’ Counsel are confident they would have presented a strong case at trial, there is always a serious risk that there would be no recovery for the Class or that a long post-trial appeal would delay any recovery. In contrast, the proposed settlement affords Class members immediate economic relief and litigation finality. Accordingly, this factor weighs in favor of preliminary approval.

*The Effectiveness of the Proposed Method of Distributing Settlement Proceeds to the Class.* This factor examines how the claims of class members are processed to ensure the facilitation of the filing of legitimate claims in a manner that is not unduly demanding. *Id.* at \*18. Collectively, the proposed form and manner of notice (detailed below in Section IV) and proposed Plan of Allocation ensure that Class members are provided with all relevant information concerning, *inter alia*, the terms of the proposed settlement and the process for obtaining a portion of the settlement proceeds and that the settlement proceeds are allocated to Class members in a manner that is fair, reasonable and adequate under the proposed Plan of Allocation (filed herewith as Exhibit 2 to the Gerstein Decl.). *See generally McRobie*, 2020 U.S.

Dist. LEXIS 217563 at \*12 (mailing of notice of settlement to class members combined with a claims website was effective). More specifically, the proposed Plan of Allocation would allocate the Net Settlement Fund *pro rata* based on Class members' weighted unit shares of net direct purchases of brand Suboxone Tablets and brand Suboxone Film. Such *pro rata* allocation plans are common and routinely accepted. Similar plans of allocation have been repeatedly approved in similar pharmaceutical antitrust actions, including in this District and in other cases challenging unlawful "product hops."<sup>2</sup>

A plan of allocation "provides a detailed overview of how . . . [s]ettlement proceeds will be divided" among class members. *Beltran v. SOS Ltd.*, 2023 U.S. Dist. LEXIS 9971, at \*22-23 (D.N.J. Jan. 3, 2023). Like settlements, proposed allocation plans must be "fair, reasonable and adequate." *Id.* at \*23 (internal quotation omitted). *See also In re Wawa, Inc. Data Sec. Litig.*, 2021 U.S. Dist. LEXIS 142025, at \*50 (E.D. Pa. July 30, 2021) ("A district court's principal obligation in approving a plan of allocation is simply to ensure that the fund distribution is fair and reasonable as to all participants in the fund") (internal quotation and citation omitted). Courts "generally consider plans of allocation that reimburse class members based on the type and extent of their injuries to be reasonable." *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 328 (3d Cir. 2011) (citation omitted).

The proposed Plan of Allocation satisfies this standard. It provides that the Net Settlement Fund will be distributed to Class members *pro rata*, calculated from each Claimant's

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<sup>2</sup> *See, e.g., In re Provigil Antitrust Litig.*, No. 06-1797, ECF No. 870 (E.D. Pa. Oct. 15, 2015) (Goldberg, J.) (approving plan allocating common fund among class members on a *pro rata* basis based on class members' weighted share of net direct unit purchases); *In re Generic Pharm. Pricing Antitrust Litig.*, No. 16-MD-2724 (E.D. Pa. Mar. 9, 2023) (same); *Mylan Pharms., Inc. v. Warner Chilcott Public Ltd.*, No. 12-cv-3824, ECF Nos. 452-3, 665 (E.D. Pa. Sept. 15, 2014) (same in "product hop" case); *In re Tricor Direct Purchaser Antitrust Litig.*, No. 05-cv-340, ECF Nos. 536-1, 543 (D. Del. Apr. 23, 2009) (ordering *pro rata* distribution of settlement funds in "product hop" pharmaceutical antitrust action).

weighted share of net unit purchases of brand Suboxone Tablets and brand Suboxone Film purchased directly from Indivior. *See* Plan of Allocation §§ 2.1-2.2; Lamb Allocation Decl. ¶ 4.<sup>3</sup> Class members' purchases of brand Suboxone Tablets will be weighted relative to Class members' purchases of brand Suboxone Film as follows: (a) 95.22% of the Class damages Dr. Lamb previously measured were incurred on Class members' purchases of Suboxone Film, with the other 4.78% incurred on purchases of Suboxone Tablets, and so (b) 95.22% of the Net Settlement Fund will be allocated based on Class members' purchases of Suboxone Film and 4.78% will be allocated based on Class members' purchases of Suboxone Tablets. Plan of Allocation § 2.3; Lamb Allocation Decl. ¶ 4.<sup>4</sup> This weighting ensures that Class members' purchases of brand Suboxone Tablets and brand Suboxone Film are given fair weight so that Class members' recovery is fair and reasonable and tracks the type and extent of their damages.<sup>5</sup>

In addition, the proposed Plan of Allocation is efficient and will ensure timely distribution of the settlement funds. Using data produced by Indivior in discovery, Dr. Lamb has already performed a preliminary computation of the percentage shares of the Net Settlement Fund allocable to each Class member. Lamb Allocation Decl. ¶ 5. Class members will be

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<sup>3</sup> "Purchases" refers to purchases, net of returns, made directly from Reckitt (now known as Indivior) during the relevant time periods or purchases that are covered by a Claimant's assignment from a Class member covering purchases made directly from Reckitt during the relevant time periods, in the 8 mg of buprenorphine/2 mg of naloxone strength or the 2 mg of buprenorphine/.5 mg of naloxone strength of Suboxone. The purchase "unit" is a single Tablet or strip of Film. *See* Plan of Allocation at p. 3; Lamb Allocation Decl. ¶ 4 n. 9.

<sup>4</sup> The Court previously ruled that Dr. Lamb's prior damages calculations are admissible under *Daubert* and sufficient to support class certification and to support denial of Defendant's motion for summary judgment as to damages. *In re Suboxone Antitrust Litig.*, 421 F.Supp.3d 12, 44-45, 65 (E.D. Pa. 2019) (granting motion for class certification and denying motion to exclude Dr. Lamb's opinions); *In re Suboxone Antitrust Litig.*, 622 F.Supp.3d 22, 86 (E.D. Pa. 2022) (rejecting Indivior's motion for summary judgment regarding Dr. Lamb's damages calculations).

<sup>5</sup> Lamb Allocation Decl. ¶ 6. "Courts generally consider plans of allocation that reimburse class members based on the type and extent of their injuries to be reasonable." *Sullivan*, 667 F.3d at 328 (quotation omitted).

provided pre-populated Claim Forms listing the amounts of their purchases of brand Suboxone Tablets and brand Suboxone Film. *Id.* Under the proposed Plan of Allocation, the Claims Administrator, working with Dr. Lamb’s firm, Monument Economics Group, and with Plaintiffs’ Counsel, will prepare and send these individualized, pre-populated claim forms to each member of the Class. *Id.* In addition, claimants will have the option to submit their own purchase data (though they will not be required to do so, as they can simply verify that the numbers in the pre-populated claim forms are correct), and any such data that is submitted will be reviewed by the claims administrator and Monument Economics Group before finalizing calculations to determine each Claimant’s *pro rata* share. *Id.*

Finally, both Dr. Lamb—who served as Plaintiffs’ damages expert during the litigation—and Plaintiffs’ Counsel endorse the fairness of the Plan of Allocation. In Dr. Lamb’s opinion, the proposed Plan of Allocation is fair, reasonable, and reflects the type and approximate extent of the injury alleged by Class members. Lamb Allocation Decl. ¶ 6. As Dr. Lamb notes, the proposed Plan of Allocation is similar to the plan of allocation that Dr. Lamb developed in the *Namenda* case, another direct purchaser class case challenging another allegedly unlawful product hop scheme, which received approval from the *Namenda* court. *Id.* ¶ 6 & n.11; *In re Namenda Direct Purchaser Antitrust Litig.*, No. 1:15-cv-7488, ECF No. 947 (S.D.N.Y. May 27, 2020).

Finally, the Plan of Allocation is highly recommended by Plaintiffs’ Counsel, which further supports approval. *See In re Valeant Pharms. Int’l, Inc. Sec. Litig.*, 2021 U.S. Dist. LEXIS 18894, at \*35 (D.N.J. Feb. 1, 2021) (“In determining whether a plan of allocation is fair, reasonable, and adequate, courts give great weight to the opinion of qualified counsel”).

Accordingly, this weighs in favor of preliminarily approving the Settlement and the Court should also preliminarily approve the proposed Plan of Allocation.

***The Terms of Any Proposed Award of Attorney's Fees, Including Timing of Payment.***

Under the proposed Settlement, Plaintiffs' Counsel will apply for an award of attorneys' fees plus reimbursement of litigation expenses (and service awards for the Class representatives). If the Court approves the proposed schedule set forth in the proposed preliminary approval order (annexed as Exhibit A to the Settlement Agreement), Plaintiffs' Counsel will fulsomely brief their application for such awards in time for Class members to object to same, and the Court may consider Plaintiffs' Counsel's application and any objections thereto in determining whether to grant final approval. *See McRobie*, 2020 U.S. Dist. LEXIS 217563 at \*12 (deferring a finding as to this factor because counsel's fee request was forthcoming). Accordingly, this factor does not weigh against preliminary approval.

***Any Agreements Made in Connection With the Proposed Settlement.*** By its terms, the proposed Settlement represents the full agreement of the parties. No other agreement was made in connection with the proposed Settlement.

**D. The Plan of Allocation Treats All Class Members Equitably Relative to Each Other**

As set forth above, the proposed Plan of Allocation, which is similar to plans of allocation that have been accepted repeatedly by courts in similar cases, treats Class members equitably by distributing settlement proceeds on a *pro rata* basis. *McRobie*, 2020 U.S. Dist. LEXIS 217563, at \*13 (finding this factor met where there was no disparate treatment among class members as to process for submitting claims or making objections). Accordingly, this factor weighs in favor of preliminary approval.

**E. The Settlement Occurred at an Advanced Stage of the Proceedings**

Because the proposed Settlement was reached just weeks before a jury trial was set to commence, extensive discovery had taken place, resulting in a robust record that enabled Plaintiffs' Counsel to evaluate the claims and defenses at issue fully. *See generally* Section II, *supra*. Accordingly, this factor weighs in favor of preliminary approval.

**F. No Class Members Have Objected to Date**

While the reaction of the Class will be determined only after the distribution of notice, no Class member has thus far informed Plaintiffs' counsel that it is dissatisfied with the settlement. If, after notice, any objection is filed, the Court can consider it in determining whether to grant final approval. Accordingly, this factor does not weigh against preliminary approval.

**IV. THE PROPOSED FORM AND MANNER OF NOTICE ARE APPROPRIATE**

**A. Form of Notice**

Under Rule 23(e), Class members are entitled to reasonable notice of a proposed settlement before the Court finally approves it, and to notice of the final Fairness Hearing. *See* MANUAL FOR COMPLEX LITIGATION, § §§ 21.312, 21.633 (4th ed. 2005) ("MANUAL"). For 23(b)(3) classes such as the Direct Purchaser Class in this case, the court must "direct to class members the best notice that is practical under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). There are two components of notice: (1) the form of the notice; and (2) the manner in which notice is sent to class members.

The proposed notice is based on the notice previously approved by this Court and mailed to Class members (advising Class members of the pendency of the litigation, that the Class had been certified, and of Class members' right and deadline to opt-out). *See* ECF No. 683 (Order). The proposed notice is designed to alert Class members to the proposed settlement by using a

bold headline, and the plain language text provides important information regarding, among other things, the significant terms of the proposed settlement, including the total amount Indivior has agreed to pay to the Class, that a Class member may object to all or any part of the proposed settlement and the process and deadline for doing so, including entering an appearance through an attorney if the Class member desires; the process for obtaining a portion of the settlement proceeds; the final approval process for the proposed settlement and Plaintiffs' Counsel's request for attorneys' fees (net of Court-approved reimbursed costs and expenses and service awards), reimbursement of all litigation expenses, and service awards to the named Plaintiffs; the schedule for completing the settlement approval process, including the submission of the motion for final approval of the settlement, and the submission of the motion for attorneys' fees, expenses, and service awards to the named Plaintiffs; and the binding effect of a final judgment on members of the Class. *See generally* Exhibit B to the Settlement Agreement. In addition, the proposed notice prominently features Plaintiffs' Counsel's contact information and directions to the firm websites for Plaintiffs' Counsel where the settlement documents, proposed Plan of Allocation, and supplemental information will be provided, as well as contact information for the Claims Administrator (RG/2). As noted above, for efficiency, each Class member will also receive, contemporaneously with their notice, a pre-populated Claim Form that will be due 45 days from the date the notice and claim form are mailed.

**B. Manner of Notice**

Plaintiffs propose to send notice by first-class United States mail to each Class member, all of which are business entities. This is the same method that was used previously, with Court approval, to provide notice to the Class regarding certification of the Class. *See* ECF No. 683. The list of Class members was drawn from Indivior's electronic transactional sales data and/or is otherwise known to Plaintiffs' Counsel, and the same mailing addresses that were previously



used for the prior notice will be used again. In circumstances like this, where all class members can be identified, the best method of notice is individual notice. *See* MANUAL, § 21.311 at 488 (“Rule 23(c)(2)(B) requires that individual notice in 23(b)(3) actions be given to class members who can be identified through reasonable effort”). For this reason, courts have repeatedly authorized individual notice by first class mail. *See, e.g., In re Opana ER Antitrust Litig.*, No. 1:14-cv-10150, ECF No. 1054 (N.D. Ill. Jul. 28, 2022) at ¶ 6 (approving notice of settlement via first-class mail to the last known address of each class member); *In re Novartis and Par Antitrust Litig.*, No. 1:18-cv-04361, ECF No. 595 (S.D.N.Y. Jan. 26, 2023) at ¶ 13 (same).

### **C. An Additional Opt-Out Period Is Unnecessary**

Class members have all been afforded the opportunity to opt out previously. There is no need for a second opt-out period. None is required, as numerous courts have recognized. *See, e.g., In re Brand Name Prescription Drugs Antitrust Litig.*, 1996 U.S. Dist. LEXIS 4359 at \*8 (N.D. Ill. Apr. 4, 1996) (“We have found no authority of any kind suggesting that due process requires...a second chance to opt out”) (quoting *Officers For Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 634-35 (9th Cir. 1982), *cert. denied*, 459 U.S. 1217 (1983)); *Denney v. Deutsche Bank AG*, 443 F.3d 253, 270-71 (2d Cir. 2006) (courts are under “no obligation” to afford class members a second opportunity for exclusion).

Here, all Class members (all of which are business entities) were previously informed about this case pursuant to Court-approved, mailed individual notice following class certification, and were given the opportunity to opt out of the certified Class (none did). All Class members will of course be provided the opportunity to object to the terms of the settlement and/or Plaintiffs’ Counsel’s request for attorneys’ fees, expenses and service awards to the class representatives. Therefore, Plaintiffs respectfully submit that no second opt-out period is necessary or appropriate here. Courts in similar cases have repeatedly approved settlements

without providing a second opt-out period. *See, e.g., In re Wellbutrin XL Antitrust Litig.*, No. 08-cv-02431, ECF No. 473 at ¶ 5 (E.D. Pa. Aug. 17, 2012) (no second opt out period); *In re Flonase Antitrust Litig.*, 2013 U.S. Dist. LEXIS 197122, at \*5 (E.D. Pa. Jan. 14, 2013) (same); *In re Namenda Direct Purchaser Antitrust Litig.*, No. 1:15-cv-07488-CM-RWL, ECF No. 920 at ¶ 7 (S.D.N.Y. Jan. 6, 2020) (same); *In re Opana ER Antitrust Litig.*, No. 1:14-cv-10150, ECF No. 1054 at ¶ 6 (N.D. Ill. Jul. 28, 2022) (same).

#### **V. RG/2 SHOULD BE APPOINTED CLAIMS ADMINISTRATOR**

The Court previously appointed RG/2 as the Notice Administrator. *See* ECF No. 683 (Order). Plaintiffs request that RG/2 now be reappointed as the Claims Administrator. RG/2 is qualified to serve in this role. *See* ECF No. 641-1 (Plaintiffs' Mem. of Law in Supp. of Mot. to Approve the Form and Manner of Notice to the Direct Purchaser Class) at 4-5 (detailing RG/2's qualifications). RG/2 ably served as the Notice Administrator in this case and has ably served as the claims administrator in numerous other cases, including in administering settlement funds to similar classes of direct purchasers of pharmaceutical drugs. *Id.*; ECF No. 736-1 (Declaration of RG/2, the Notice Administrator). If so appointed, RG/2 will oversee the administration of the settlement, including disseminating notice to the Class, calculating each Class member's *pro rata* share of the Net Settlement Fund in conjunction with Dr. Lamb and Plaintiffs' Counsel, and distributing Settlement proceeds.

#### **VI. FIRST STATE TRUST COMPANY IS AN APPROPRIATE ESCROW AGENT**

Plaintiffs request that First State Trust Company serve as escrow agent, as it has done in prior class actions. *See* Exhibit D to the Settlement Agreement (Escrow Agreement); *In re Namenda Direct Purchaser Antitrust Litig.*, No. 1:15-cv-07488, ECF No. 920 (S.D.N.Y. Jan. 6, 2020) at ¶ 13 (appointing First State Trust Company as escrow agent); *In re Opana ER Antitrust Litig.*, No. 1:14-cv-10150, ECF No. 1054 (N.D. Ill. Jul. 28, 2022) at ¶ 12 (same).

## VII. THE PROPOSED SCHEDULE IS FAIR AND SHOULD BE APPROVED

Plaintiffs propose the following schedule for completing the settlement approval process:

- Within 10 days from the filing of the Settlement Agreement, Indivior shall serve notices pursuant to the Class Action Fairness Act of 2005 (“CAFA notices”);
- Within 21 days from the date of preliminary approval, notice, with a claim form, shall be mailed to each member of the Class;
- No later than 14 days before the expiration of the deadline for Class members to object to the settlement and/or attorneys’ fees, expenses and service awards, Plaintiffs’ Counsel will file all briefs and materials in support of the application for attorneys’ fees, expenses and service awards;
- Within 45 days from the date that notice is mailed to each member of the Class, Class members may object to the settlement and/or attorneys’ fees, expenses and incentive awards;
- Within 45 days from the date that a pre-populated Claim Form is mailed to each member of the Class (with the notice to the Class), Class members must return the executed Claim Form;
- No later than 21 days after the expiration of deadline for Class members to object to the settlement and/or attorneys’ fees, expenses and service awards, Plaintiffs’ Counsel will file all briefs and materials in support of final approval of the settlement; and
- On a date to be set by the Court after the expiration of the deadline for Class members to file any objections to the settlement and/or attorneys’ fees, expenses and incentive awards, the Court will hold a final Fairness Hearing.<sup>6</sup>

This schedule is fair to Class members since it provides ample time for consideration of the Settlement and Plaintiffs’ Counsel’s request for fees, expenses and service awards before the deadline for submitting objections. Specifically, Class members will have the notice for 45 days before the deadline to object to the Settlement, and will have Plaintiffs’ Counsel’s request for fees, expenses and incentive awards for two weeks before the deadline to object to Plaintiffs’

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<sup>6</sup> Pursuant to 28 U.S.C. § 1715(d), a court may not finally approve a proposed settlement until 90 days from service of the CAFA notices. However, the Fairness Hearing may be held prior to the expiration of that 90 day period.

Counsel's request for fees, expenses and service awards. In addition, the schedule allows for regulators to review the proposed Settlement after receiving CAFA notices from Indivior pursuant to 28 U.S.C. § 1715, and if they choose, advise the Court of their view.

### VIII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter the proposed Order.

Dated: October 25, 2023

Respectfully Submitted,

/s/ Bruce E. Gerstein

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION

MDL No. 2445

Master File No. 2:13-MD-2445-MSG

THIS DOCUMENT RELATES TO:

*All Direct Purchaser Class Actions*

DECLARATION OF BRUCE E. GERSTEIN IN SUPPORT OF DIRECT PURCHASER  
CLASS PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED  
SETTLEMENT, APPROVAL OF THE FORM AND MANNER OF NOTICE TO THE  
CLASS AND PROPOSED SCHEDULE FOR A FAIRNESS HEARING

I, Bruce E. Gerstein, hereby declare as follows:

1. I am an attorney admitted *pro hac vice* in this matter. I am a Managing Partner at Garwin Gerstein & Fisher LLP and am Co-Lead Counsel for the Direct Purchaser Class. I submit this declaration in support of Direct Purchaser Class Plaintiffs' Motion for Preliminary Approval of Proposed Settlement, Approval of the Form and Manner of Notice to the Class and Proposed Schedule for a Fairness Hearing.

2. Attached as **Exhibit 1** hereto is a true and correct copy of the Settlement Agreement (including Exhibits A-D thereto) made and entered into on October 22, 2023 by and between Indivior Inc., f/k/a Reckitt Benckiser Pharmaceuticals, Inc.; and Burlington Drug Company, Inc., Rochester Drug Co-Operative, Inc., and Meijer, Inc. and Meijer Distribution, Inc., individually and on behalf the certified Direct Purchaser Class.

3. Attached as **Exhibit 2** hereto is a true and correct copy of Direct Purchaser Class Plaintiffs' Plan of Allocation for the Direct Purchaser Class.

4. Attached as **Exhibit 3** hereto is a true and correct copy of the Dr. Russell L. Lamb's Declaration Related to Proposed Settlement Allocation Plan, dated October 24, 2023.

I hereby declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in New York, New York on October 25, 2023.

*/s/ Bruce E. Gerstein*

Bruce E. Gerstein

# **EXHIBIT 1**



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

**IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION**

**MDL No. 2445**

**Master File No. 2:13-MD-2445-MSG**

**THIS DOCUMENT RELATES TO:**

*All Direct Purchaser Class Actions*

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT (the “Settlement Agreement”) is made and entered into on October 22, 2023, by and between Indivior Inc., f/k/a Reckitt Benckiser Pharmaceuticals, Inc. (“Defendant”), and Burlington Drug Company, Inc. (“BDC”), Rochester Drug Co-Operative, Inc. (“RDC”), and Meijer, Inc. and Meijer Distribution, Inc. (collectively “Meijer”) (BDC, RDC and Meijer are, collectively, “Plaintiffs”), individually and on behalf of the Direct Purchaser Class (as defined in Paragraph 1 below, the “Direct Purchaser Class” or “Class”), by and through their court-appointed co-lead counsel Garwin Gerstein & Fisher LLP, Faruqi & Faruqi LLP and Hagens Berman Sobol Shapiro LLP in their capacity as co-lead counsel for the Direct Purchaser Class (“Plaintiffs’ Counsel”) in the above-captioned litigation, *In re Suboxone (Buprenorphine Hydrochloride & Naloxone) Antitrust Litigation*, Case No. 13-md-2445-MSG (E.D. Pa.) (the “Direct Purchaser Class Action”). This Settlement Agreement is intended to, and upon becoming final pursuant to Paragraph 6 below, will, fully, finally, and forever resolve, compromise, discharge, and settle the claims of the Plaintiffs and Direct Purchaser Class in the above-captioned litigation, subject to the terms and conditions set forth herein.

WHEREAS, the parties acknowledge that the United States District Court for the Eastern District of Pennsylvania has jurisdiction over these actions, each of the parties hereto, and all members of the Direct Purchaser Class for all purposes in this case, including this Settlement;

WHEREAS, Plaintiffs alleged that Defendant violated Section 2 of the Sherman Act (15 U.S.C. § 2) by engaging in an anticompetitive scheme to artificially maintain and extend its monopoly over Suboxone, as detailed in Plaintiffs' Second Amended Complaint (ECF No. 151), and other papers filed with the Court, and Plaintiffs and other members of the Direct Purchaser Class incurred significant damages as a result;

WHEREAS, Defendant denies each and every one of Plaintiffs' allegations of unlawful conduct, and denies that any conduct challenged by Plaintiffs caused any damage whatsoever, and has asserted a number of defenses to Plaintiffs' claims;

WHEREAS, Plaintiffs and Defendant agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by the Defendant or of the truth of any of the claims or allegations alleged in the Direct Purchaser Class Action or a waiver of any defenses thereto;

WHEREAS, arm's-length settlement negotiations have taken place between counsel for Plaintiffs and counsel for Defendant, including through mediation, and this Settlement Agreement, which embodies all of the terms and conditions of the settlement between Defendant and Plaintiffs, both individually and on behalf of the Direct Purchaser Class (the "Settlement"), has been reached, subject to the final approval of the United States District Court for the Eastern District of Pennsylvania (the "Court");

WHEREAS, Plaintiffs' Counsel have concluded, after extensive fact and expert discovery and investigation of the facts, and after carefully considering the circumstances of

the Direct Purchaser Class Action, including the claims asserted, and the possible legal and factual defenses thereto, that it would be in the best interests of the Direct Purchaser Class to enter into this Settlement Agreement in order to avoid the costs and uncertainties of litigation, particularly complex litigation such as this, and to assure a benefit to the Direct Purchaser Class, and, further, that Plaintiffs' Counsel consider the Settlement set forth herein to be fair, reasonable, and adequate compensation within the meaning of Fed. R. Civ. P. 23, and in the best interests of the Direct Purchaser Class; and;

WHEREAS, Defendant has concluded, despite its belief that it is not liable for the claims asserted and that it has good defenses thereto, that it would be in its best interests to enter into this Settlement Agreement to avoid the uncertainties of litigation, and thereby avoid the risks inherent in complex litigation;

NOW THEREFORE, it is agreed by the undersigned, on behalf of the Defendant, Plaintiffs, and the Direct Purchaser Class, that all claims of Plaintiffs and the Direct Purchaser Class against Defendant be settled, compromised and dismissed with prejudice and, except as hereinafter provided, without costs as to Defendant or Plaintiffs, subject to the approval of the Court, on the following terms and conditions:

1. **Direct Purchaser Class.** This settlement is on behalf of the Plaintiffs and a class defined as follows ("Direct Purchaser Class"):

All persons or entities in the United States and its territories who purchased branded Suboxone tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior, Inc.) at any time during the period January 1, 2012 through March 14, 2013 ("the Class"). Excluded from the Class are Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.), its officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

2. **Reasonable Best Efforts to Effectuate This Settlement.** Counsel for the

undersigned agree to recommend approval of this Settlement by the Court and to undertake their best efforts, including all steps and efforts contemplated by this Settlement Agreement and any other steps and efforts that may be necessary or appropriate, by order of the Court or otherwise, to secure approval and to carry out the terms of this Settlement. This includes Defendant serving notice on those entities required to receive notice pursuant to 28 U.S.C. § 1715 within 10 days from the filing of this Settlement Agreement.

3. **Motion for Preliminary Approval.** Promptly following the execution of this Settlement Agreement by all parties hereto, Plaintiffs shall file with the Court a motion for preliminary approval of the Settlement. The motion for preliminary approval shall request the entry of a preliminary approval order substantially in the form of Exhibit A hereto (the “Preliminary Approval Order”), including: (i) the preliminary approval of the Settlement set forth in this Settlement Agreement as fair, reasonable, and adequate, and in the best interests of the Direct Purchaser Class; (ii) approval of the notice and proposed notice plan; (iii) a schedule for a hearing by the Court after the notice period has expired to approve the Settlement and to consider Direct Purchaser Class Counsel’s applications for attorneys’ fees, reimbursement of costs and expenses, and incentive awards as set forth in this Settlement Agreement; (iv) a stay of all proceedings in the Direct Purchaser Class Action against Defendant until such time as the Court renders a final decision regarding the approval of the Settlement as described below in paragraph 15; and (v) approval of an escrow agreement regarding the Settlement consideration described below in paragraph 7. After the Court preliminarily approves the Settlement, Plaintiffs shall, in accordance with the Preliminary Approval Order, provide Direct Purchaser Class members with notice of the Settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure substantially in the form attached hereto as Exhibit B. Plaintiffs’ Counsel will

recommend notice to the Class by means of direct first class mail.

4. **No Second Opt-Out Period.** In the Motion seeking preliminary approval, Plaintiffs will recommend to the Court that a second, discretionary opt-out period pursuant to Rule 23(e)(4) is unnecessary, and the Preliminary Approval Order attached as Exhibit A will not include an opt-out period.

5. **Motion for Final Approval and Entry of Final Judgment.** If the Court preliminarily approves the Settlement, Plaintiffs shall submit a motion for final approval of this Settlement by the Court, after appropriate notice to the Direct Purchaser Class, and shall seek entry of a Final Judgment and Order substantially in the form attached hereto as Exhibit C, with any additional findings of fact and conclusions of law (the “Final Judgment and Order”):

- a. finding this Settlement Agreement and its terms to be a fair, reasonable, and adequate settlement as to Plaintiffs and the members of the Direct Purchaser Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation pursuant to its terms;
- b. finding that all members of the Class shall be bound by this Settlement Agreement, including the release provisions and covenant not to sue set forth herein;
- c. finding that notice given constitutes due, adequate, and sufficient notice and meets the requirements of due process and the Federal Rules of Civil Procedure;
- d. providing for payment of reasonable attorneys’ fees and reimbursement of the costs and expenses from the Settlement Fund (as defined below);
- e. providing for payment, solely from the Settlement Fund, of incentive awards to the named Plaintiffs in addition to whatever monies they will receive from the Settlement Fund pursuant to a Court-approved plan of allocation;
- f. directing that the Direct Purchaser Class Action be dismissed with prejudice and, except as provided for herein, without costs;

- g. reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, the administration and consummation of this Settlement, the award of attorneys' fees and reimbursement of costs and expenses, and the payment of incentive awards to each of the named Plaintiffs, if allowed by the Court;
- h. incorporating the release set forth in Paragraph 13 of this Settlement Agreement, and forever barring the Releasors (as defined in paragraph 13 herein) from asserting any Released Claims (as defined in paragraph 13 herein) against Defendant; and
- i. directing that the judgment of dismissal of all Direct Purchaser Class claims against Defendant shall be final and appealable.

6. **Finality of Settlement.** This Settlement Agreement shall become final upon the occurrence of the following:

- a. it is approved by the Court as required by Rule 23(e) of the Federal Rules of Civil Procedure;
- b. entry, as provided for in paragraph 5 herein, is made of the Final Judgment and Order of dismissal with prejudice against the Plaintiffs and the members of the Direct Purchaser Class; and
- c. if a class member objected, the time for appeal from the Court's approval of this Settlement and entry of the Final Judgment and Order has expired or, if appealed, either such appeal shall have been dismissed prior to resolution by the Court or approval of this Settlement and the Final Judgment and Order has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

7. **Settlement Fund.**

(a) Subject to the terms and conditions of this Settlement Agreement and the Escrow Agreement (as defined below), within fifteen (15) business days after entry by the Court of the Preliminary Approval Order with no material change, provided that Indivior has been in receipt from Plaintiffs' Counsel of wiring instructions for at least three (3) business days as set forth in the Escrow Agreement, Defendant shall deposit the Settlement Fund Amount (as defined

below) into an escrow account (the “Escrow Account”) held and administered by First State Trust Company (the “Escrow Agent”). Subject to Paragraph 3, the Settlement Fund Amount shall be Three Hundred Eighty-Five Million Dollars and no/100 in cash (\$385,000,000.00). The Settlement Fund Amount deposited by Defendant into the Escrow Account and any accrued interest after deposit shall become part of and shall be referred to as the “Settlement Fund.”

Once the settlement becomes final pursuant to Paragraph 6, Defendant and the Released Parties shall have no further monetary obligations of any kind to the Plaintiffs, Direct Purchaser Class, or Plaintiffs’ Counsel under the terms and conditions of the Settlement Agreement other than the Settlement Fund Amount. Defendant and the Released Parties shall have no responsibility for, and have no liability with respect to, the investment decisions or the actions of the Escrow Agent.

(b) The Escrow Account shall be established and administered pursuant to the Escrow Agreement attached hereto as Exhibit D (the “Escrow Agreement”). It is intended that the Escrow Account be treated as a “qualified settlement fund” for federal income tax purposes pursuant to Treas. Reg. § 1.468B-1 and that any taxes due as a result of income earned by the Settlement Fund will be paid from the Settlement Fund. Except as otherwise expressly permitted by paragraph 3(d)(4) of the Escrow Agreement, the Escrow Agent shall disburse funds from the Escrow Account only pursuant to and consistent with the express terms of this Settlement Agreement, the Preliminary Approval Order, the Final Judgment and Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the Settlement Fund shall become part of the Settlement Fund, less any taxes imposed on such interest. Defendant and the Released Parties shall have no responsibility for, and have no liability with respect to, the filing or payment of any taxes, interest, penalties, costs, allocations, distributions, or expenses connected to the Settlement Fund.

(c) The Settlement Fund shall be available for distributions to Plaintiffs and members of the Direct Purchaser Class only upon the Settlement becoming final pursuant to paragraph 6 of this Settlement Agreement, subject to deductions for payments of: (1) reasonable attorneys' fees, costs and expenses approved by the Court (and any interest awarded thereon); (2) any Court- approved incentive awards to the named Plaintiffs in this Direct Purchaser Class Action; (3) taxes payable on the Settlement Fund; and (4) any and all administrative and notice expenses associated with this litigation or the Settlement. The total consideration that Defendant will pay for this Settlement shall be the Settlement Fund Amount only. No portion of the Settlement consideration shall constitute, or shall be construed as constituting, a payment in lieu of treble damages, fines, penalties, punitive damages or forfeitures.

8. **No Injunctive Relief.** This Settlement does not include any provision for injunctive relief.

9. **Full Satisfaction; Limitation of Interest and Liability.** Plaintiffs and members of the Direct Purchaser Class shall look solely to the Settlement Fund for settlement and satisfaction against Defendant of any and all Released Claims as defined in paragraph 13 herein, including any costs, fees or expenses of any of the Settling Plaintiffs or their attorneys, experts, advisors, agents and representatives, including with respect to the negotiation, execution and performance of their obligations under this Settlement Agreement. In the event that the Settlement becomes final pursuant to paragraph 6 herein, the Settlement Fund will fully satisfy any and all Released Claims as defined in paragraph 13 herein. Except as provided by order of the Court, no Plaintiff or Direct Purchaser Class member shall have any interest in the Settlement Fund or any portion thereof. Defendant and the Released Parties shall have no responsibility for, and no liability with respect to, disbursements from the Settlement Fund pursuant to any Court-



approved plan of allocation.

10. **Reimbursement of Costs and Expenses.** Plaintiffs and their counsel will be reimbursed and indemnified solely out of the Settlement Fund for all costs, fees, and expenses including, but not limited to, the costs of notice of this Settlement to Direct Purchaser Class members, administration of the Settlement Fund, escrow administration, and taxes. Defendant and the Released Parties shall have no responsibility for, and no liability with respect to, any costs, fees or expenses of any of Plaintiffs' respective attorneys, experts, advisors, agents and representatives, or for any costs, fees or expenses for notice, administration or other costs of implementing this Settlement. All such costs, fees and expenses as approved by the Court shall be paid out of the Settlement Fund.

11. **Disbursement of the Settlement Fund.** If this Settlement Agreement becomes final pursuant to the provisions of paragraph 6 herein, the Settlement Fund shall be distributed to Direct Purchaser Class members. Prior to the Settlement becoming final pursuant to the provisions of paragraph 6, disbursements for the costs and expenses of the notice to the Direct Purchaser Class and for administration of the Settlement Fund, up to One Hundred Thousand Dollars (\$100,000.00), may be made from the Settlement Fund without approval from Defendant or the Court. Additional expenditures beyond that prior to the Settlement becoming final pursuant to the provisions of paragraph 6, if any, are subject to Defendant's consent, which shall not be unreasonably withheld. Defendant shall have no liability or responsibility with respect to disbursements from or administration of the Settlement Fund. To the extent that there is any ambiguity or inconsistency concerning disbursements when this Settlement Agreement and the Escrow Agreement are read together, the terms of this Settlement Agreement shall control.

12. **Attorneys' Fees and Incentive Awards to the Named Plaintiffs.** Class counsel

intend to seek, solely from the Settlement Fund, attorneys' fees from the Settlement Fund plus the reimbursement of reasonable costs and expenses incurred in the prosecution of the Direct Purchaser Class Action against Defendant plus interest thereon, and an incentive award for each of BDC, RDC, and Meijer. Any attorneys' fees, expenses, costs and incentive awards approved by the Court shall be payable solely out of the Settlement Fund, and Plaintiffs, members of the Direct Purchaser Class, and their respective counsel shall not seek payment of any attorneys' fees, expenses, costs or incentive awards from any source other than the Settlement Fund. The Released Parties (as defined in paragraph 13 herein) shall have no responsibility for, and no liability whatsoever with respect to, any payment or disbursement of attorneys' fees, expenses, costs or incentive awards, any allocation of attorneys' fees, expenses, costs or incentive awards among Class counsel and/or Plaintiffs, or with respect to any allocation of attorneys' fees, expenses, costs or incentive awards to any other person or entity who may assert any claim thereto.

13. **Release and Covenant Not to Sue.** (a) Upon this Settlement Agreement becoming final in accordance with paragraph 6 hereof, and in consideration for the Settlement Fund described in this Settlement Agreement, Plaintiffs and the Direct Purchaser Class (on behalf of themselves and their respective past, present, or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors, and assigns, acting in their capacity as such) shall unconditionally, fully and finally release and forever discharge Defendant, any past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners,

employees, agents, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the “Released Parties”) from the Direct Purchaser Class Action, including from any and all manner of claims, rights, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, including costs, expenses, penalties and attorneys’ fees, accrued in whole or in part, in law or equity, that Plaintiffs or any member or members of the Direct Purchaser Class (including any of their past, present, or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors, and assigns, acting in their capacity as such) (the “Releasers”), whether or not they object to the Settlement, ever had, now has, or hereafter can, shall or may have, indirectly, directly, representatively, derivatively or in any other capacity, arising out of or relating in any way to any claim under federal or state laws that was alleged or could have been alleged in the Direct Purchaser Class Action relating to buprenorphine-naloxone combination products purchased through the date of the Settlement Agreement (the “Released Claims”).

Releasers 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 Released Parties. Upon entry of the Final Judgment and Order, and in consideration of the promises set forth in this Settlement Agreement, including payment of the Settlement Fund, the Plaintiffs and Direct Purchaser Class shall dismiss the Action with prejudice as to Defendant.

(b) In addition, Plaintiffs on behalf of themselves and all other Releasors, hereby expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and 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 other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code.

Plaintiffs and members of the Direct Purchaser Class 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 this paragraph 13, but each Plaintiff and member of the Direct Purchaser Class hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement 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. Each Plaintiff and member of the Direct Purchaser Class also hereby expressly waives and fully, finally and forever settles, releases and discharges any and all claims it may have against any Released Party under § 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.

14. **Reservation of Claims.** This settlement is not intended to, and does not, release claims arising in the ordinary course of business between Defendant and members of the Direct

Purchaser Class that are unrelated to the allegations in the Direct Purchaser Class Action, such as claims 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.

15. **Stay of Proceedings.** Pending Court approval of the Settlement embodied in this Settlement Agreement, the parties agree to stay any and all proceedings against Defendant in the Direct Purchaser Class Action other than those incident to the settlement process, and agree to extensions of time with respect to any court filings necessary to effectuate such stays.

16. **Effect of Disapproval.** If the Court declines to finally approve this Settlement, or if the Court does not enter the Final Judgment and Order in substantially the form provided for in paragraph 5, or if the Court enters the Final Judgment and Order and appellate review is sought, and on such review, the Final Judgment and Order is set aside or is affirmed with material modification, then this Settlement Agreement and the Settlement shall be terminated upon the election of any Defendant or Plaintiffs' Counsel by providing written notice to the parties designated to receive such notice hereunder in accordance with paragraph 23 hereof and the Escrow Agent within ten (10) business days following the occurrence of any such event. An Order by the Court awarding attorneys' fees, costs, expenses, and/or incentive awards from the Settlement Fund in any amount lower than requested by Plaintiffs' counsel pursuant to this Settlement Agreement (including paragraph 12) shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or the Final Judgment and Order and shall not give rise to any right of termination. A modification or reversal on appeal of any amount of Plaintiffs' counsel's fees, costs and expenses awarded by the Court from the Settlement Fund, or the amount of incentive awards from the Settlement Fund to Plaintiffs in the Class Action, shall

not be deemed a modification of all or a part of the terms of this Settlement Agreement or the Final Judgment and Order and shall not give rise to any right of termination.

17. **Termination.** In the event that the Settlement is terminated, then (a) this Settlement Agreement shall be of no force or effect, (b) the Parties will be returned to the status quo that existed immediately prior to the date of execution of this Settlement Agreement; (c) any amount of the Settlement Fund attributable to this Settlement, including any and all interest earned thereon, but less fifty percent (50%) of the costs expended for notice of the Settlement, settlement administration, escrow administration, and taxes paid on the Settlement Fund shall be paid to Defendant within fourteen (14) days of the Escrow Agent receiving notice of termination as provided for in paragraph 16 hereof, and (d) any release pursuant to paragraph 13 above shall be of no force or effect.

18. **Preservation of Rights.** The parties hereto agree that this Settlement Agreement, whether or not it shall become final, and any and all negotiations, documents and discussions associated with it shall be without prejudice to the rights of any party (except to the extent provided herein); shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Defendant, or of the truth of any of the claims or allegations contained in the complaint or any other pleading or document; and evidence thereof shall not be discoverable, admissible, or otherwise used directly or indirectly, in any way (except in accordance with the terms of this Settlement; and that the provisions of this Settlement Agreement can be used by the parties to enforce the provisions of the Settlement Agreement), whether in the Direct Purchaser Class Action or in any other action or proceeding. The parties expressly reserve all of their rights if the Settlement does not become final in accordance with the terms of this Settlement Agreement. Upon the Settlement becoming final,

nothing in this paragraph shall prevent Defendant from asserting any release or using this Settlement Agreement to offset any liability to any other parties.

19. **Resumption of Litigation.** The parties agree that in the event that the Settlement Agreement is not approved by the Court or the Settlement does not become final pursuant to paragraph 6, litigation of the Direct Purchaser Class Action against Defendant will resume in a reasonable manner to be approved by the Court upon joint application by the parties hereto.

20. **Confidentiality.** The fact of settlement of the Direct Purchaser Class Action and the terms of this Settlement Agreement, shall remain confidential until Plaintiffs move for preliminary approval of the Settlement, unless Defendant and Plaintiffs' Counsel agree otherwise. However, Defendant shall be entitled to make such disclosures of the Settlement Agreement as it, in its sole discretion, determine are appropriate under the law, rule, securities listing requirement, or regulation, along with such disclosures Defendant, in its sole discretion, determines are appropriate to its auditors, legal counsel, and tax advisors.

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

22. **Names of Parties.** The undersigned counsel for Plaintiffs warrant that all of their clients in the Direct Purchaser Class Action are parties to this Settlement Agreement even if one or more of them is mistakenly identified in this Settlement Agreement by an incorrect name (for example, if "Burlington Drug Company" were actually "Burlington Drug Company, Inc.").

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

To Plaintiffs and the Direct Purchaser Class:

Bruce E. Gerstein, Esq.  
Kimberly Hennings, Esq.  
Garwin Gerstein & Fisher LLP  
88 Pine Street, 28th Floor  
New York, NY 10005  
Tel.: 212-398-0055  
bgerstein@garwingerstein.com  
khennings@garwingerstein.com

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

To Defendant:

Justin Bernick  
Hogan Lovells US LLP  
555 13th St NW  
Washington, DC 20004  
[justin.bernick@hoganlovells.com](mailto:justin.bernick@hoganlovells.com)

and

Indivior Inc.  
Attn: Chief Legal Officer  
10710 Midlothian Tpke Suite 125  
North Chesterfield, VA 23235  
legal@indivior.com

*Counsel for Defendant*

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



calendar days before the change is effective.

24. **Integrated Agreement.** This Settlement Agreement (including the exhibits hereto) contains an entire, complete, and integrated statement of each and every term and provision agreed to, by and among the parties. This Settlement Agreement shall not be modified in any respect except by a writing executed by all the parties hereto.

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

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

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

28. **Consent to Jurisdiction.** Defendant, Plaintiffs, and each member of the Direct Purchaser Class hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Eastern District of Pennsylvania, for any suit, action, proceeding or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement. Nothing in this paragraph shall prohibit (a) the assertion in any forum in which a claim is brought that any release herein is a defense, in whole or in part, to such claim or (b) in the event that such a defense is asserted in such forum, the determination of its merits in that forum.

29. **No Admission of Liability.** Nothing in this Settlement Agreement, nor in any document related to this Settlement Agreement, nor anything contained herein or therein or contemplated hereby or thereby, nor any proceedings undertaken in accordance with the terms set forth in the Settlement Agreement, shall be construed as an admission in any action or proceeding of any kind whatsoever, civil, criminal or otherwise, before any court, administrative agency, regulatory body or any other body or authority, present or future, by Defendant including, without limitation, that Defendant has engaged in any conduct or practices that violate any antitrust statute or other law. This Settlement Agreement shall not be admissible for any purpose except in an action to enforce its terms or as otherwise provided in paragraphs 18 and 28 hereof.

30. **Representations and Warranties.** Each party hereto represents and warrants to each other party hereto that it has the requisite authority (or in the case of natural persons, the legal capacity) to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby.

31. **Knowledge and Understanding of the Settlement Agreement's Terms.** Each of the Plaintiffs and Defendant warrants that it has read this Settlement Agreement, has had the opportunity to consult counsel about this Settlement Agreement, understands the Settlement Agreement's terms, and freely and knowingly enters into this Settlement Agreement.

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

[The remainder of this page is left intentionally blank]

representatives have agreed to this Settlement Agreement as of October 22, 2023.

By: Bruce E. Gerstein

By: Peter Kohn by Ben Effekt

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*Co-Lead Counsel for the Direct  
Purchaser Class*

*Co-Lead Counsel for the Direct  
Purchaser Class*

By: Thomas M. Sobol by Ben Effekt

By: \_\_\_\_\_

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Ryan Preblich  
Chief Financial Officer  
10710 Midlothian Tpke  
Suite 125  
North Chesterfield, VA 23235

*Co-Lead Counsel for the Direct  
Purchaser Class*

*Indivior Inc.*

IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Settlement Agreement as of October 22, 2023.

By: \_\_\_\_\_

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By: \_\_\_\_\_

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*Co-Lead Counsel for the Direct  
Purchaser Class*

By:  \_\_\_\_\_

Ryan Preblich  
Chief Financial Officer  
10710 Midlothian Tpke  
Suite 125  
North Chesterfield, VA 23235

*Indivior Inc.*

# **EXHIBIT A**

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

**IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION**

**MDL No. 2445**

**Master File No. 2:13-MD-2445-MSG**

**THIS DOCUMENT RELATES TO:**

*All Direct Purchaser Class Actions*

**[PROPOSED] ORDER GRANTING DIRECT PURCHASER CLASS PLAINTIFFS'  
MOTION FOR PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT,  
APPROVAL OF THE FORM AND MANNER OF NOTICE TO THE CLASS AND  
PROPOSED SCHEDULE FOR A FAIRNESS HEARING**

Upon review and consideration of Direct Purchaser Class Plaintiffs' Motion for Preliminary Approval of Proposed Settlement, Approval of the Form and Manner of Notice to the Class, and Proposed Schedule for a Fairness Hearing, the exhibits thereto, and any hearing thereon, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said motion is GRANTED as follows:

**Jurisdiction**

1. This Order hereby incorporates by reference the definitions in the Settlement Agreement among Defendant, Plaintiffs, and the Class<sup>1</sup>, and all capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Settlement Agreement.

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<sup>1</sup> The Class is defined in Paragraph 1 of the Settlement Agreement as:

All persons or entities in the United States and its territories who purchased branded Suboxone tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior, Inc.) at any time during the period January 1, 2012 through March 14, 2013 ("the Class"). Excluded from the Class are Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.), its officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

Nothing in this Order is intended to modify the terms of the Settlement Agreement. This Court has jurisdiction over each of the named plaintiffs, Burlington Drug Company, Inc. (“BDC”), Rochester Drug Co-Operative, Inc. (“RDC”), and Meijer, Inc. and Meijer Distribution, Inc. (collectively “Meijer”) (collectively, with the Class, “Plaintiffs”); and Indivior Inc., f/k/a Reckitt Benckiser Pharmaceuticals, Inc. (“Indivior” or “Defendant”), and jurisdiction over the litigation to which Plaintiffs and Defendant are parties.

### **Preliminary Approval of the Proposed Settlement**

2. A court may finally approve a class action settlement “only after a hearing and only on finding that it is fair, reasonable, and adequate” after considering a variety of factors. Fed. R. Civ. P. 23(e)(2). However, in evaluating a settlement for preliminary approval, the Court is required to consider whether the proposed settlement will ultimately achieve final approval pursuant to the Rule 23(e)(2) factors. *See, e.g., In re Suboxone (Buprenorphine & Naloxone) Antitrust Litig.*, No. 13-md-2445, ECF No. 932 (Aug. 21, 2023 Order)(Goldberg, J.) at ¶ 10 “A court’s determination to preliminarily approve a proposed class settlement is a determination that there are no obvious deficiencies and the settlement falls within the range of reason.” *Checchia v. Bank of Am., N.A.*, 2023 U.S. Dist. LEXIS 26261, at \*5 (E.D. Pa. Feb. 16, 2023) (internal quotation omitted).

3. For the reasons outlined in Plaintiffs’ Motion for Preliminary Approval, all factors weigh in favor of preliminarily approving the settlement. The Court finds that the proposed settlement — which includes one (1) total cash payment of \$385,000,000 by Defendant into an escrow account for the benefit of the Class (the “Settlement Fund”) in exchange for, *inter alia*, dismissal of the litigation between Plaintiffs and Defendant with prejudice and releases of certain claims, as set forth in the Settlement Agreement, was arrived at by arm’s-length negotiations by

highly experienced counsel, after extensive mediation, more than a decade of litigation, and as a jury trial was imminent — falls within a reasonable range. The proposed settlement is therefore hereby preliminarily approved, subject to further consideration at the Fairness Hearing provided for below.

**Approval of the Plan of Notice to the Class and Plan of Allocation**

4. Members of the Class have previously been given notice of the pendency of the litigation and the opportunity to exclude themselves from the Class. *See* ECF No. 683 (Jan. 21, 2021 Order). No Class Members requested exclusion. *See* ECF No. 736-1 (Apr. 28, 2021 Declaration of Tina Chiango Regarding Notice to the Direct Purchaser Class) at ¶ 2.

5. The proposed form of Notice to Class Members of the proposed Settlement (annexed as Exhibit B to the Settlement Agreement) satisfies the requirements of Rule 23(e) and due process, is otherwise fair and reasonable, and therefore is approved. Plaintiffs' Counsel shall cause the Notice substantially in the form attached to the Settlement Agreement to be disseminated within twenty-one (21) days of this Order via first-class mail to the last known address of each member of the Class, which is the best notice practicable under the circumstances and complies in all respects with the requirements of Fed. R. Civ. P. 23(c)(2) and due process.

6. The Court finds that because the prior notice of class certification, also disseminated by first class mail to all members of the Class on February 22, 2021 satisfied the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, and because the prior notice of class certification provided an opt-out period that closed on April 9, 2021, there is no need for an additional opt-out period pursuant to Fed. R. Civ. P. 23(e)(4).



7. Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), Defendant shall serve notices as required no later than 10 days from the filing of the Settlement Agreement.

8. Members of the Class may object to the Settlement no later than \_\_\_\_\_ (45 days from the dissemination of the Notice to Class Members). Plaintiffs’ Counsel shall monitor and record any and all objections that are received.

9. The Court previously appointed RG/2 Claims Administration LLC (“RG/2”) to serve as the Notice Administrator (*see* ECF No. 683) and now reappoints RG/2 to serve as claims administrator to assist Plaintiffs’ Counsel in disseminating the Notice and to process claims. All expenses incurred by the claims administrator must be reasonable, are subject to Court approval, and shall be payable solely from the Settlement Fund, as outlined by the Settlement Agreement.

10. The proposed Plan of Allocation satisfies the requirements of Rule 23(e), is otherwise fair and reasonable, and is therefore preliminarily approved, subject to further consideration at the Final Fairness Hearing.

11. The Court appoints First State Trust Company as Escrow Agent for the purpose of administering the escrow account holding the Settlement Fund. All expenses incurred by the Escrow Agent must be reasonable, are subject to Court approval, and shall be payable solely from the Settlement Fund, as outlined by the Settlement Agreement. A copy of the Escrow Agreement executed by First State Trust Company and counsel is annexed as Exhibit D to the Settlement Agreement.

12. The Court approves the establishment of the Settlement Fund under the Settlement Agreement as a qualified settlement fund (“QSF”) pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder, and retains continuing

jurisdiction as to any issue that may arise in connection with the formation and/or administration of the QSF. Plaintiffs' Counsel are, in accordance with the Settlement Agreement, authorized to expend funds from the QSF for the payment of the costs of notice, payment of taxes, and settlement administration costs.

**Final Fairness Hearing**

13. A hearing on final approval (the "Fairness Hearing") shall be held before this Court at \_\_\_\_\_ on \_\_\_\_\_, 2024 in Courtroom \_\_\_\_ of the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania, 19106.

14. At the Fairness Hearing, the Court will consider, *inter alia*: (a) the fairness, reasonableness and adequacy of the Settlement and whether the Settlement should be finally approved; (b) whether the Court should approve the proposed plan of distribution of the Settlement Fund among Class members; (c) whether the Court should approve awards of attorneys' fees and reimbursement of expenses to Direct Purchaser Class Counsel; (d) whether service awards should be awarded to the named Plaintiffs; and (e) whether entry of a Final Judgment and Order terminating the litigation between Plaintiffs and Defendant should be entered. The Fairness Hearing may be rescheduled or continued; in that event, the Court will furnish all counsel with appropriate notice. Plaintiffs' Counsel shall be responsible for communicating any such notice promptly to the Class by posting a conspicuous notice on the respective websites of Plaintiffs' Counsel: [www.garwingerstein.com](http://www.garwingerstein.com); [www.faruqilaw.com](http://www.faruqilaw.com); and [www.hbsslaw.com](http://www.hbsslaw.com).

15. Class members who wish to object with respect to the proposed Settlement must first file an Objection and, if intending to appear, a Notice of Intention to Appear, along with a

Summary Statement outlining the position(s) to be asserted and the grounds therefor together with copies of any supporting papers or briefs. Class members who are objecting must also send a copy of their objection via first class mail, postage prepaid, to the Clerk of the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania, 19106 with copies to the following counsel:

*On behalf of Plaintiffs:*

Bruce E. Gerstein, Esq.  
Garwin Gerstein & Fisher LLP  
88 Pine St., 28th Floor  
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Hagens Berman Sobol & Shapiro LLP  
One Faneuil Hall, 5<sup>th</sup> Floor  
Boston, MA 02109  
Tel: 617-482-3700  
tom@hbsslaw.com

*On behalf of Defendant:*

Justin Bernick  
Hogan Lovells US LLP  
555 13th St NW  
Washington, DC 20004  
justin.bernick@hoganlovells.com

16. To be valid, any such Objection and/or Notice of Intention to Appear and Summary statement must be filed no later than \_\_\_\_\_ (45 days from the date of mailing of notice to the Class). Except as herein provided, no person or entity shall be entitled to

contest the terms of the proposed Settlement. All persons and entities who fail to file an Objection as provided above shall be deemed to have waived any such objections by appeal, collateral attack or otherwise. No persons or entities who, despite filing a timely Objection, fail to file a timely Notice of Intention to Appear and Summary Statement will be heard at the Fairness Hearing.

17. All briefs and materials in support of the final approval of the settlement and the entry of Final Judgment proposed by the parties to the Settlement Agreement shall be filed with the Court by \_\_\_\_\_ (21 days after the expiration of the deadline for Class members to object to the Settlement and/or attorney's fees, expenses and service awards for the named plaintiffs).

18. All briefs and materials in support of the application for an award of attorneys' fees and reimbursement of expenses, and service awards for the named Plaintiffs, shall be filed with the Court by \_\_\_\_\_ (14 days prior to the expiration of the deadline for Class members to object to the Settlement and/or attorney's fees, expenses and service awards for the named Plaintiffs).

19. All proceedings in the action between Plaintiffs and Defendant are hereby stayed until such time as the Court renders a final decision regarding the approval of the Settlement and, if the Court approves the Settlement, enters Final Judgment and dismisses such actions with prejudice.

20. Neither this Order, nor the Settlement Agreement, nor any other Settlement-related document, nor anything contained herein or therein or contemplated hereby or thereby, nor any proceedings undertaken in accordance with the terms set forth in the Settlement Agreement or herein or in any other Settlement-related document, shall constitute, be construed

as or be deemed to be evidence of or an admission or concession by Defendant as to the validity of any claim that has been asserted by Plaintiffs against Defendant or as to any liability by Defendant as to any matter set forth in this Order.

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2023

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The Honorable Mitchell S. Goldberg  
United States District Judge

# **EXHIBIT B**

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**If you purchased Suboxone® tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.), your rights may be affected by the settlement of a class action lawsuit.**

*A federal court authorized this Notice. It is not a solicitation from a lawyer. You are not being sued.*

You were previously notified in 2021 about your membership in the class of direct purchasers in this lawsuit. The purpose of this Notice is to alert you to the existence of and provide important details about a proposed settlement relating to the class action lawsuit brought by Burlington Drug Company, Inc., Meijer, Inc., Meijer Distribution, Inc., and Rochester Drug Co-Operative, Inc. (“Class Representatives” or “Direct Purchaser Class Plaintiffs”) on behalf of direct purchasers of Suboxone® tablets (buprenorphine hydrochloride/naloxone tablets) and to give you the opportunity to object to the settlement.

The proposed settlement with Defendant Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.) (“Indivior” or “Defendant”) will provide for the payment of \$385,000,000 (Three Hundred Eighty-Five Million Dollars and no/100) in cash to resolve the Direct Purchaser Class Plaintiffs’ claims against Indivior (the “Settlement Fund”).

**YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT,  
SO PLEASE READ THIS NOTICE CAREFULLY.**

The Court has scheduled a hearing to decide on final approval of the settlement, the plan for allocating the Settlement Fund to Direct Purchaser Class Members (summarized in the responses to Questions 6 and 7 below), and Class Counsel’s request for settlement administration costs, attorneys’ fees, reimbursement of Class Counsel’s out-of-pocket expenses and costs, and service awards to the Class Representatives. That hearing is scheduled for [XX/XX, 20XX] before U.S. District Court Judge Mitchell S. Goldberg in Courtroom 17-A of the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106.

The Court previously determined that the lawsuit between Direct Purchaser Class Plaintiffs and Indivior can proceed as a class action because it meets the requirements of the Federal Rule of Civil Procedure 23, which governs class actions in federal courts. The class (hereinafter, the “Direct Purchaser Class” or the “Class”) consists of the following:

All persons or entities in the United States and its territories who purchased branded Suboxone tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.) at any time during the period January 1, 2012 through March 14, 2013 (the “Class”). Excluded from the Class are Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.), its officers, directors,

management, employees, subsidiaries, and affiliates, and all federal governmental entities.

The proposed settlement will affect the rights of all members of the Class, as defined above.

The Court in charge of this case still has to decide whether to give Final Approval to the proposed settlement with Indivior.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>IF YOU WISH TO RECOVER A SHARE OF THE SETTLEMENT FUND, PROMPTLY COMPLETE AND RETURN THE ENCLOSED CLAIM FORM</b>	If you are a member of the Class, the enclosed Claim Form must be completed, signed and returned or postmarked by mail within 45 days, by <u>[date 45 days from date of Claim Form]</u> , to obtain a share of the Settlement Fund.
<b>OBJECT TO THE SETTLEMENT</b>	<p>If you object to any part or all of the proposed settlement, you must file an objection with the Court, along with a statement explaining the basis for your objection to the proposed settlement. You must also send a copy of your objections to the Clerk of the Court and the lawyers listed in Question 12 below.</p> <p><u>Regardless of whether you object, the enclosed Claim Form must be completed, signed and returned or postmarked by mail by [date 45 days from date of Claim Form] in order to recover a share of the Settlement Fund.</u></p>
<b>GET MORE INFORMATION</b>	If you would like to receive more information about the proposed settlement, you can send questions to the lawyers identified in this Notice and/or attend the hearing at which the Court will evaluate the proposed settlement.

*These rights and options—and the deadlines to exercise them—are explained in this Notice.*



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## BASIC INFORMATION

### 1. Why Did I Get This Notice?

You received this Notice because, according to sales records of Indivior, you may have purchased Suboxone® tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.) at some point between January 1, 2012 and March 14, 2013. You previously received a Notice in 2021 about the certification of the class of direct purchasers in this case.

A federal court authorized this Notice because you have a right to know about the proposed settlement and about all of your options before the Court decides whether to grant final approval of the settlement. This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, and eligibility for those benefits. Receiving this Notice does not necessarily mean you are definitely a member of the Direct Purchaser Class. You may confirm that you are a member of the Direct Purchaser Class by reviewing the criteria set forth in Question 5 below. You may also call or write to the lawyers in this case at the telephone numbers or addresses listed in Question 9 below.

### 2. What Is This Lawsuit About?

Direct Purchaser Class Plaintiffs allege that Defendant violated federal antitrust laws by delaying and impairing competition by generic bioequivalent versions of Suboxone® tablets. Specifically, Direct Purchaser Class Plaintiffs allege that Defendant coerced patients, physicians, and managed care entities away from Suboxone® tablets and over to Defendant's new Suboxone® film product, in order to force Direct Purchaser Class Plaintiffs and members of the Class (defined below) to purchase branded Suboxone® film instead of generic bioequivalent versions of Suboxone® tablets (which Plaintiffs allege were less expensive), once they became available on the market. Direct Purchaser Class Plaintiffs also allege that Defendant delayed the market entry of generic Suboxone tablets by manipulating FDA's Risk Evaluation and Mitigation Strategy process. Direct Purchaser Class Plaintiffs allege that they and the other members of the Class were injured because they purchased more expensive branded Suboxone® tablets and film instead of less expensive generic bioequivalent versions of Suboxone® tablets.

Defendant denies these allegations, and denies that any Class Member is entitled to damages or any other relief. Defendant also denies that any of its conduct violated any applicable law or regulation. Specifically, Defendant asserts that patients, physicians, and managed care entities were never coerced into purchasing Suboxone® film, and that members of the Class always had access to Suboxone® tablets, including generic bioequivalent versions of Suboxone® tablets. Moreover, Defendant asserts members of the Class were not injured because Suboxone® film was cheaper than generic bioequivalent versions of Suboxone® tablets. No trial has been held.

A copy of the publicly-filed, redacted, operative Direct Purchaser Class Plaintiffs' Second Consolidated Amended Class Action Complaint and Demand for Jury Trial filed February 23, 2015 is available at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>.

The class action is known as *In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation*, MDL No. 2445, No. 13-md-02445 (E.D. Pa.). Judge Mitchell S. Goldberg of

the United States District Court for the Eastern District of Pennsylvania is overseeing this class action and the settlement.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF DIRECT PURCHASER CLASS PLAINTIFFS' CLAIMS AGAINST INDIVIOR OR THE DEFENSES ASSERTED BY INDIVIOR.

### 3. Why Is This Lawsuit a Class Action?

In a class action, one or more entities called "Class Representatives" sue on behalf of other entities with similar claims. In this case, the Class Representatives are Burlington Drug Company, Inc., Meijer, Inc., Meijer Distribution, Inc., and Rochester Drug Co-Operative, Inc.

The Class Representatives and the entities on whose behalf they have sued together constitute the "Class" or "Class Members." They are also called the "Direct Purchaser Class Plaintiffs" or "Plaintiffs." Their attorneys are called "Plaintiffs' Counsel," "Lead Counsel for the Class," or "Class Counsel."

The company that has been sued is called the "Defendant." In this case, the Defendant is Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.).

In a class action lawsuit such as this one, one court resolves the issues for everyone in the class, except for those Class Members who previously timely excluded themselves (i.e., "opted out") from the class. The District Court, by memorandum and order filed on September 27, 2019, earlier determined that the lawsuit by Direct Purchaser Class Plaintiffs against the Defendant Indivior Inc. would proceed as a class action. Defendant Indivior Inc. appealed this decision to the United States Court of Appeals for the Third Circuit, and on July 28, 2020 the Court of Appeals affirmed the District Court's determination that the lawsuit by Direct Purchaser Class Plaintiffs against the Defendant Indivior Inc. would proceed as a class action. A copy of the District Court's class certification memorandum and order and the Third Circuit Court of Appeal's order affirming the District Court's order may be found at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>.

Specifically, the Court previously found that:

- The number of Class Members is so numerous that joining them all into one suit would be impractical.
- Class Members share common legal or factual issues relating to the claims in this case.
- The claims of the Class Representatives are typical of the claims of the rest of the Class Members.
- The Class Representatives and the lawyers representing the Class will fairly and adequately protect the Class's interests.

- Class-wide issues predominate over any questions affecting only individual members of the Class, and this class action is a superior method to fairly and efficiently adjudicate this controversy.

#### 4. Why Is There a Settlement?

The Direct Purchaser Class Plaintiffs and Indivior were preparing to proceed to trial, but they have now agreed to a proposed settlement. By settling, both the Direct Purchaser Class Plaintiffs and Indivior avoid the risk of trial and the continued costs of litigation. The Class Representatives and Class Counsel believe that the proposed settlement is fair, adequate, reasonable, and in the best interests of the Class.

### **WHO IS INCLUDED IN THE CLASS AND THE SETTLEMENT**

To see if you are in the Class, and if so, how you will be able to share in the Settlement Fund, you first have to decide if you are a Class Member.

#### 5. Am I Part of the Class and the Settlement?

You are in the Class if you are a person or entity in the United States and its territories that purchased branded Suboxone® tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.) during the period January 1, 2012 through March 14, 2013 (the “Class”). Excluded from the Class are Defendant, its officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

If you are not sure whether you are included, you may call or write to the lawyers in this case at the telephone numbers or addresses listed in Question 9 below.

### **THE SETTLEMENT BENEFITS: WHAT YOU GET**

#### 6. What Does the Settlement Provide?

Indivior has agreed to pay \$385,000,000 in cash into an interest-bearing escrow account for the benefit of the Direct Purchaser Class.

If approved by the Court, the Settlement Fund, minus any Court-awarded fees and expenses to Class Counsel, the cost of settlement notice and administration, and service awards to the Class Representatives (the “Net Settlement Fund”), will be distributed to Direct Purchaser Class Members who return valid and timely Claim Forms. The distribution will be made on a *pro rata* basis, based on each Direct Purchaser Class Member’s weighted *pro rata* share of the total Direct Purchaser Class purchases of branded Suboxone® tablets and film. The Allocation Plan utilizes the combined totals of each Direct Purchaser Class Member’s purchases of branded Suboxone® tablets and film. The detailed Plan of Allocation is posted and can be reviewed at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>.

Transactional sales data from Indivior will be used to make these calculations. Direct Purchaser Class Members will be given the opportunity to provide data or information to supplement or correct this information if they choose. Each Direct Purchaser Class Member is being sent with

this Notice a Claim Form pre-populated with information about their purchases to review, sign, and return.

Class Counsel will ask for service awards for the Class Representatives of up to \$100,000 each from the Settlement Fund in recognition of their efforts to date on behalf of the Class in this 10-year litigation.

In exchange for the Settlement Fund, Defendant (the “Releasee”) will be released and discharged from all antitrust and similar claims relating to branded Suboxone® tablets (“Released Claims” as defined in the Settlement Agreement). The full text of the release is included in the Settlement Agreement, available at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>.

This Notice is a summary only and is not intended to, and does not, vary the terms of the actual Settlement Agreement or the Plan of Allocation.

#### 7. When Would I Get My Payment and How Much Would It Be?

Each Direct Purchaser Class Member’s proportionate *pro rata* recovery will be determined using a Court-approved Plan of Allocation. The detailed Plan of Allocation is posted and can be reviewed at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>. Under the proposed Plan of Allocation, your share of the Net Settlement Fund will depend on the total amount of branded Suboxone® tablets and film that you purchased from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.). Generally, those who purchased more will get a higher recovery.

Your share of the Net Settlement Fund will also depend on the number of valid Claim Forms that Class Members submit. If fewer than 100% of the Class Members send in a Claim Form, you could get a larger *pro rata* share.

Money from the settlement will only be distributed to Class Members if the Court grants final approval of the settlement. Payment is conditioned on several items, including the Court’s approval of the settlement and such approval no longer being subject to any appeals to any court or, if there is an appeal, such appeal being final and no longer subject to any further appeal. Payments for valid claims will be made after the Court grants final approval of the settlement and any appeals are resolved.

The Settlement Agreement may be terminated if the Court does not approve the settlement or materially modifies it. If the Settlement Agreement is terminated, the lawsuit will proceed against Indivior as if such settlement had not been reached.

#### 8. How Can I Get a Payment?

The enclosed Claim Form must be completed, signed and returned or postmarked by mail within 45 days, by [date 45 days from date of Claim Form], to request a *pro rata* share of the Net Settlement Fund. Court-approved fees and expenses for the attorneys and service awards to the Class Representatives will also be paid by the Settlement Fund. Transactional sales data from the Defendant will be used to make the *pro rata* share calculations. You must verify the accuracy of

the information in the Claim Form that you were provided, and sign and return the form according to the directions on the form. You may provide data or information to supplement or correct this information.

Claim Forms must be completed, signed and returned or postmarked by mail (with any necessary supporting documentation if the claimant disagrees with the information contained in its Claim Form) by [date 45 days from date of Claim Form].

### THE LAWYERS REPRESENTING YOU

#### 9. Do I Have a Lawyer in this Case?

The law firms listed below have been appointed by the Court as Lead Counsel for the Class. Lead Counsel for the Class are experienced in handling similar cases against other companies. Lead Counsel for the Class are:

Bruce E. Gerstein  
Garwin Gerstein & Fisher LLP  
88 Pine Street, 28th Floor  
New York, NY 10005  
Tel.: 212-398-0055  
bgerstein@garwingerstein.com

Peter Kohn  
Faruqi & Faruqi LLP  
One Penn Center, Suite 1550  
1617 JFK Boulevard  
Philadelphia, PA 19103  
Tel.: 215-277-5770  
pkohn@faruqilaw.com

Thomas S. Sobol  
Hagens Berman Sobol Shapiro LLP  
One Faneuil Hall Sq., 5th Floor  
Boston, MA 02109  
Tel.: 617-482-3700  
tom@hbsslaw.com

#### 10. Should I Get My Own Lawyer?

You do not need to hire your own lawyer if you are in the Class because the lawyers appointed by the Court are working on your behalf. You may hire a lawyer and enter an appearance through your lawyer at your own expense if you so desire.

#### 11. How Will the Lawyers Representing the Class Be Paid?

If the Court gives Final Approval to the settlement, then the Court will be asked to approve reasonable fees and expenses for the lawyers who worked on the case and for reimbursement of the litigation expenses they have advanced on behalf of the Class. Class Counsel intend to seek attorneys' fees of up to 33 1/3% of the Settlement Fund plus court-approved expenses and service awards, but including a proportionate share of any accrued interest. If the Court grants Class Counsel's requests, fees and expenses would be deducted from the Settlement Fund. Class Members will not have to pay any attorneys' fees or expenses out of their own pockets.

Any application by Class Counsel for an award of attorneys' fees, reimbursement of expenses, and service awards to the Class Representatives will be filed with the Court and made available

for download and/or viewing at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>, as well as the offices of the Clerk of Court for the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106, during normal business hours.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with all or any part of the proposed settlement, and/or the application for attorneys’ fees, costs, and expenses, and/or service awards to the Class Representatives.

**12. How Do I Tell the Court That I Do Not Like the Settlement?**

If you are a member of the Class, you can object to the settlement or any part of it if you do not like it. The Court will consider your views. To object, you must file an objection with the Court on the docket for *In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation*, MDL No. 2445, No. 13-md-02445 (E.D. Pa.), along with a statement explaining the basis of your objection along with any supporting documentation. In addition to filing the objection, you also must send a copy of your objection by mail to the addresses below. Be sure to include your name, address, telephone number, signature, and the reasons why you object to the settlement. You must mail the objection separately to each of the following:

Counsel for Indivior	Class Counsel
Justin W. Bernick Hogan Lovells US LLP 555 Thirteenth Street, NW Washington, DC 20004 Tel.: 202-637-5485 justin.bernick@hoganlovells.com	Bruce E. Gerstein Garwin Gerstein & Fisher LLP 88 Pine Street, 28th Floor New York, NY 10005 Tel.: 212-398-0055 bgerstein@garwingerstein.com  Peter Kohn Faruqi & Faruqi LLP One Penn Center, Suite 1550 1617 JFK Boulevard Philadelphia, PA 19103 Tel.: 215-277-5770 pkohn@faruqilaw.com  Thomas S. Sobol Hagens Berman Sobol Shapiro LLP One Faneuil Hall Sq., 5th Floor Boston, MA 02109 Tel.: 617-482-3700 tom@hbsslaw.com
<b>Clerk of the Court</b>	

Clerk of the United States District Court for the Eastern District of Pennsylvania  
James A. Byrne U.S. Courthouse  
601 Market Street, Philadelphia, PA 19106

**Your objection must be filed with the Court by [XX/XX, 20XX]. Again, whether or not you object to the proposed settlement, the enclosed Claim Form must be completed, signed and returned or postmarked by mail by [date 45 days from date of Claim Form] to request a *pro rata* share of the Net Settlement Fund.**

### THE COURT'S FINAL FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend, and you may ask to speak, but you do not have to.

#### 13. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a Fairness Hearing at [XX:XX] on [XX/XX, 20XX] in Courtroom 17-A of the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlement. We do not know how long this decision will take. The date and time of the hearing is subject to change. Notice of such change will be posted at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>.

#### 14. Do I Have to Come to the Hearing?

No, you do not have to attend the hearing. Class Counsel will answer any questions that Judge Goldberg may have. You are welcome to attend at your own expense, however.

If you send an objection, you do not have to come to Court to talk about it. So long as you file your written objection by the deadline, the Court will consider it. You may also pay your own lawyer to attend, but this is not necessary for you to receive a *pro rata* share of the Net Settlement Fund.

#### 15. May I Speak at the Hearing?

If you are a member of the Direct Purchaser Class, you may ask the Court for permission to speak at the Fairness Hearing. To do so, you must file a notice of intention to appear with the Court on the docket for *In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation*, MDL No. 2445, No. 13-md-02445, along with your objection. Be sure to include your name, address, and telephone number, your signature, and a summary statement outlining your positions and the reasons for them, as well as copies of any supporting documents or briefs you want the Court to consider. Your Notice of Intention to Appear must be filed no later than [XX/XX, 20XX].

You cannot speak at the hearing if you do not send a Notice of Intention to Appear.



**IF YOU DO NOTHING**

**16. What Happens If I Do Nothing at All?**

If you are a member of the Direct Purchaser Class and you do nothing, and the Court approves the settlement, then you will be eligible to participate in the settlement as described in this Notice. You will also release your claims against Indivior as described in the Settlement Agreement. However, the Claim Form provided with this Notice must be completed, signed and returned or postmarked by mail by *[date 45 days from date of Claim Form]* in order to obtain a payment.

**GETTING MORE INFORMATION**

**17. How Do I Get More Information?**

If you have questions about this case or wish to read more detailed information about this litigation, you may call or write to Class Counsel as indicated in Question 9. Further information is also available at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>. The Notice Administrator, RG/2 Claims Administration, can be contacted at the following address:

RG/2 Claims Administration  
P.O. Box 59479  
Philadelphia, PA 19102-9479

This Notice is only a summary of the proposed settlement and is qualified in its entirety by the terms of the actual Settlement Agreement. A copy of the Settlement Agreement is on public file with the Office of the Clerk, United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106, and is also available at <https://www.garwingerstein.com>, <https://www.faruqilaw.com/>, and <https://www.hbsslaw.com/>.

**PLEASE DO NOT CALL OR WRITE TO THE COURT OR THE CLERK'S OFFICE FOR INFORMATION. PLEASE DIRECT ANY INQUIRIES TO ANY OF THE CLASS COUNSEL LISTED ABOVE.**

DATE: [XX/XX, 20XX]

BY THE COURT

The Honorable Mitchell S. Goldberg  
United States District Judge

# **EXHIBIT C**

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

**IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION**

**MDL No. 2445**

**Master File No. 2:13-MD-2445-MSG**

**THIS DOCUMENT RELATES TO:**

*All Direct Purchaser Class Actions*

**[PROPOSED] ORDER GRANTING FINAL JUDGMENT AND ORDER OF DISMISSAL  
APPROVING DIRECT PURCHASER CLASS SETTLEMENT AND DISMISSING  
DIRECT PURCHASER CLASS CLAIMS**

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and in accordance with the terms of the Settlement Agreement dated October 22, 2023 between Indivior Inc., f/k/a Reckitt Benckiser Pharmaceuticals, Inc. (“Defendant”), and Burlington Drug Company, Inc. (“BDC”), Rochester Drug Co-Operative, Inc. (“RDC”), and Meijer, Inc. and Meijer Distribution, Inc. (collectively “Meijer”) (collectively with the Class<sup>1</sup>, “Plaintiffs”), it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. This Final Judgment and Order of Dismissal hereby incorporates by reference the definitions in the Settlement Agreement among Defendant and Plaintiffs, and all capitalized terms used and not otherwise defined herein shall have the meanings set forth

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<sup>1</sup> The Class is defined in Paragraph 1 of the Settlement Agreement as:

All persons or entities in the United States and its territories who purchased branded Suboxone tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.) at any time during the period January 1, 2012 through March 14, 2013 (“the Class”). Excluded from the Class are Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.) its officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

in the Settlement Agreement. Nothing in this Order is intended to modify the terms of the Settlement Agreement.

2. The Court previously appointed BDC, RDC, and Meijer as class representatives of the Class (the “Class Representatives”). The Court previously appointed Garwin Gerstein & Fisher LLP, Faruqi & Faruqi LLP and Hagens Berman Sobol Shapiro LLP as Co-Lead Counsel for the Class (“Co-Lead Counsel”). The Class Representatives and Co-Lead Counsel have fairly and adequately represented the interests of the Class and satisfied the requirements of Fed. R. Civ. P. 23(g).

3. The Court has jurisdiction over the above-captioned litigation, including this Settlement, and over each of the parties, and all members of the Class.

4. The notice of settlement (substantially in the form presented to this Court as Exhibit B to the Settlement Agreement) (the “Notice”) directed to the members of the Class, constituted the best notice practicable under the circumstances. In making this determination, the Court finds that the Notice provided for individual notice to all members of the Class who were identified through reasonable efforts. Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, the Court hereby finds that the Notice provided to the Class due and adequate notice of the Settlement, the Settlement Agreement, these proceedings, and the rights of the Class to object to the Settlement.

5. Due and adequate notice of the proceedings having been given to the Class and a full opportunity having been offered to Class to participate in the \_\_\_\_\_, 2024 Fairness Hearing, it is hereby determined that all members of the Class are bound by this Order and Final Judgment.

6. The Settlement of this action was not the product of collusion between

Plaintiffs and Defendant or their respective counsel, but rather was the result of *bona fide* and arm's-length negotiations conducted in good faith between Co-Lead Counsel and counsel for Defendant, with the assistance of this Court (by agreement of the parties and their counsel) as a mediator.

7. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement, and finds that the Settlement is, in all respects, fair, reasonable and adequate. Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

8. The Court hereby approves the Plan of Allocation of the Settlement Fund as proposed by Class Counsel (the "Plan"), which was summarized in the Notice of Proposed Settlement, and directs RG/2 Claims Administration LLC, the firm appointed to serve as Claims Administrator, to distribute the net Settlement Fund as provided in the Plan.

9. All claims of the Class against Defendant in *In re Suboxone (Buprenorphine & Naloxone) Antitrust Litig.*, MDL No. 2445, Case No. 13-md-2445-MSG (E.D. Pa.) are hereby dismissed with prejudice, and without costs.

10. Upon the Settlement Agreement becoming final in accordance with paragraph 6 of the Settlement Agreement, and in consideration for the Settlement Fund described in the Settlement Agreement, Plaintiffs and the Direct Purchaser Class (on behalf of themselves and their respective past, present, or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors, and assigns, acting in their capacity as such) shall unconditionally, fully and finally

release and forever discharge Defendant, any past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the “Released Parties”) from the Direct Purchaser Class Action, including from any and all manner of claims, rights, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, including costs, expenses, penalties and attorneys’ fees, accrued in whole or in part, in law or equity, that Plaintiffs or any member or members of the Direct Purchaser Class (including any of their past, present, or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors, and assigns, acting in their capacity as such) (the “Releasers”), whether or not they object to the Settlement, ever had, now has, or hereafter can, shall or may have, indirectly, directly, representatively, derivatively or in any other capacity, arising out of or relating in any way to any claim under federal or state laws that was alleged or could have been alleged in the Direct Purchaser Class Action relating to buprenorphine-naloxone combination products purchased through the date of the Settlement Agreement (the “Released Claims”).

Releasers 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 Released Parties. Upon entry of the Final Judgment and Order, and in consideration of the promises set forth in this Settlement Agreement, including payment of the Settlement Fund, the Plaintiffs and Direct Purchaser Class shall dismiss the Action with prejudice as to Defendant.

11. In addition, Plaintiffs on behalf of themselves and all other Releasers, hereby expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and 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 other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Plaintiffs and members of the Direct Purchaser Class 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 this paragraph 13, but each Plaintiff and member of the Direct Purchaser Class hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement 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. Each Plaintiff and member of the Direct Purchaser Class also hereby expressly waives and fully, finally and forever settles, releases and discharges any and all claims it may have against any Released Party under § 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.

12. As set forth in Paragraph 14 of the Settlement Agreement (with subheading “Reservation of Claims”), the release set forth in Paragraph 13 of the Settlement Agreement is not intended to, and does not, release claims arising in the ordinary course of business between Defendant and members of the Direct Purchaser Class that are unrelated to the allegations in the Direct Purchaser Class Action, such as claims 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.

13. Upon consideration of Class Counsel’s petition for fees, costs and expenses, Class Counsel are hereby awarded attorneys’ fees totaling \$\_\_\_\_\_ (representing \_\_\_\_\_% of the Settlement Fund) and costs and expenses totaling \$\_\_\_\_\_, together with a proportionate share of the interest thereon from the date the funds are deposited in the Settlement Escrow Account until payment of such attorneys’ fees, costs and expenses, at the rate earned by the Settlement Fund, to be paid solely from the Settlement Fund and only if and after the Settlement becomes final in accordance with paragraph 6 of the Settlement Agreement. Upon consideration of Class counsel’s petition for service awards for Class Representatives, each of BDC, RDC, and Meijer Drug is hereby awarded \$ \_\_\_\_\_ to be paid solely from the Settlement Fund and only if and after the Settlement becomes final in accordance with paragraph 6 of the Settlement Agreement. Co-Lead Counsel shall allocate and distribute such attorneys’ fees, costs and expenses among the various Class Counsel which have participated in this litigation. Co-Lead Counsel shall allocate and distribute such service awards among the Class Representatives. The Released Parties (as defined in paragraph 13 of



the Settlement Agreement) shall have no responsibility for, and no liability whatsoever with respect to, any payment or disbursement of attorneys' fees, expenses, costs or service awards among Class Counsel and/or Class Representatives, nor with respect to any allocation of attorneys' fees, expenses, costs or service awards to any other person or entity who may assert any claim thereto. The attorneys' fees, costs and expenses, and service awards authorized and approved by this Final Judgment and Order shall be paid to Co-Lead Counsel within five (5) business days after this Settlement becomes final pursuant to paragraph 6 of the Settlement Agreement and in accordance with the terms of the Settlement Agreement and the Escrow Agreement. The attorneys' fees, costs and expenses, and service awards authorized and approved by this Final Judgment and Order shall constitute full and final satisfaction of any and all claims that Plaintiffs, and their respective counsel, may have or assert for reimbursement of fees, costs, and expenses, and service awards, and Plaintiffs, and their respective counsel, shall not seek or demand payment of any fees and/or costs and/or expenses and/or service awards from any source other than the Settlement Fund, including from Defendant.

14. The Court retains exclusive jurisdiction over the Settlement and the Settlement Agreement as described therein, including the administration and consummation of the Settlement, and over this Final Judgment and Order.

15. The Court finds that this Final Judgment and Order adjudicates all of the claims, rights and liabilities of the parties to the Settlement Agreement (including the members of the Class) and is final and shall be immediately appealable. Neither this Order nor the Settlement Agreement nor any other Settlement-related document shall constitute any evidence or admission by Defendant or any other Released Party, in this or any other matter or proceeding, nor shall either the Settlement Agreement, this Order, or any other Settlement-

related document be offered in evidence or used for any other purpose in this or any other matter or proceeding except as may be necessary to consummate or enforce the Settlement Agreement, the terms of this Order, or if offered by any released Party in responding to any action purporting to assert Released Claims.

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
– The Honorable Mitchell S. Goldberg  
– United States District Judge

# **EXHIBIT D**

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

**IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION**

**MDL No. 2445**

**Master File No. 2:13-MD-2445-MSG**

**THIS DOCUMENT RELATES TO:**

*All Direct Purchaser Class Actions*

**ESCROW AGREEMENT**

1. This escrow agreement (the “Escrow Agreement”) by and among (a) Ryan Preblich, on behalf of Indivior Inc., f/k/a Reckitt Benckiser Pharmaceuticals, Inc. (“Indivior”); (b) Bruce E. Gerstein, Peter Kohn & Thomas Sobol, Direct Purchaser Class Plaintiffs’ Co-Lead Counsel, on behalf of Plaintiffs Burlington Drug Company, Inc. (“BDC”), Rochester Drug Co-Operative, Inc. (“RDC”), and Meijer, Inc. and Meijer Distribution, Inc. (collectively “Meijer”) and all members of the direct purchaser class (collectively “Direct Purchaser Class Plaintiffs”), in *In re: Suboxone (Buprenorphine & Naloxone) Antitrust Litigation*, No. 13-md-2445 (E.D. Pa.) (the “Direct Purchaser Class Action”); and (c) First State Trust Company, as directed escrow agent (the “Directed Escrow Agent”) is entered into on October 22, 2023, in connection with a Settlement Agreement dated October 22, 2023 (the “Settlement Agreement”). Capitalized terms not defined herein shall have the meanings specified in the Settlement Agreement. Plaintiffs and the Direct Purchaser Class and Indivior, by and through their respective counsel, have entered into the Settlement Agreement wherein they agreed, subject to the final approval of the Court in the Direct Purchaser Class Action (the “Court”), that the Direct Purchaser Class Action be dismissed with prejudice as to Indivior in exchange for a payment by Indivior of the Settlement

Fund, consisting of a total of \$385,000,000.00 (Three Hundred Eighty-Five Million Dollars and no/100) in cash in accordance with the Settlement Agreement.

2. The Directed Escrow Agent was selected by Direct Purchaser Class Plaintiffs' Lead Counsel, to which selection Indivior consented. The parties hereto are entering into this Escrow Agreement in order to effectuate certain of the terms of the Settlement Agreement. Ryan Preblich is signing on behalf of Indivior, and Bruce E. Gerstein of Garwin Gerstein & Fisher LLP, Peter Kohn of Faruqi & Faruqi LLP, and Thomas Sobol of Hagens Berman Sobol Shapiro LLP, Direct Purchaser Class Plaintiffs' Co-Lead Counsel, are signing on behalf of the Direct Purchaser Class Plaintiffs.

3. NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and considerations herein, the parties agree as follows:

(a) Pursuant to and in accordance with the Settlement Agreement, Indivior shall deposit with the Directed Escrow Agent the Settlement Amount of \$385,000,000.00 (Three Hundred Eighty-Five Million Dollars and no/100) in cash in accordance with the terms of the Settlement Agreement within fifteen (15) business days after entry by the Court of the Preliminary Approval Order with no material change, provided that Indivior has been in receipt from Plaintiffs' Counsel of wiring instructions for at least three (3) business days, which wire instructions include the bank name and ABA routing number, account name, and account number, and a signed Form W-9 reflecting a valid taxpayer identification number for the qualified settlement account in which the funds are to be deposited, and which wiring instructions have been orally confirmed by any of the Directed Escrow Agent, RBC Wealth Management or Plaintiffs' Counsel.

(b) The Directed Escrow Agent shall be directed to invest and reinvest the Settlement Fund in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Money Market Fund or a bank account insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC limit, until the Settlement becomes final pursuant to paragraph 6 of the Settlement Agreement. Subsequent to the Settlement becoming final, the Settlement Fund shall be invested as directed in writing by Co-Lead Counsel for the Direct Purchaser Class Plaintiffs. (“Authorized Plaintiffs’ Counsel”). The term of any such investment directed by Authorized Plaintiffs’ Counsel shall not exceed ninety (90) days. All interest earned on the Settlement Fund shall become part of the Settlement Fund. Any losses on the Settlement Fund shall be borne by the Settlement Fund and shall not be recoverable from Indivior. Indivior shall have no liability, obligation, or responsibility of any kind in connection with the investment, disbursement, or other oversight of the Settlement Fund.

(c) Upon written authorization as described below in this paragraph, the Directed Escrow Agent may withdraw from the Settlement Fund disbursements sufficient for the Claims Administrator to pay costs associated with notice to the Direct Purchaser Class and taxes or estimated taxes payable by the Claims Administrator on behalf of the Settlement Fund and related expenses in accordance with paragraph 3(d)(4) herein, except that such withdrawals, before the Settlement becomes final, may not exceed one hundred thousand dollars (\$100,000.00), with any further expenditures beyond that sum subject to Indivior and the Court’s approval. Before the Settlement becomes final, the written authorization required by this paragraph shall be granted by Authorized Plaintiffs’ Counsel, with copies to Woodrow Anderson, Indivior’s Group Controller, acting on behalf of Indivior. After the Settlement

becomes final, the written authorization required by this paragraph shall be granted by Authorized Plaintiffs' Counsel alone. Authorized Plaintiffs' Counsel is authorized, after obtaining approval of Counsel for Indivior, to appoint an administrator (and any successors) for the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3) (the "Claims Administrator"). Authorized Plaintiffs' Counsel shall be responsible for assuring that the Claims Administrator qualifies as an "administrator" of the Settlement Fund within the meaning of Treasury Regulation Section 1.468B-2(k)(3) and is performing its duties hereunder. Indivior shall have no responsibility for any fees or the performance of the Claims Administrator.

(d) Provided the Court preliminarily approves the Settlement, the Claims Administrator shall, within thirty (30) days after the date thereof, take all steps necessary for qualifying the Settlement Fund as a "Qualified Settlement Fund" within the meaning of Section 1.468B-1 of the Treasury Regulations. These obligations include, without limitation, the following:

(1) The Claims Administrator will prepare a "Regulation Section 1.468B-3 Statement" pursuant to Treasury Regulation Section 1.468B-3(e) on behalf of Indivior and provide copies to Counsel for Indivior for review and approval.

(2) The Claims Administrator will prepare and attach to the Settlement Fund's first income tax return a "Regulation Section 1.468B-1 Relation Back Election" pursuant to Treasury Regulation Section 1.468B-1(j) for execution by Indivior and the Claims Administrator. The Claims Administrator will promptly forward a copy of the "Regulation Section 1.468B-1 Relation Back Election" to Counsel for Indivior within thirty (30) days after the date hereof.

(3) The Claims Administrator will timely prepare and file on behalf of the Settlement Fund (i) federal tax returns in accordance with Section 1.468B-2 of the Treasury Regulations and the other provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) all necessary state, local and foreign tax returns.

(4) Notwithstanding any effort, or failure, of the Claims Administrator and the parties hereto to treat the Settlement Fund as a “Qualified Settlement Fund” within the meaning of Section 1.468B-1 of the Treasury Regulations effective as of the date hereof, any additional tax liability or penalties incurred by Indivior resulting from income earned by the Settlement Fund (or the receipt of any payment under this paragraph 3(d)(4)) shall be reimbursed from the Settlement Fund in the amount of such additional tax liability or penalties upon written request from Indivior to the Directed Escrow Agent. The Directed Escrow Agent shall withdraw from the Settlement Fund (i) at the request of the Claims Administrator, monies to pay all applicable federal, state, local and foreign taxes which the Settlement Fund owes or is estimated to owe, as well as related expenses, and (ii) monies to pay any reimbursements to Indivior as described in this subparagraph (4).

(e) The Directed Escrow Agent shall be paid the fees described in Exhibit A. The Annual Escrow Fees described in Exhibit A shall be paid for by RBC WEALTH MANAGEMENT Financial Services Inc. and its affiliates (“RBC WEALTH MANAGEMENT”). In addition, the Directed Escrow Agent shall be reimbursed for reasonable, out-of-pocket expenses, including attorneys’ fees arising from the Directed Escrow Agent’s management of the fund, telephone and facsimile transmission costs, postage (including express mail and overnight delivery charges), copying charges and the like. All such fees and expenses shall constitute a direct charge against the Settlement Fund.



The Directed Escrow Agent is authorized to, and may, disburse to itself, from the Settlement Fund, from time to time, the amount of reimbursement of out-of-pocket expenses due and payable hereunder. Prior to the Settlement becoming final, the Directed Escrow Agent shall notify, and obtain approval from, Authorized Plaintiffs' Counsel and Indivior of any disbursement from the Settlement Fund to itself and provide copies of all related invoices and other statements. After the Settlement becomes final, such notification need be provided to, and approval obtained from, only Authorized Plaintiffs' Counsel. If there is any dispute as to entitlement to out-of-pocket expenses or attorneys' fees as described above, it will be submitted to the Court, which shall maintain continuing jurisdiction over the operation and effectuation of this Escrow Agreement and the escrowed funds.

(f) Upon authorization as described below in this paragraph, the Directed Escrow Agent may sell or present for redemption any investment described in paragraph 3(b) above, whenever it shall be necessary in order to provide funds to meet any payment required pursuant to this Escrow Agreement or the Settlement Agreement. Before the Settlement Agreement becomes final, the authorization required by this paragraph shall be granted by Authorized Plaintiffs' Counsel and Counsel for Indivior acting jointly. After the Settlement becomes final, the authorization required by this paragraph shall be granted by Authorized Plaintiffs' Counsel alone.

(g) Only upon the Settlement becoming final, may distributions (other than those contemplated herein to pay taxes and costs of notice and administration) be made as authorized by Court order finally approving the Settlement. Upon the Settlement becoming final, Authorized Plaintiffs' Counsel shall have the authority to appoint a Successor Escrow Agent and direct that all funds be transferred to the Successor Escrow Agent, which Successor

Escrow Agent shall not be Indivior or an affiliate of Indivior. Upon the Settlement becoming final, the interest of Indivior in the Settlement Fund shall cease in its entirety. Upon final approval of the Settlement, Indivior shall be relieved of any responsibility for directing investments of the funds or disbursements from it, and shall have no liability whatsoever with respect to any investments, expenditures of the fund, taxes and/or tax filings, administrative costs or fees, all of which shall be the responsibility of Direct Purchaser Class Plaintiffs' Lead Counsel.

(h) In the event the Settlement Agreement is terminated pursuant to Paragraph 17 of the Settlement Agreement, then the Directed Escrow Agent shall, within fourteen (14) calendar days, return the remaining Settlement Fund including all interest thereon, less half of any costs and expenses referred to in ¶¶ 3(c), 3(d)(4), and 3(e), to Indivior.

(i) The Directed Escrow Agent may rely upon any notice, certificate, instrument, request, paper or other documents reasonably believed by it to be genuine and to have been made, sent or signed by counsel for the respective party or parties in accordance with this Escrow Agreement, and shall not be liable for any action taken or omitted by it, consistent with the terms hereof, in connection with the performance by it of its duties pursuant to the provisions of this Escrow Agreement, except for its own default, negligence or breach of the terms of this Escrow Agreement.

(j) The Directed Escrow Agent's acceptance and administration of the Settlement Fund shall constitute the submission of the Directed Escrow Agent to the jurisdiction of the Court in the above-described litigation for the purpose of carrying out this Escrow Agreement pursuant to the Settlement Agreement.

(k) The Directed Escrow Agent has been appointed in compliance with the Settlement Agreement and is subject to the orders of the Court.

(l) This Escrow Agreement shall be governed by and interpreted according to the substantive laws of the State of New York, without reference to choice-of-law principles.

(m) The Directed Escrow Agent is and shall be independent, provided that as parties hereto, Plaintiffs and Indivior shall be entitled to institute actions to compel or require performance by the Directed Escrow Agent of its obligations hereunder. The Directed Escrow Agent hereby agrees to submit to the jurisdiction and venue of the Court with respect to issues relating to the Settlement Fund for purposes of enforcement, clarification, or amendment of the provisions of this Escrow Agreement, and to comply with all directions given by that Court.

(n) The following authorizations, directions and acknowledgements are made by Plaintiffs through its authorized counsel.

1. Plaintiffs wish to engage RBC WEALTH MANAGEMENT as the broker for this relationship and authorize Directed Escrow Agent to open an account with RBC WEALTH MANAGEMENT to effectuate the trading and investments for the Settlement Fund, to which engagement Indivior through its authorized counsel consents; and
2. Plaintiffs direct and authorize Directed Escrow Agent to enter into a RBC WEALTH MANAGEMENT Client Relationship Agreement as agent for the Settlement Fund, to which Indivior through its authorized counsel consent; and
3. Plaintiffs and Indivior acknowledge that Directed Escrow Agent will be appointing RBC WEALTH MANAGEMENT as sub-custodian with respect to the assets for the Settlement Fund; and
4. Plaintiffs and Indivior acknowledge that RBC WEALTH MANAGEMENT will be directed to invest the settlement proceeds per the requirements of ¶ 3(b) as the brokerage agent; and any commissions and/or brokerage expenses will be disclosed on a per trade basis and will be within RBC WEALTH MANAGEMENT firm guidelines and in accordance with account opening documentation.

(o) Upon sixty (60) days prior written notice to Authorized Plaintiffs' Counsel and, only if such prior written notice is sent prior to the Settlement becoming final, Indivior, the Directed Escrow Agent may resign and be discharged from its duties and responsibilities under this Agreement for any reason, and shall promptly deposit the Escrow Amount (Redemption Value) with a successor escrow agent pursuant to and in accordance with written instructions from Authorized Plaintiffs' Counsel and, only if prior to the Settlement becoming final, Indivior. If the Directed Escrow Agent is compelled to resign to comply with action by the government or self-regulating organizations (such as FINRA), the notice requirement set forth in this paragraph may be a reasonable time shorter than 60 days. If no successor escrow agent shall have been appointed by the effective date of the Directed Escrow Agent's resignation, the Directed Escrow Agent's sole responsibility shall thereafter be to hold the Escrow Amount (Redemption Value), invested until receipt of designation of a successor escrow agent or the disbursement of the Escrow Amount (Redemption Value) in accordance with written instructions from Authorized Plaintiffs' Counsel and, only if prior to the Settlement becoming final, Indivior; provided, however, that the Directed Escrow Agent may petition the Court to name a successor, or may deposit the Escrow Amount (Redemption Value) in the registry of the Court having general jurisdiction.

(p) The Directed Escrow Agent may be removed from this Escrow Agreement at any time and thereby become discharged from the obligations hereby created subsequent to the date of discharge, by notice in writing given to the Directed Escrow Agent not less than thirty (30) days before such removal is to take effect. Prior to the Settlement becoming final, such notice must be given by Authorized Plaintiffs' Counsel and Indivior acting jointly; after the Settlement becomes final, such notice may be given by Authorized Plaintiffs' Counsel alone.

Upon approval of the Court, and subject to arrangements being made for a replacement Escrow Agent as specified in the next sentence, the Directed Escrow Agent may terminate this Escrow Agreement, by notice in writing given to the undersigned counsel not less than thirty (30) days before such termination is to take effect, and thereby become discharged from the obligations hereby created subsequent to the date of termination. In the event that the Directed Escrow Agent is removed or terminates this Escrow Agreement, arrangements shall be made for a replacement Escrow Agent, who shall assume the Directed Escrow Agent's duties hereunder as of the date and time that the replacement is to take effect. Prior to the Settlement becoming Final, such arrangements must be made by Authorized Plaintiffs' Counsel and Indivior acting jointly; after the Settlement becomes final, such arrangements may be made by Authorized Plaintiffs' Counsel alone.

(q) Copies of all notices and correspondence sent pursuant to this Escrow Agreement shall be served by mail upon Authorized Plaintiffs' Counsel, Indivior, and the Directed Escrow Agent. After the Settlement becomes final, such notices and correspondence need only be provided to Authorized Plaintiffs' Counsel.

(r) The Directed Escrow Agent shall, upon request as described below in this paragraph, advise counsel for the parties of any maturities, conversion privileges, and other matters of a like manner concerning the investments held in accordance with this Escrow Agreement. Before the Settlement becomes final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel and Indivior acting jointly. After the Settlement becomes final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel alone.

(s) The Directed Escrow Agent shall, upon request as described below in this paragraph, furnish to undersigned counsel the monthly Escrow Account statements or confirmations of transactions. Before the Settlement becomes final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel and Indivior acting jointly. After the Settlement becomes final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel alone.

(t) The parties reserve the right to modify this Escrow Agreement upon written agreement of all parties, subject to approval of the Court.

(u) The failure of any of the parties hereto to enforce any provision hereof on any occasion shall not be deemed to be a waiver of any preceding or succeeding breach of such provision or any other provision.

(v) The Directed Escrow Agent shall treat the fact of the Settlement and the Settlement Agreement referred to herein, as well as all facts or other information pertaining to the Settlement and the Settlement Agreement, as confidential and shall not disclose or use such information in any way other than as necessary to fulfill its role as Directed Escrow Agent and/or comply with any laws or regulations, including those of self-governing organizations, such as FINRA.

(w) This Escrow Agreement may be signed by all parties on separate copies, including by facsimile or other electronic means, and shall have full force and effect when all parties have signed one of the copies.

[The remainder of this page is left intentionally blank]

IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Escrow Agreement as of October 22, 2023.

By: 

First State Trust Company  
1 Righter Pkwy #120  
Wilmington, DE 19803

*Directed Escrow Agent*

By: \_\_\_\_\_

Bruce E. Gerstein  
Garwin Gerstein & Fisher LLP  
88 Pine Street, 28th Floor  
New York, NY 10005  
(212) 398-0055

*Co-Lead Counsel for the Direct Purchaser Class*

By: \_\_\_\_\_

Thomas M. Sobol  
Hagens Berman Sobol Shapiro LLP  
1 Faneuil Hall, 5<sup>th</sup> Fl.  
Boston, MA 02109  
(617) 482-3770

*Co-Lead Counsel for the Direct Purchaser Class*

By: \_\_\_\_\_

Peter Kohn  
Faruqi & Faruqi LLP  
One Penn Center, Suite 1550  
1617 John F. Kennedy Blvd  
Philadelphia, PA  
(215) 277-5770

*Co-Lead Counsel for the Direct Purchaser Class*

By: \_\_\_\_\_

Ryan Preblich  
Chief Financial Officer  
10710 Midlothian Tpke  
Suite 125  
North Chesterfield, VA 23235

*Indivior Inc.*

representatives have agreed to this Escrow Agreement as of October 22, 2023.

By: \_\_\_\_\_

First State Trust Company  
1 Righter Pkwy #120  
Wilmington, DE 19803

*Directed Escrow Agent*

By: Bruce E. Gerstein

Bruce E. Gerstein  
Garwin Gerstein & Fisher LLP  
88 Pine Street, 28th Floor  
New York, NY 10005  
(212) 398-0055  
[bgerstein@garwingerstein.com](mailto:bgerstein@garwingerstein.com)

*Co-Lead Counsel for the Direct Purchaser Class*

By: Thomas M. Sobol by Bruce E. Gerstein

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[tom@hbsslaw.com](mailto:tom@hbsslaw.com)

*Co-Lead Counsel for the Direct Purchaser Class*

By: Peter Kohn by Bruce E. Gerstein

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(215) 277-5770  
[pkohn@faruqilaw.com](mailto:pkohn@faruqilaw.com)

*Co-Lead Counsel for the Direct Purchaser Class*

By: Ryan Preblich

Ryan Preblich  
Chief Financial Officer  
10710 Midlothian Tpke  
Suite 125  
North Chesterfield, VA 23235

*Indivior Inc.*



**EXHIBIT A**

<i>Escrow Agent Fees</i> <sup>1</sup>	<i>Rate</i>
Annual Escrow Fee (payable in advance)	\$40,000
Quarterly Fee (after first 12 months, due quarterly)	\$10,000
Escrow Value	Annual Fee
Up to \$15,000,000	\$ 6,500
Over \$15,000,000 to \$50,000,000	\$ 9,000
Over \$50,000,000 to \$100,000,000	\$11,500
Over \$100,000,000 quoted upon request	

<sup>1</sup>The annual escrow fee is payable in advance upon acceptance of the escrow account. **Fees paid in advance will not be prorated.** After the first twelve (12) months, the fee is prorated and charged quarterly

<i>Activity Fees</i>	<i>Per Item Charge</i>
Disbursement Request	\$25
Per Outgoing US Wire (in addition to above)	\$15
Stop Payment Request	\$20

***Other Services & Fees***

- First State Trust Company (“FSTC”) reserves the right to refer any or all escrow documents for legal review before execution. Legal fees (billed on an hourly basis) and expenses for this service will be billed to, and paid by, the customer. If appropriate and upon request by the customer, FSTC will provide advance estimates of these legal fees.
- Other extraordinary services, including tax preparation and filing, will be quoted separately based on the scope of the activity
- Out-of-Pocket expenses will pass through to the accounts, including, but not limited to, overnight mail, replacement tax forms, external legal or professional costs, and other extraordinary services for which compensation is not expressly stated.

**Standard Disclosures****Fee Disclosure**

The Department of Labor (DOL) issued new rules that require certain types of ERISA retirement plan service providers to disclose new fee information directly to plans. First State Trust Company (FSTC) has incorporated a new disclosure to provide details related to direct revenue paid to FSTC. FSTC maintains standard fee schedules for each service/product offered to clients which is executed at account opening. FSTC mails fee disclosure information annually to clients pertaining to indirect revenue which FSTC may collect based upon the investments of the trust account(s).

First State Trust Company provides a daily “sweep” process for the investment of cash assets in FSTC Accounts. Cash can be either invested in an Institutional Money Market fund managed by Northern Trust (NT) such as the NT Institutional US Government Select Portfolio or an Insured Deposit Program (IDP) provided by Total Bank Solutions (TBS) or both. FSTC will receive 0.06% on assets invested in the NT US Government Select Portfolio or 0.10% on assets invested in the IDP as part of a service fee and daily processing.

FSTC fees are either invoiced or directly charged to the accounts. The primary method is direct charge. If you have any questions regarding FSTC fees (direct or indirect), please contact your Trust Officer at 800.554.1364.

#### **Disclosure Regarding Retention of Float**

The Department of Labor field bulletin 2002-3 requires that service providers to plan clients, such as banks, broker dealers and record keepers, provide their clients with adequate information regarding float. Our policy of requiring the use of a sweep vehicle minimizes or eliminates the amount of float earned on un-invested cash contributed to the plan. Where FSTC provides you with distribution services, an FSTC agent earns float on money set aside for payment of outstanding but uncashed benefit distribution checks, generally from the date on the face of the checks to participants until the date that either the recipient cashes the check or the check is cancelled and the underlying funds are returned to the trust. FSTC or its agent generally mails checks in advance of the date on the face of the checks, with the intention that the payees receive the checks by such date. The float rate of return is currently based upon and generally approximates the then applicable federal funds rate (a publicly available average rate of all federal funds transactions entered into by traders in the federal funds market on a given date). The federal funds rate is published in the business press. If, in the future, a different rate is more appropriate, FSTC will notify you of any changes. Additional information is available to you upon request. If you have any questions about the float, please contact your FSTC Trust Officer.

#### **Mutual Fund Disclosure**

Mutual funds are sold by prospectus. You may obtain a prospectus from your Financial Advisor or the fund company. Please read the prospectus and all other fund materials carefully before investing. Be advised that depending upon the share class, FSTC may collect a portion of the annual distribution (12b-1) and or service and service related fees from the fund company. All ETF trades placed through FSTC are subject to a transaction fee (presently \$.01 per share) that is paid to our ETF trading vendor and the fees are assessed directly against the respective trades.

# **EXHIBIT 2**

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

**IN RE SUBOXONE (BUPRENORPHINE  
HYDROCHLORIDE AND NALOXONE)  
ANTITRUST LITIGATION**

**MDL No. 2445**

**Master File No. 2:13-MD-2445-MSG**

**THIS DOCUMENT RELATES TO:**

*All Direct Purchaser Class Actions*

**DIRECT PURCHASER CLASS PLAINTIFFS' PLAN OF ALLOCATION  
FOR THE DIRECT PURCHASER CLASS**

Direct Purchaser Class Plaintiffs Burlington Drug Company, Inc., Rochester Drug Co-Operative, Inc., and Meijer, Inc. and Meijer Distribution, Inc. (collectively the “Plaintiffs” or “Direct Purchaser Class Plaintiffs”), on behalf of the Class,<sup>1</sup> hereby submit this proposed Plan of Allocation to allocate the settlement funds received in the settlement with Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.), plus any interest earned on the settlement funds, and net of Court-approved attorneys’ fees, any Court-approved named plaintiff service awards, and Court-approved expenses, including settlement-related costs and expenses (the “Net Settlement Fund”).

The proposed Plan of Allocation (“Allocation Plan”) allocates the Net Settlement Fund based on each Class member’s *pro rata* share of weighted combined net unit purchases of

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<sup>1</sup> The Class is defined as follows:

All persons or entities in the United States and its territories who purchased branded Suboxone tablets directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.) at any time during the period January 1, 2012 through March 14, 2013 (the “Class”). Excluded from the Class are Indivior Inc. (formerly known as Reckitt Benckiser Pharmaceuticals, Inc.), its officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

ECF Nos. 587, 588 (certifying the Class).

branded Suboxone Tablets and Film, in the 8 mg of buprenorphine/2 mg of naloxone strength and in the 2 mg of buprenorphine/.5 mg of naloxone strength, purchased directly from Reckitt Benckiser Pharmaceuticals, Inc. (now known as Indivior Inc.) (“Reckitt”).<sup>2</sup> This proposal is similar to allocation plans that have been approved in settlements of similar class actions brought by direct purchasers to recover overcharges arising from allegedly impaired generic competition, including in the *Namenda* and *TriCor* cases, similar antitrust cases involving allegations of an illegal “Hard Switch.”<sup>3</sup>

Plaintiffs’ expert, economist Russell L. Lamb, Ph.D., can calculate each Class member’s (and eventually, each Claimant’s<sup>4</sup>) percentage share of the Net Settlement Fund using Reckitt’s

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<sup>2</sup> See Declaration of Russell L. Lamb, Ph.D. Related to Proposed Settlement Allocation Plan, dated October 24, 2023 (“Lamb Allocation Decl.”), at ¶ 4 (filed herewith). These are the strengths of Suboxone for which Dr. Lamb measured damages in his prior reports. *Id.* at ¶ 3.

<sup>3</sup> *In re TriCor Direct Purchaser Antitrust Litig.*, No. 1:05-00340, ECF Nos. 536-1, 543 (D. Del.) (*pro rata* shares of settlement fund computed on basis of claimants’ unit purchases in a product hop case); *In re Namenda Direct Purchaser Antitrust Litig.*, 1:15-cv-7488, ECF Nos. 919-2, 947 (S.D.N.Y.) (same). See also, e.g., *King Drug of Florence, Inc. v. Cephalon, Inc.*, No. 2:06-cv-01797, ECF Nos. 864-17, 870 (E.D. Pa.) (*pro rata* shares of settlement fund computed on basis of claimants’ purchases); *In re Doryx Antitrust Litig. (Mylan Pharms., Inc. v. Warner Chilcott Public Ltd.)*, No. 2:12-cv-03824, ECF Nos. 452-3, 665 (E.D. Pa.) (same); *In re Novartis and Par Antitrust Litig.*, 1:18-cv-4361, ECF Nos. 587-2, 635 (S.D.N.Y.) (same); *In re Intuniv Antitrust Litig.*, 1:16-cv-12653, ECF Nos. 480-7, 551 (D. Mass.) (same); *In re Loestrin 24 FE Antitrust Litig.*, 1:13-md-02472, ECF Nos. 1411-8, 1462 (D.R.I.) (same); *In re Solodyn (Minocycline Hydrochloride) Antitrust Litig.*, 1:14-md-02503-DJC, ECF Nos. 1163-4, 1179 (D. Mass.) (same); *In re Lidoderm Antitrust Litig.*, 3:14-md-02521-WHO, ECF Nos. 1004-5, 1004-6, 1054 (N.D. Cal.) (same); *In re Aggrenox Antitrust Litig.*, No. 14-md-02516, ECF Nos. 733-8, 740 (D. Conn.) (same).

<sup>4</sup> A “Claimant” is any entity that timely submits a completed claim form. A Claimant’s percentage share will be zero if that Claimant timely submits a claim form but that Claimant’s claim is rejected because, for example, the Claimant did not purchase branded Suboxone Tablets or branded Suboxone Film during the relevant time period (described below) and does not have any valid assignment covering any such direct purchases. Allocations to Claimants whose right to settlement allocation arises by virtue of assignment from Class members would be determined in the same fashion as allocation for Class members. In such cases, the volumes of branded Suboxone Tablet and branded Suboxone Film purchases used to determine the allocation would be the volumes assigned to the Claimant by an otherwise eligible Class member (and the

sales data showing its sales of branded Suboxone, data that was previously produced in this litigation.<sup>5</sup> Claimants will also have the option of submitting their own records or data showing their net unit purchases of branded Suboxone Tablets and branded Suboxone Film during the relevant periods described below in, *inter alia*, Section 1.1, along with data regarding any relevant assignment agreement. Dr. Lamb and his staff at Monument Economics Group will review any such submissions and confer with the Claims Administrator and Plaintiffs' Counsel regarding the final calculations, which may include making any necessary and appropriate adjustments. *See* Lamb Allocation Decl. at ¶ 5.

Throughout this Allocation Plan, “purchases” refers to purchases, net of returns or assignments, made directly from Reckitt during the relevant time periods or purchases that are covered by a Claimant's assignment from a Class member covering purchases made directly from Reckitt during the relevant time periods, in the 8 mg of buprenorphine/2 mg of naloxone strength or the 2 mg of buprenorphine/.5 mg of naloxone strength of branded Suboxone.<sup>6</sup> *Id.* at ¶

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assignor Class member's branded Suboxone Tablet and branded Suboxone Film purchase volumes would be reduced by the same amount). Lamb Allocation Decl. at ¶ 4 n.9. As the Claim Form will make clear, data submitted by a Claimant who files a Claim Form based on an assignment may be shared with the Claimant's assignor Class member during the claims administration process. In addition, 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.

<sup>5</sup> *See* Lamb Allocation Decl. at ¶¶ 4-5. Dr. Lamb previously submitted four reports in this matter, which addressed, among other issues, damages and class certification. *See* Expert Report Russell L. Lamb, Ph.D., dated September 18, 2018 (“Lamb Class Report”); Expert Rebuttal Declaration of Russell L. Lamb, Ph.D., dated January 11, 2019 (“Lamb Class Rebuttal”); Expert Merits Report of Russell L. Lamb, Ph.D., dated November 30, 2018 (“Lamb Merits Report”); and Expert Merits Rebuttal Report of Russell L. Lamb, Ph.D., dated April 25, 2019 (“Lamb Merits Rebuttal”).

<sup>6</sup> To be clear, “purchases” do not include branded Suboxone purchased from any entity other

4 n.9. The unit of purchase is a branded Suboxone tablet or film strip. *Id.*

As explained more fully below, each Claimants' *pro rata* shares will be based only on purchases of Suboxone Tablets and Suboxone Film made directly from Reckitt (or covered by an assignment from a Class member) during the relevant time periods. *See id.* at ¶ 4.

The proposed Allocation Plan is practical and efficient, using sales data already obtained from Reckitt during discovery.<sup>7</sup> It also is a reasonable way to allocate the Net Settlement Fund and is fair to all members of the Class.<sup>8</sup>

### THE ALLOCATION PLAN

The Allocation Plan works as follows:

1.1 The Claims Administrator, working with Dr. Lamb's firm Monument Economics Group, will provide a separate, individualized claim form (the "Claim Form") for each Class member. *See id.* at ¶ 5. The Claim Form will expressly set forth the Class member's (a) purchases of Suboxone Tablets during the period of January 1, 2012 through March 14, 2013<sup>9</sup> and (b) purchases of Suboxone Film during the period of September 1, 2012 through July 31, 2015.<sup>10</sup> Dr. Lamb can calculate these figures using the sales data produced during discovery by

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than Reckitt. In addition, "purchases" in this Plan of Allocation are branded Suboxone purchases (not generic Suboxone purchases).

<sup>7</sup> *See* Lamb Allocation Declaration at ¶¶ 5-6.

<sup>8</sup> *See id.* at ¶ 6.

<sup>9</sup> January 1, 2012 through March 14, 2013 is the period during which Dr. Lamb measured Class damages on branded Suboxone Tablet purchases. *Id.* at ¶ 4, n.7. March 14, 2013 is the last date on which Reckitt sold Suboxone Tablets to Class members. *Id.*

<sup>10</sup> September 1, 2012 is the first date on which Dr. Lamb measured Class damages on branded Suboxone Film purchases. *Id.* at ¶ 4, n.8. July 31, 2015 is the end date of the Suboxone Film data that Reckitt produced in this case, which was previously used to calculate damages. *Id.*

Reckitt.<sup>11</sup> The Claim Form will request that the Class member verify the accuracy of the information contained in the Claim Form and will provide instructions for challenging any of the figures or computations contained in the Claim Form. If a Class member agrees that the information in the Claim Form is accurate, it will be asked to sign and return the Claim Form to the Claims Administrator.<sup>12</sup> If a Class member believes that the information contained in its Claim Form is not accurate, that Class member may submit its own purchase data pursuant to the procedures described below.

1.2 The Claim Form will request the Claimant's full name and mailing address for correspondence regarding the distribution of the Net Settlement Fund and the identity and contact information for the person responsible for overseeing the claims process for the Claimant. In addition, the Claim Form will include the release language contained in the Settlement Agreement with Indivior Inc. Each Claimant will be required to execute the Claim Form in exchange for receiving any distribution from the Net Settlement Fund.

1.3 *Timeliness.* The submission of the Claim Form to the Claims Administrator (with any necessary supporting documentation if the Claimant disagrees with the information contained in its Claim Form) will be deemed timely if it is received or postmarked within 45 days of the date Claim Forms are mailed.

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<sup>11</sup> See Lamb Allocation Declaration at ¶¶ 4-5 (explaining that these totals can be calculated from the sales data produced in this case, and that he has already performed preliminary calculations of each Class member's net purchases).

<sup>12</sup> In order to help the Claimant verify that the purchase totals contained in the Claim Form are accurate, the Suboxone Tablets and Suboxone Film National Drug Codes ("NDCs") will be listed on the Claim Form. The NDCs are standard codes maintained by the FDA and used in the pharmaceutical industry to identify specific pharmaceutical products and allow Claimants to understand precisely what purchases are being considered for purposes of allocation. The relevant Suboxone Tablet NDCs are: 12496-1306-2 and 12496-1283-2. The relevant Suboxone Film NDCs are: 12496-1208-3 and 12496-1202-3.



2. Calculation of Weighted *Pro Rata* Shares of the Net Settlement Fund.

2.1 Each Claimant's allocated share of the Net Settlement Fund will be set in proportion to each Claimant's weighted combined total purchase volumes of (a) purchases of Suboxone Tablets during the period of January 1, 2012 through March 14, 2013 and (b) purchases of Suboxone Film during the period of September 1, 2012 through July 31, 2015; net of any returns or assignments.<sup>13</sup> The Net Settlement Fund is then allocated to each Claimant based upon its *pro rata* share of the total purchase volumes across all Claimants who submit valid, accepted Claims Forms.<sup>14</sup>

2.2 The allocation computation will be based on the following information (whether from the data already produced in discovery or from submissions by Claimants): (a) each Claimant's net Suboxone Tablet purchases from Reckitt from January 1, 2012 through March 14, 2013; (b) each Claimant's net Suboxone Film purchases from Reckitt from September 1, 2012 through July 31, 2015; (c) the combined total of net unit purchases of Suboxone Tablets purchases from Reckitt from January 1, 2012 through March 14, 2013 made by all Claimants with valid, accepted Claim Forms; (d) the combined total of net Suboxone Film purchases from Reckitt from September 1, 2012 through July 31, 2015.<sup>15</sup>

2.3 According to Dr. Lamb's prior damages calculations, 4.78% of the Class's aggregate damages were attributable to overcharges on the Class's purchases of Suboxone Tablets; while 95.22% of the Class's aggregate damages were attributable to overcharges on the

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<sup>13</sup> Lamb Allocation Declaration at ¶ 4. The dates utilized in this Plan of Allocation are explained above in Section 1.1 and footnotes 9-10.

<sup>14</sup> Lamb Allocation Declaration at ¶ 5.

<sup>15</sup> *Id.* at ¶ 4. Claimants that have filed based on an assignment from a Class member must submit data showing the purchases covered by any such assignment with their Claim.

Class's purchases of Suboxone Film.<sup>16</sup> Accordingly, the Allocation Plan allocates 4.78% of the Net Settlement Fund to the Class's purchases of Suboxone Tablets, and allocates 95.22% of the Net Settlement Fund to the Class's purchases of Suboxone Film.<sup>17</sup>

2.4 To calculate the *pro rata* share for each Claimant of the Net Settlement Fund, the Claims Administrator, working with Dr. Lamb, will take (a) each Claimant's weighted combined total net purchases of Suboxone Tablets from Reckitt from January 1, 2012 through March 14, 2013 and Suboxone Film from Reckitt from September 1, 2012 through July 31, 2015, (b) remove any purchases for which the rights to damages in this litigation have been assigned by agreement, and divide it by (c) the weighted combined total purchases by all Claimants who timely submit valid, accepted Claim Forms of Suboxone Tablets from Reckitt from January 1, 2012 through March 14, 2013 and Suboxone Film from Reckitt from September 1, 2012 through July 31, 2015. This calculation will yield each Claimant's *pro rata* share of the Net Settlement Fund.<sup>18</sup> Using data produced in discovery, Dr. Lamb has already performed a preliminary computation of the percentage shares of the Net Settlement Fund due to each Class member.<sup>19</sup> Should any Class member fail to submit a claim or should any Claimant document and submit an alternative amount of purchases that is approved by the Claims Administrator (in consultation with Dr. Lamb and Plaintiffs' Counsel), the Claimant's shares will be recalculated

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<sup>16</sup> See *id.* at ¶ 3; Lamb Merits Report at ¶¶ 244-247, Table 6 (previously filed at ECF No. 699-6). These figures are based on Dr. Lamb's "No Hard Switch Scheme No Delay" calculations, described at length in Dr. Lamb's prior reports. The Court held that Dr. Lamb's damages calculations were admissible and supported class certification. *In re Suboxone Antitrust Litig.*, 421 F. Supp. 3d 12, 44-45, 65 (E.D. Pa. 2019) (granting motion for class certification and denying motion to exclude Dr. Lamb's opinions).

<sup>17</sup> Lamb Declaration at ¶ 4.

<sup>18</sup> *Id.* at ¶ 4.

<sup>19</sup> See *id.* at ¶ 5.

accordingly.<sup>20</sup>

2.5 The final calculations of each Claimant's *pro rata* share will then be applied to the Net Settlement Fund to determine each Claimant's allocated share (in dollars).

3. Processing of Claims.

3.1 All Claims will be reviewed and processed by the Claims Administrator, with assistance from Dr. Lamb and his staff at Monument Economics Group as required and appropriate.

3.2 *Acceptance and Rejection.* The Claims Administrator shall first determine whether a Claim Form received is timely, properly completed, and signed. If a Claim Form is incomplete, the Claims Administrator shall communicate with the Claimant via First Class Mail, email, or telephone regarding the deficiency. The Claims Administrator may also contact Claimants requesting additional documentation or other materials. Claimants will have 14 days from the date they are contacted by the Claims Administrator regarding any question, requests for additional information, deficiency, or any other issue to provide a complete response, the requested documentation or other materials, and/or to cure any such deficiency. If a Claimant fails to adequately respond and/or correct any deficiency within 14 days, its claim may be rejected and the Claimant shall be notified by letter stating the reason for rejection. The Claims Administrator will then review all completed, non-deficient Claim Forms to determine whether each will be accepted or rejected and will notify any Claimants whose Claim Forms are rejected by letter stating that the Claimant's Claim Form is rejected and stating the reason for rejection. Any Claimant whose Claim Form is rejected may seek review by the Court via the appeals process described in Section 7.2 below.

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<sup>20</sup> See *id.* at ¶ 5.

3.3 All late Claims Forms that are otherwise complete will be processed by the Claims Administrator but marked as “Late Approved Claims.” If Plaintiffs’ Counsel conclude that, in their judgment, any such “Late Approved Claims” should ultimately not be accepted,<sup>21</sup> the Claimant will be so notified, and then may seek review by the Court via the appeals process described in Section 7.2 below.

3.4 *The Pro Rata Distribution Calculation.* Dr. Lamb and his staff at Monument Economics Group, in conjunction with the Claims Administrator and Plaintiffs’ Counsel, will be responsible for determining the total amount each Claimant will receive from the Net Settlement Fund. Once the Claims Administrator has determined which claims are approved, Monument Economics Group will work with the Claims Administrator to calculate each Claimant’s *pro rata* share of the Net Settlement Fund as determined by the calculation described above in Section 2.<sup>22</sup>

4. Processing Challenged Claims.

4.1 The Claims Administrator, in conjunction with Dr. Lamb and his staff at Monument Economics Group and Plaintiffs’ Counsel, shall review any and all written challenges by Claimants to the determinations of the Claims Administrator. If upon review of a challenge and supporting documentation, the Claims Administrator and Dr. Lamb decide to amend or modify their determination, the Claims Administrator shall advise the Claimant who made the challenge. These determinations shall be final, subject to the appeals process described in

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<sup>21</sup> Cf. *Kuehbeck v. Genesis Microchip Inc.*, 2007 WL 2382030, at \*1 (N.D. Cal. Aug. 17, 2007) (authorizing distribution to timely filed claims and valid claims that were submitted late). Courts have approved similar provisions in similar impaired generic competition cases. See, e.g., *In re Solodyn (Minocycline Hydrochloride) Antitrust Litig.*, 1:14-md-02503-DJC, ECF Nos. 1163-4 at § 3.3, 1179 (D. Mass.) (approving a similar provision regarding late claims); *In re Lidoderm Antitrust Litig.*, 3:14-md-02521-WHO, ECF Nos. 1004-5 at § 3.3, 1054 (N.D. Cal.) (same).

<sup>22</sup> See Lamb Allocation Declaration at ¶ 5.

Section 7.2 below.

4.2 Where the Claims Administrator, in conjunction with Dr. Lamb and his staff at Monument Economics Group, determines that a challenge requires additional information or documentation, the Claim Administrator will so advise the Claimant and provide that Claimant an opportunity to cure the deficiency within 14 days, as set forth in Section 3.2 above. If that Claimant fails to cure the deficiency within that time, the challenge may be rejected and the Claimant will be notified of the rejection of its challenge by mail, which notification shall be deemed final subject to any appeal and decision by the Court.

4.3 If the Claims Administrator, in conjunction with Dr. Lamb and his staff at Monument Economics Group, concludes that it has enough information to properly evaluate a challenge and maintains that its initial determinations were correct, it will so inform the Claimant in writing. Such notification shall be deemed final subject to any appeal and decision by the Court.

5. Report to Court Regarding Distribution of Net Settlement Fund.

5.1 After the Claims Administrator reviews all submitted claims and works with Dr. Lamb to determine the amount each Claimant is entitled to receive from the Net Settlement Fund, the Claims Administrator will prepare a final report for the Court's review and approval. The report will explain the tasks and methodologies employed by the Claims Administrator in processing the claims and administering the Allocation Plan. It will also contain (a) a list of Class members or other Claimants (if any) who filed Claim Forms that were rejected and the reasons, (b) a list of challenges (if any) to the estimated distribution amounts that were rejected and the reasons, and (c) the date any such Claimant whose challenge was rejected was informed by the Claims Administrator for purposes of calculating the timeliness of

any appeal using the procedures set forth below. Finally, the final report shall contain an accounting of the expenses associated with the Allocation Plan, including bills from Monument Economics Group and the Claims Administrator, any taxes that are due and owing, and any other fees or expenses associated with the settlement allocation process.

6. Payment to the Claimants.

6.1 Upon Court approval of the final report and declaration of the Claims Administrator, the Claims Administrator shall issue, with Court approval, a check or wire payable to each Claimant who has submitted a complete and valid Claim Form, including to each Claimant that filed a Late Approved Claim.

6.2 Subject to further order of the Court, any monies from the Net Settlement Fund that remain unclaimed after any initial distribution or additional monies received at a later date pursuant to the Settlement with Indivior Inc. shall, if economically feasible, be distributed (with Court approval) to Claimants in an additional distribution or distributions on the basis of the same calculations of the Claimants' *pro rata* weighted combined total of Suboxone Tablets and Suboxone Film purchases described above.

6.3 Insofar as the Net Settlement Fund includes residual funds after distribution or distributions as set forth in the preceding sections that cannot be economically distributed to the Claimants (because of the costs of distribution as compared to the amount remaining), Plaintiffs' Counsel shall make an application to the Court for such sums to be used to make *cy pres* payments for the benefit of members of the Class.<sup>23</sup>

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<sup>23</sup> In the experience of Plaintiffs' Counsel, based on numerous prior distributions in similar cases, an application for a *cy pres* distribution is unlikely.

7. Resolution of Disputes.

7.1 In the event of any disputes between Claimants and the Claims Administrator on any subject (*e.g.*, timeliness, required completeness or documentation of a claim, or the calculation of the Claimant's unit purchases of Suboxone Tablets and Suboxone Film, share of the net settlement fund, and/or amount payable), the decision of the Claims Administrator shall be final, subject to the Claimant's right to seek review by the Court. In notifying a Claimant of the final rejection of a Claim or a challenge thereto, the Claims Administrator shall notify the Claimant of its right to seek such review.

7.2 Any such appeal by a Claimant must be submitted in writing to the Court, with copies to the Claims Administrator and Plaintiffs' Counsel, within 14 days of the Claims Administrator's final rejection notification to the Claimant.

Dated: October 25, 2023

Respectfully Submitted,

/s/ Bruce E. Gerstein

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# **EXHIBIT 3**



## I. Introduction and Assignment

1. I filed several prior reports in this case on behalf of the Direct Purchaser Class Plaintiffs (“Plaintiffs”), each of which listed my background and qualifications. My prior reports include my Expert Report dated September 18, 2018 (“Lamb Report”), my Expert Rebuttal Report dated January 11, 2019 (“Lamb Rebuttal Report”), my Expert Merits Report dated November 30, 2018 (“Lamb Merits Report”), and my Expert Merits Rebuttal Report dated April 26, 2019 (“Lamb Merits Rebuttal Report”). I was also deposed on October 30, 2018, January 17, 2019, and June 12, 2019. An updated copy of my C.V., including a list of the matters in which I have submitted expert testimony in the past four years, is attached to this Declaration as Appendix A.

Monument Economics Group is being compensated for my work in this matter at my usual and customary rate of \$850 per hour.

2. I have been asked by Counsel for the Plaintiffs to develop a methodology that can be used to allocate the Net Settlement Fund<sup>1</sup> to members of the Class<sup>2</sup> who submit claims as part of the claims process in a timely manner (“Claimants”). I describe this methodology in detail below.

## II. Relevant Background

3. As discussed above, I previously submitted four expert reports in this matter that addressed, among other issues, damages incurred by the Class. As relevant to this Declaration, I previously calculated aggregate Class damages under the “No Hard Switch Scheme No Delay” but-for world, under which Suboxone film would be introduced to the market in September 2010, as it actually was, but Reckitt would not have engaged in the Hard Switch Scheme Plus Delay and would not have discontinued Suboxone tablets in March 2013 (or engaged in any of

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<sup>1</sup> I understand that the “Net Settlement Fund” includes the \$385 million received in the settlement with Indivior Inc. (formerly Reckitt Benckiser Pharmaceuticals, Inc.) (collectively “Indivior,” “Defendant,” or “Reckitt”), plus interest, and net of Court-approved attorneys’ fees, Court-approved named plaintiff service awards, and Court-approved expenses, including settlement-related costs and expenses.

<sup>2</sup> On September 26, 2019, the Court certified the “Class” in this matter as: “All persons or entities in the United States and its territories who purchased branded Suboxone tablets directly from Reckitt at any time during the period January 1, 2012 through March 14, 2013.” See United States District Court Eastern District of Pennsylvania, *In Re Suboxone Antitrust Litigation*, Memorandum, dated September 26, 2019. Excluded from the Class are Reckitt, its officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

the other alleged unlawful conduct); in addition, Amneal and Actavis would have launched generic Suboxone tablets on September 1, 2012 absent the alleged unlawful conduct.<sup>3</sup> In the Lamb Merits Report, I measured total aggregate Class damages under the No Hard Switch Scheme No Delay but-for world to be \$3.16 billion.<sup>4</sup> \$151.1 million of the Class damages (or 4.78 percent of the aggregate Class damages) were incurred on brand Suboxone tablet purchases and \$3.01 billion of the Class damages (or 95.22 percent of the aggregate Class damages) were incurred on brand Suboxone film purchases.<sup>5</sup> The different percentages largely reflect the fact that damages associated with brand Suboxone tablet purchases were calculated for a much shorter period of time compared to damages associated with brand Suboxone film purchases since brand Suboxone tablet damages stopped on March 14, 2013 when Reckitt stopped selling them, but I measured damages on Suboxone film purchases through June 30, 2018.<sup>6</sup>

### III. Methodology for Net Settlement Fund Allocation

4. The methodology I have developed for the purposes of allocating the Net Settlement Fund calculates each Claimant's share of the Net Settlement Fund, *pro rata*, based on the amount of direct purchases of 1) brand Suboxone tablets from January 1, 2012 through March 14, 2013;<sup>7</sup> and 2) brand Suboxone film from September 1, 2012 through July 31, 2015;<sup>8</sup> as compared to the total amounts purchased (by all Claimants who submit valid, accepted Claim Forms) of a) brand Suboxone tablets from January 1, 2012 through March 14, 2013; and b) brand Suboxone film

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<sup>3</sup> A more detailed description of the "Hard Switch Scheme Plus Delay" is included in, for example, the Lamb Merits Report. See Lamb Merits Report at ¶234. See, also, Lamb Report at ¶154.

<sup>4</sup> Lamb Merits Report at ¶¶244-247, Table 6. I reaffirmed these damages calculations in the Lamb Merits Rebuttal Report. See Lamb Merits Rebuttal Report at ¶¶6, 163-164, 206.

<sup>5</sup> Lamb Merits Report at ¶¶244-247, Table 6.

<sup>6</sup> As I discussed in the Lamb Merits Report, damages on brand Suboxone tablet purchases were calculated for the 15-month period from January 2012 to March 2013, while damages on brand Suboxone film purchases were calculated over a nearly six-year period from September 2012 to June 2018. See Lamb Merits Report at ¶¶210-213, 244-246.

<sup>7</sup> January 1, 2012 through March 14, 2013 is the Class Period and the period for which I previously measured Class damages on brand Suboxone tablet purchases. As noted above, March 14, 2013 is the last date on which Reckitt sold Suboxone tablets to Class members, so the last date on which I measured damages on Suboxone tablet purchases.

<sup>8</sup> As I explained above, September 1, 2012 is the date Plaintiffs allege Actavis and Amneal would have launched generic Suboxone tablets in a world absent Reckitt's Hard Switch Scheme Plus Delay, so this is the beginning of the period during which I previously measured brand Suboxone film damages. As I explained in the Lamb Merits Report, Reckitt produced transaction-level sales data through July 31, 2015. See Lamb Merits Report at ¶208. The allocation of Class members' share of the Net Settlement Fund for brand Suboxone film is therefore limited to purchases from September 1, 2012 through July 31, 2015.

from September 1, 2012 through July 31, 2015.<sup>9</sup> In particular, my methodology for *pro rata* allocation of the Net Settlement Fund to each Claimant is as follows:

- a) Allocation of damages based on brand Suboxone tablet purchases. Because, as discussed above, 4.78 percent of the Class damages were incurred on brand Suboxone tablet purchases, I have devised an allocation plan that will allocate 4.78 percent of the Net Settlement Fund to brand Suboxone tablet purchases, and a Claimant's *pro rata* share of the 4.78 percent of the Net Settlement Fund will be calculated based on Claimant's total unit purchases of brand Suboxone tablets. So, for example, if Claimant "X" purchased 100 units of brand Suboxone tablets (100 brand Suboxone tablets) and there were 1,000 total brand Suboxone tablets purchased by all Claimants who submitted valid Claim Forms, then, based on its brand Suboxone tablet purchases, Claimant X would receive an allocation of 10 percent (100/1,000) of the 4.78 percent of the Net Settlement Fund allocated to brand Suboxone tablet purchases, or 0.478 percent (10%\*4.78%) of the Net Settlement Fund.
- b) Allocation of damages based on brand Suboxone film purchases. Because, as discussed above, 95.22 percent of the Class damages were incurred on brand Suboxone film purchases, I have devised an allocation plan that will allocate 95.22 percent of the Net Settlement Fund to the Class's purchases of brand Suboxone film, and a Claimant's *pro rata* share of the 95.22 percent of the Net Settlement Fund will be calculated based on Claimant's total unit purchases of brand Suboxone film. So, for example, if Claimant X also purchased 100 units (strips) of brand Suboxone film and there were 1,000 total brand Suboxone film units purchased by all Claimants who

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<sup>9</sup> For purposes of allocation, "purchases" throughout the allocation plan means the total number of units purchased directly from Reckitt, net of returns, in the 8 mg of buprenorphine/2 mg of naloxone strength and in the 2 mg of buprenorphine/0.5 mg of naloxone strength, which are the strengths for which I previously measured damages in my prior reports. A unit is either a Suboxone tablet or film strip. All of my prior damages calculations utilized Class purchases net of returns and all of my prior damages calculations calculated damages on these strengths of Suboxone. In addition, I note that a Claimant's percentage share will be zero if that Claimant timely submits a claim form, but that Claimant's claim is rejected because, for example, the Claimant did not purchase brand Suboxone tablets or film during the relevant time periods and does not have any valid assignment covering any such direct purchases. Allocations to Claimants whose right to settlement allocation arises by virtue of assignments from Class members would be determined in the same way that allocations will be calculated for Class members; in these cases, the volumes of brand Suboxone tablet and film purchases used to determine the allocation would be the volumes assigned to the Claimant by an otherwise eligible Class member (and the assignor Class member's brand Suboxone tablet and film purchase volumes would be reduced by the same amount).

submitted valid Claim Forms, then, based on its brand Suboxone film purchases, Claimant X would receive an allocation of 10 percent (100/1,000) of the 95.22 percent of the Net Settlement Fund allocated to brand Suboxone film purchases, or 9.522 percent (10%\*95.22%) of the Net Settlement Fund.

- c) *Each Claimant's total pro rata share.* Each Claimant's total *pro rata* share will be the sum of its share allocated on the basis of its brand Suboxone tablet purchases and brand Suboxone film purchases (if any), as described in the preceding two subsections. So, in the example given above, Claimant X's total *pro rata* share would be 10 percent (0.478% + 9.522% = 10%).

5. Using data produced by Reckitt, I have calculated each Class member's purchases of brand Suboxone tablets and brand Suboxone film during the relevant time periods set forth above. These purchase totals can, and I understand will, be used to pre-populate the purchase totals in the Claim Forms mailed to Class members. In addition, I understand from Plaintiffs' Counsel that Claimants will have the option to submit their own purchase records as part of their claim.<sup>10</sup> To the extent that any such submissions by Claimants differ from the sales data produced by Reckitt, I will analyze those submissions, together with the claims administrator and Class Counsel, to finalize the calculations of the Claimants' purchases of brand Suboxone tablets and brand Suboxone film. In addition, my final calculations will assign *pro rata* shares only to those Claimants who submit valid, accepted Claim Forms (and will not assign *pro rata* shares of the Net Settlement Fund to, for example, a Class member that does not submit a Claim Form). Thus, the Net Settlement Fund will be allocated to each Claimant based upon its *pro rata* share of the total purchase volumes of all Claimants who submit valid, accepted Claims Forms.

6. In my opinion, the methodology described above is a reasonable, practical, and efficient way to allocate the Net Settlement Fund to Claimants. This methodology accounts for the differences in relative overcharges on branded Suboxone tablet and film purchases. It is fair to

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<sup>10</sup> I understand that, in order to help a Claimant confirm the accuracy of the purchase totals contained in the Claim Form, the Suboxone tablets and Suboxone film National Drug Codes ("NDCs") will be listed on the Claim Form. The NDCs are standard codes maintained by the FDA and used in the pharmaceutical industry to identify specific pharmaceutical products and allow Claimants to understand precisely what purchases are being considered for purposes of allocation. The relevant Suboxone tablet NDCs are: 12496-1306-2 and 12496-1283-2. The relevant Suboxone film NDCs are: 12496-1208-3 and 12496-1202-3.

all members of the Class, reflecting the type and approximate extent of the injury alleged by Class members in accordance with my prior damages calculations. In addition, as I discussed, this methodology utilizes branded Suboxone tablet and film sales data produced during the litigation by Reckitt. Finally, I note that this methodology is similar to the allocation methodologies I have developed in other similar matters and is particularly similar to the allocation methodology I developed in the *Namenda* matter, a similar direct purchaser case alleging “hard switch” claims, which received Court approval.<sup>11</sup>

7. I declare that the foregoing is true and correct to the best of my knowledge and belief.

A handwritten signature in blue ink that reads "Russell L. Lamb, Ph.D." The signature is written in a cursive style with a large initial 'R'.

Russell L. Lamb, Ph.D.

October 24, 2023

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<sup>11</sup> United States District Court Southern District of New York, *In re Namenda Direct Purchaser Antitrust Litigation*, Opinion and Order Approving the Settlement, No. 1:15-cv-7488, May 27, 2020.

# Appendix A





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## Russell Lamb, Ph.D.

President  
Monument Economics Group  
Email: rlamb@megconsulting.com

### **Professional Summary**

Russell Lamb is an expert in antitrust economics and has testified concerning antitrust liability, impact, and damages. He has an extensive background in applied econometrics and has developed econometric models to measure damages in a number of matters involving allegations of horizontal price fixing. He has provided expert testimony in State and Federal Courts in the United States and in Canada on a range of issues including class-certification and economic damages in antitrust, RICO and consumer fraud matters. In addition, he has provided expert advice to client attorneys at all levels of the litigation. Dr. Lamb has an extensive background in the analysis of domestic and international agricultural markets and has authored more than 50 articles in peer-reviewed economics journals, trade press, and major newspapers.

Dr. Lamb's work has been cited by courts in certifying classes in the United States and Canada. For example, in *In re Aftermarket Automotive Lighting Products Antitrust Litigation*, the court held that his analysis provided "a sufficient basis from which to conclude that Plaintiffs would adduce common proof concerning the effect of Defendants' alleged price-fixing conspiracy on prices class members paid." In certifying the Class in *In re: Titanium Dioxide Antitrust Litigation*, the Court said, "This Court finds that Dr. Lamb's regression analysis accurately reflects the characteristics of the titanium dioxide industry, and the facts in this case." In *In Re: Domestic Drywall Antitrust Litigation*, the Court cited extensively to Dr. Lamb's analysis in its decision to certify the Class: "Dr. Lamb's expert opinion fits the facts of the case, is relevant, and is therefore admissible to show classwide injury and measurable damages in support of Plaintiffs' Motion for Class Certification. [...]"

The Court [...] has thoroughly considered Dr. Lamb's opinion in its decision on the DPPs' Class Certification Motion." In the Canadian LCD Competition Act Class Action, the Court held that Dr. Lamb's analysis provided "evidence of a viable methodology for the determination of loss on a class-wide basis." In *In re: Puerto Rican Cabotage Litigation*, the Court held that "Dr. Lamb [had] set forth a reputable and workable model for determining damages as to individual class members." In certifying the class in *Clarke and Rebecca Wixon, et al. v. Wyndham Resort Development Corp., et al.*, the Court held that "Dr. Lamb [had] presented a plausible class-wide method of proof." In certifying the class in *Eugene Allan, et al., v. Realcomp II, Ltd., et al.*, the Court held that "the Plaintiffs have produced sufficient evidence that common proofs will yield a finding of class-wide damages that predominates over any specific individualized damages. The Lamb Report and Lamb Reply are sufficient to establish this fact." Furthermore, Dr. Lamb was the Indirect Purchaser Plaintiffs' expert in the *In re: Polyurethane Foam Antitrust Litigation* matter, which was certified by the Court in April 2014.

With regard to agricultural economics, Dr. Lamb has a particular expertise in agricultural markets and has undertaken extensive original research and econometric analysis on markets for agricultural commodities. His articles on agricultural economics have been published in peer-reviewed journals, trade press, and major newspapers. Dr. Lamb regularly presents at conferences on topics including the state of the U.S. Economy and farm policy.

Prior to co-founding Monument Economics Group, Dr. Lamb was a Senior Vice President at Nathan Associates Inc., where he directed the firm's litigation consulting practice nationally. Dr. Lamb previously served as a Principal at AACG in Arlington, VA, and as Managing Director and DC Office Head at Econ One Research. He earlier served as an Assistant Professor of Agricultural Economics and faculty member of the Graduate Group in Economics at North Carolina State University and as an Economist and Senior Economist in the Federal Reserve System of the United States, at the Federal Reserve Board and the Federal Reserve Bank of Kansas City.

## **Education**

- Ph.D., Economics, University of Pennsylvania, 1994
- M.A., Economics, The University of Maryland, 1989
- B.A., Economics, The University of Tennessee, 1987

## Expert Testimony Offered

### 2023 *KPH Healthcare Services, Inc. et al. v Mylan, N.V., et al.*

- United States District Court for the District of Kansas
- Civil Action No. 2:20-cv-02065
- Expert Declaration, October 10, 2023
- Opinion concerning class certification and damages issues
- Retained by Roberts Law Firm, P.A.

### *In Re: Seroquel XR (Extended Release Quetiapine Fumarate) Antitrust Litigation*

- United States District Court for the District of Delaware
- Master Dkt No. 20-1076-CFC
- Expert Report, September 20, 2023
- Supplemental Expert Report, October 6, 2023
- Opinion concerning class certification and damages issues
- Retained by Berger & Montague, P.C. and Garwin Gerstein & Fisher LLP

### *In Re: Pork Antitrust Litigation*

- United States District Court of Minnesota
- Case No. 0:18-cv-01776
- Expert Report, June 16, 2023
- Opinion concerning merits and damages issues regarding certain Direct Action Plaintiffs
- Retained by Baker Botts L.L.P., Boies, Schiller & Flexner LLP, Carlton Fields, P.A., and Maynard Nexsen PC

### 2022 *Surgical Instrument Service Company, Inc. v. Intuitive Surgical, Inc.*

- United States District Court Northern District of California
- Case No. 5:21-cv-03496
- Expert Report, December 2, 2022
- Opinion concerning monopolization issues
- Retained by Haley Guiliano LLP

### *Anthony Oliver, et al. v. American Express Company, et al.*

- United States District Court Eastern District of New York
- Case No. 1:19-cv-00566
- Expert Report, September 30, 2022
- Supplemental Expert Report, October 19, 2022
- Testified at deposition, January 5, 2023
- Expert Reply Report, March 17, 2023
- Testified at deposition, April 13, 2023
- Testified at evidentiary hearing, July 27, 2023
- Opinion concerning class certification and damages issues
- Retained by Berman Tabacco

*Las Vegas Sun, Inc. v. Sheldon Adelson, et al.*

- United States District Court District of Nevada
- Case No. 2:19-cv-01667
- Expert Report, September 19, 2022
- Expert Rebuttal Report, January 18, 2023
- Supplemental Expert Report, April 27, 2023
- Testified at deposition, May 10, 2023
- Opinion concerning damages issues
- Retained by Lewis Roca Rothgerber Christie LLP

*Value Drug Company v. Takeda Pharmaceuticals U.S.A., Inc., et al.*

- United States District Court Eastern District of Pennsylvania
- Case No. 21-CV-3500
- Expert Report, July 25, 2022
- Amended Expert Report, July 28, 2022
- Testified at deposition, August 17, 2022
- Testified at deposition, September 15, 2022
- Testified at class certification hearing, November 1, 2022
- Expert Report, November 17, 2022
- Supplemental Expert Report, December 22, 2022
- Testified at deposition, January 10, 2023
- Expert Report, June 2, 2023
- Testified at deposition, July 11, 2023
- Amended Expert Report, September 3, 2023
- Testified at trial, September 14 and 18, 2023
- Opinion concerning class certification and damages issues
- Retained by Berger & Montague, P.C.

*Serge Asselin v. Ainsie Canada, Inc. et al.*

- Cour Supérieure District de Québec
- Case No. 200-06-000203-169
- Expert Report, May 31, 2022
- Opinion concerning market factors
- Retained by Siskinds LLP, Sotos LLP

*In Re Caustic Soda Antitrust Litigation*

- United States District Court Western District of New York
- Case No. 1:19-cv-00385-EAW-MJR
- Expert Report, April 25, 2022
- Testified at deposition, June 6, 2022
- Expert Reply Report, August 25, 2022
- Testified at deposition, September 23, 2022
- Expert Sur-Rebuttal Report, February 10, 2023
- Testified at class certification hearing, June 5-6, 2023

- Opinion concerning class certification and damages issues
- Retained by CERA LLP

*Boothe Farms, Inc., et al. v. The Dow Chemical Co., et al.*

- United States District Court Eastern District of Arkansas Northern Division
- Case No. 3:19-cv-00264-DPM
- Expert Report, April 15, 2022
- Supplemental Expert Report, April 20, 2022
- Testified at deposition, May 4, 2022
- Declaration, May 19, 2022
- Opinion concerning damages issues
- Retained by Lieff Cabraser Heimann & Bernstein, LLP

**2021** *In Re: Takata Airbag Product Liability Litigation*

- United States District Court Southern District of Florida Miami Division
- MDL No. 2599
- Expert Report, December 23, 2021
- Testified at deposition, January 25, 2022
- Opinion concerning class certification and damages issues
- Retained by Podhurst Orseck

*In Re: Broiler Chicken Antitrust Litigation*

- United States District Court Northern District of Illinois Eastern Division
- Case No. 1:16-cv-08637
- Expert Report, December 20, 2021
- Testified at deposition, February 8, 2022
- Expert Rebuttal Report, July 29, 2022
- Testified at deposition, September 1, 2022
- Expert Declaration, September 5, 2023
- Testified at deposition, September 30, 2023
- Opinion concerning damages issues
- Retained by Polsinelli

*KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc. v Gilead Sciences, Inc., et al.*

- United States District Court Northern District of California San Francisco Division
- Case No. 3:20-cv-06961-EMC
- Expert Report, October 19, 2021
- Declaration, February 25, 2022
- Declaration, April 13, 2022
- Declaration, April 26, 2022
- Testified at deposition, May 18, 2022
- Expert Merits Report, June 28, 2022
- Expert Rebuttal Report, June 30, 2022

- Testified at deposition, July 19, 2022
- Testified at deposition, July 25, 2022
- Expert Rebuttal Report, August 12, 2022
- Expert Rebuttal Damages Report, August 16, 2022
- Testified at deposition, August 31, 2022
- Supplemental Expert Report, April 21, 2023
- Opinion concerning class certification and damages issues
- Retained by Roberts Law Firm, P.A.

*In Re: Mallinckrodt plc, et al.*

- United States Bankruptcy Court District of Delaware
- Case No. 20-12522 (JTD)
- Expert Report, August 13, 2021
- Expert Reply Report, August 26, 2021
- Testified at deposition, September 8, 2021
- Supplemental Expert Report, October 29, 2021
- Testified at trial, November 12 and 15, 2021
- Expert Reply Report, December 1, 2021
- Testified at trial, December 16, 2021
- Opinion concerning damages
- Retained by Eimer Stahl LLP and Willkie Farr & Gallagher LLP

*Rebotix Repair LLC v. Intuitive Surgical, Inc.*

- United States District Court Middle District of Florida Tampa Division
- Case No. 8:20-cv-02274-VMC-TGW
- Expert Report, July 26, 2021
- Testified at deposition, October 19, 2021
- Opinion concerning monopolization issues
- Retained by Dovel & Luner

*Irene Breckon and Gregory Sills v. Alsaker AS, et al.*

- Federal Court of Canada
- Court File No. T-1664-19
- Expert Report, July 1, 2021
- Expert Reply Report, July 5, 2022
- Opinion concerning class certification issues
- Retained by Siskinds LLP, Sotos LLP, and Koskie Minsky LLP

*Gazarek Realty Holdings Ltd., et al. v. Corning Incorporated, et al.*

- Ontario Superior Court of Justice
- Court File No. CV-16-549735-00CP
- Expert Report, April 15, 2021
- Opinion concerning class certification issues
- Retained by Camp Fiorante Matthews Mogergerman LLP, Sotos LLP, Siskinds LLP

*Kate O'Leary Swinkels v. ZF Friedrichshafen Ag, et al.*

- Ontario Superior Court of Justice
- Court File No. CV-18-00604648-00CP
- Expert Report, April 15, 2021
- Expert Reply Report, January 19, 2022
- Opinion concerning class certification issues
- Retained by Camp Fiorante Matthews Mogergerman LLP, Sotos LLP, Siskinds LLP

*David Regan v. Masonite International Corporation, et al.*

- Federal Court of Canada
- Court File No. T-1049-20
- Expert Report, March 31, 2021
- Expert Reply Report, July 14, 2023
- Opinion concerning class certification issues
- Retained by Siskinds LLP

*In Re: JELD-WEN Holding, Inc. Securities Litigation*

- United States District Court for the Eastern District of Virginia Richmond Division
- Case No. 3:20-CV-00112-JAG
- Expert Declaration, January 4, 2021
- Expert Reply Declaration, February 15, 2021
- Testified at deposition, February 26, 2021
- Opinion concerning anticompetitive conduct issues
- Retained by Labaton Sucharow LLP and Robbins Gellar Rudman & Dowd LLP

**2020** *In Re Namenda Indirect Purchaser Antitrust Litigation*

- United States District Court Southern District of New York
- Case No. 1:15-CV-06549
- Expert Report, July 6, 2020
- Testified at deposition, July 23, 2020
- Expert Reply Report, September 21, 2020
- Opinion concerning class certification and damages issues regarding indirect purchasers
- Retained by Miller Law LLC and Safirstein Metcalf LLP

*In Re: Interior Molded Doors Antitrust Litigation*

- United States District Court for the Eastern District of Virginia Richmond Division
- Case No. 3:18-CV-00718-JAG
- Class Certification and Trial Expert Report, January 31, 2020
- Testified at deposition, March 4, 2020
- Class Certification and Trial Expert Reply Report, June 9, 2020
- Testified at deposition, July 16, 2020



- Opinion concerning class certification and damages issues
- Retained by Spector Roseman Kodroff & Willis, P.C., and Berger & Montague, P.C.

**2019** *In Re Zetia (Ezetimibe) Antitrust Litigation*

- United States District Court for the Eastern District of Virginia Norfolk Division
- Case No. 2:18-MD-02836-RBS-DEM
- Expert Declaration, November 18, 2019
- Testified at deposition, December 20, 2019
- Expert Trial Declaration, January 13, 2020
- Expert Reply Declaration, February 20, 2020
- Testified at class certification hearing, May 1, 2020
- Expert Trial Reply Declaration, May 8, 2020
- Expert Supplemental Declaration, May 15, 2020
- Testified at deposition, June 9, 2020
- Opinion concerning class certification and damages issues
- Retained by Miller Law LLC and Motley Rice LLC

*GAËTAN ROY c. JTEKT Corporation & al. (Bearings/Roulements)*

- Cour Supérieure District de Québec
- Case No. 200-06-000159-130
- Expert Report, November 12, 2019
- Opinion concerning class certification issues
- Retained by Siskinds LLP, Sotos LLP

*First Impressions Salon, Inc., et al., v. National Milk Producers Federation, et al.*

- United States District Court for the Southern District of Illinois
- Case No. 3:13-cv-00454-NJR-SCW
- Expert Report, January 4, 2019
- Testified at deposition, February 13, 2019
- Expert Reply Report, May 3, 2019
- Testified at deposition, May 17, 2019
- Opinion concerning class certification and damages issues
- Retained by Barrett Law Group, NastLaw LLC, and Roberts Law Firm

*Sheridan Chevrolet Cadillac Ltd., et al., v. JTEKT Corporation, et al.*

- Ontario Superior Court of Justice
- Court File No. CV-13-478644-00CP
- Expert Report, January 2, 2019
- Opinion concerning class certification issues
- Retained by Sotos LLP

**2018** *Sheridan Chevrolet Cadillac Ltd., et al., v. Hitachi Ltd., et al.*

- Ontario Superior Court of Justice
- Court File No. CV-14-506683-00CP

- Expert Report, October 4, 2018
- Opinion concerning class certification issues
- Retained by Sotos LLP

*In Re Suboxone Direct Purchaser Antitrust Litigation*

- United States District Court for the Eastern District of Pennsylvania
- Case No. 2:13-MD-02445-MSG
- Expert Report, September 18, 2018
- Testified at deposition, October 30, 2018
- Merits Expert Report, November 30, 2018
- Expert Rebuttal Report, January 11, 2019
- Testified at deposition, January 17, 2019
- Expert Merits Rebuttal Report, April 26, 2019
- Testified at deposition, June 12, 2019
- Opinion concerning class certification, merits, and damages issues
- Retained by Berger & Montague, P.C.; Garwin Gerstein & Fisher LLP; and Faruqi & Faruqi LLP

*William Rushing, et al. v. Williams-Sonoma, Inc., et al.*

- United States District Court Northern District of California, San Francisco Division
- Case No. 3:16-cv-01421-WHO
- Expert Report, July 25, 2018
- Testified at deposition, January 24, 2023
- Opinion concerning class certification issues
- Retained by Rose Law Group, PC

*The Hospital Authority of Metropolitan Government of Nashville and Davidson County, Tennessee, et al. v. Momenta Pharmaceuticals, Inc., et al.*

- United States District Court Middle District of Tennessee Nashville Division
- Civil Action No. 15-cv-1100
- Testified at deposition, October 10, 2018
- Expert Report, June 22, 2018
- Expert Reply Report, September 21, 2018
- Testified at class certification hearing, May 13, 2019
- Declaration, May 21, 2019
- Expert Merits Report, May 24, 2019
- Declaration, June 18, 2019
- Expert Report, July 5, 2019
- Expert Supplemental Reply Report, July 5, 2019
- Testified at hearing, July 12, 2019
- Expert Merits Reply Report, July 29, 2019
- Testified at deposition, August 13, 2019

- Opinion concerning class certification and damages issues regarding indirect purchasers
- Retained by Lief Cabraser Heimann & Bernstein, LLP

**2017** *Fady Samaha and Urlin Rent a Car Ltd. v. Yamashita Rubber Co., Ltd., et al.*

- Ontario Superior Court of Justice
- Court File No. CV-13-472262-00CP
- Expert Report, December 4, 2017
- Supplemental Report, July 13, 2018
- Expert Reply Report, January 23, 2020
- Testified at deposition, April 20, 2020
- Supplemental Report, September 30, 2020
- Opinion concerning class certification issues
- Retained by Siskinds LLP

*In Re Lamictal Direct Purchaser Antitrust Litigation*

- United States District Court New Jersey
- Case No. 12-95 -WHW-MCA
- Expert Report, November 6, 2017
- Revised Expert Reply Report, April 16, 2018
- Testified at deposition, June 6, 2018
- Opinion concerning class certification and damages issues
- Retained by Berger & Montague, P.C.

*In Re Namenda Direct Purchaser Antitrust Litigation*

- United States District Court Southern District of New York
- Case No. 1:15-CV-07488
- Expert Report, September 15, 2017
- Amended Expert Report, September 20, 2017
- Expert Reply Report, October 25, 2017
- Amended Expert Reply Report November 9, 2017
- Testified at deposition, October 6, 2017
- Opinion concerning class certification and damages issues
- Retained by Berger & Montague, P.C.; and Garwin Gerstein & Fisher LLP

*In Re Capacitors Antitrust Litigation*

- United States District Court Northern District of California San Francisco Division
- Case No. 3:14-CV-03264 -JD
- Expert Declaration, February 24, 2017
- Expert Reply Declaration, April 28, 2017
- Testified at deposition, May 17, 2017
- Expert Trial Declaration, November 30, 2018
- Expert Trial Reply Declaration, April 19, 2019
- Testified at deposition, May 23, 2019

- Expert Declaration, July 2, 2021
- Opinion concerning class certification issues regarding indirect purchasers
- Retained by Cotchett, Pitre & McCarthy, LLP

**2016** *Deere Construction, LLC, v. Cemex Construction Materials Florida, LLC, et al.*

- United States District Court Southern District of Florida
- Case No. 15-24375-CIV-ALTONAGA/O'Sullivan
- Expert Report, September 14, 2016
- Testified at deposition, September 27, 2016
- Opinion concerning class certification issues
- Retained by Kozyak Tropin & Throckmorton, LLP; Harke Clasby & Bushman, LLP; and McCallum, Methvin & Terrell, P.C.

*Luke Begonja v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-010943)*

*Gerrit Brouwer, Jr., et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-008533)*

*Gary Gottschalk, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-001957)*

*Susan Hatzipetro, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-007996)*

*Shelly Keegan, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-001953)*

*Yvonne Klebba, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-008535)*

*Adriane McConville, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-001960)*

*Ernest W. Yeager Jr., et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-008054)*

- In the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida
- Expert Report, September 14, 2016
- Testified at deposition, October 27-28, 2016
- Testified at deposition, March 2-3, 2017
- Expert Report, May 19, 2017
- Testified at deposition, August 29, 2017
- Opinion concerning damages issues
- Retained by Badham & Buck, LLC

*In Re: Evanston Northwestern Healthcare Corporation Antitrust Litigation*

- United States District Court for the Northern District of Illinois Eastern Division
- No. 07-C-4446
- Expert Report, July 28, 2016

- Expert Reply Report, January 25, 2017
- Testified at deposition, September 20, 2016
- Testified at deposition, February 22, 2017
- Expert Declaration, June 23, 2023
- Opinion concerning damages issues
- Retained by Miller Law LLC

*In Re: Ductile Iron Pipe Fittings (“DIPF”) Direct Purchaser Antitrust Litigation*

- United States District Court for the District of New Jersey
- Civ. No. 12-711 (AET)(LHG)
- Declaration, May 27, 2016
- Reply Declaration, March 31, 2017
- Testified at deposition, July 8, 2016
- Opinion concerning class certification, merits, and damages issues
- Retained by Cohen Milstein Sellers & Toll PLLC; and Kaplan Fox & Kilsheimer LLP

*Nestlé Purina Petcare Company v. Blue Buffalo Company, Ltd.*

*Blue Buffalo Company, Ltd. v. Nestlé Purina Petcare Company, et al.*

*Blue Buffalo Company, Ltd. v. Wilbur-Ellis Company, et al.*

*Diversified Ingredients, Inc. v. Wilbur-Ellis Company, et al.*

*Diversified Ingredients, Inc. v. Custom AG Commodities, LLC, et al.*

- United States District Court for the Eastern District of Missouri Eastern Division
- Cause No.: 4:14-CV-00859 RWS
- Affidavit, March 17, 2016
- Opinion concerning pricing issues
- Retained by Lashly & Baer, P.C.

*In Re: Cast Iron Soil Pipe and Fittings Antitrust Litigation*

- United States District Court Eastern District of Tennessee at Chattanooga
- Case No.: 1:14-md-2508
- Declaration, March 4, 2016
- Testified at deposition, May 19, 2016
- Opinion concerning class certification and damages issues
- Retained by Cohen Milstein Sellers & Toll PLLC; Cera LLP; and Kaplan Fox & Kilsheimer LLP

*Darren Ewert v. Denso Corporation, et al.*

- Supreme Court of British Columbia
- Case No. S-135610
- Expert Report, February 12, 2016
- Expert Reply Report, January 5, 2017
- Opinion concerning class certification issues

- Retained by Camp Fiorante Matthews Mogerman

*Serge Asselin v. Hitachi, LTD & al.*

- Cour Supérieure Disctirct de Québec
- Case No. 200-06-000180-144
- Expert Report, February 11, 2016
- Opinion concerning class certification issues
- Retained by Siskinds LLP

**2015** *Thomas Mervyn v. Atlas Van Lines, Inc., et al.*

- United States District Court Northern District of Illinois Eastern Division
- Case No. 1:13-CV-03587
- Expert Declaration, September 3, 2015
- Expert Report, February 4, 2016
- Opinion concerning data issues
- Opinion concerning damages issues
- Retained by Miller Law LLC

*Thomas Mervyn v. Nelson Westerberg, Inc.*

- United States District Court Northern District of Illinois Eastern Division
- Case No. 1:11-CV-06594
- Expert Report, July 27, 2015
- Opinion concerning damages issues
- Retained by Miller Law LLC

*Lane's Gifts and Collectibles, LLC v. Microsoft Online, Inc.*

- United States District Court Western District of Washington at Seattle
- No. 2:12-cv-01181-BJR
- Expert Report, March 23, 2015
- Testified at deposition, May 21, 2015
- Opinion concerning damages issues
- Retained by Nix, Patterson & Roach, L.L.P.; and Kessler Topaz Meltzer & Check, LLP

*BlueCross BlueShield of Tennessee, Inc., et al. v. King Pharmaceuticals, Inc., et al.*

- In the Circuit Court for Cocke County, Tennessee
- Civil Action No. 32941-II
- Expert Report, January 23, 2015
- Opinion concerning impact and damages issues
- Retained by Miller Law LLC

*In Re: Domestic Drywall Antitrust Litigation*

- United States District Court for the Eastern District of Pennsylvania
- MDL No. 2437 13-MD-2437
- Trial Expert Report, January 23, 2015

- Reply Expert Report, April 23, 2015
- Expert Report concerning class certification, August 3, 2016
- Expert Reply Report concerning class certification, January 9, 2017
- Affidavit, July 11, 2019
- Testified at deposition, February 25, 2015
- Testified at deposition, August 30, 2016
- Testified at deposition, February 17, 2017
- Testified at class certification hearing, April 27, 2017
- Expert Supplemental Report, July 31, 2017
- Opinion concerning merits issues regarding direct purchasers
- Opinion concerning class certification issues, impact and damages regarding direct purchasers
- Retained by Cohen Milstein Sellers & Toll PLLC; Berger & Montague, P.C.; and Spector Roseman Kodroff & Willis, P.C.

*In Re: Processed Egg Products Antitrust Litigation*

- United States District Court for the Eastern District of Pennsylvania
- MDL No. 2002
- Expert Declaration, January 22, 2015
- Expert Reply Declaration, April 3, 2015
- Testified at deposition, May 7, 2015
- Opinion concerning merits and damages issues regarding indirect purchasers
- Retained by Straus & Boies, LLP

**2014** *In Re: Class 8 Transmission Indirect Purchaser Antitrust Litigation*

- United States District Court for the District of Delaware
- Civil Action No. 11-cv-00009 (SLR)
- Declaration, November 3, 2014
- Reply Declaration, March 6, 2015
- Trial Declaration, March 27, 2015
- Trial Reply Declaration, July 2, 2015
- Testified at deposition, December 17, 2014
- Testified at deposition, March 16, 2015
- Testified at class certification hearing, March 25, 2015
- Testified at deposition, May 1, 2015
- Opinion concerning class certification issues regarding indirect purchasers
- Opinion concerning merits and damages issues regarding indirect purchasers
- Retained by Glancy Binkow & Goldberg LLP

*Mark S. Wallach, et al., v. Eaton Corporation, et al.*

- United States District Court District of Delaware
- Civil Action No. 10-260-SLR
- Expert Report, November 3, 2014
- Expert Reply Report, March 6, 2015

- Trial Expert Report, March 27, 2015
- Trial Expert Reply Report, July 2, 2015
- Testified at deposition, December 16, 2014
- Testified at deposition, March 16, 2015
- Testified at class certification hearing, March 25, 2015
- Testified at deposition, May 1, 2015
- Opinion concerning class certification issues regarding direct purchasers
- Opinion concerning merits and damages issues regarding direct purchasers
- Retained by Cohen Milstein Sellers & Toll PLLC

*Sheridan Chevrolet Cadillac Ltd., et al., v. Furukawa Electric Co. Ltd., et al.*

*Sheridan Chevrolet Cadillac Ltd., et al., v. Mitsubishi Electric Corporation, et al.*

- Ontario Superior Court of Justice
- Court File Nos. CV-12-446737-00CP / CV-14-496994-00CP
- Expert Report, April 15, 2016
- Expert Report, October 14, 2014
- Opinion concerning class certification issues
- Retained by Siskinds LLP

*Resco Products, Inc., v. Bosai Minerals Group Co., Ltd., et al.*

- United States District Court for the Western District of Pennsylvania
- Civil Action No.: 2:06-cv-235-JFC
- Expert Report, September 24, 2008
- Expert Report, September 29, 2014
- Supplemental Expert Report, December 15, 2014
- Testified at deposition, February 13, 2015
- Opinion concerning damages
- Retained by Boies, Schiller & Flexner LLP

*Fond Du Lac Bumper Exchange Inc., et al. v. Jui Li Enterprise Company Ltd. et al.*

- United States District Court Eastern District of Wisconsin
- Case No.: 2:09-cv-00852-LA
- Affidavit, August 1, 2014
- Affidavit, November 4, 2014
- Declaration, April 24, 2015
- Expert Report, July 15, 2015
- Expert Reply Report, November 24, 2015
- Expert Surreply Report, January 15, 2016
- Expert Trial Report, August 18, 2016
- Expert Trial Reply Report, December 20, 2016
- Testified at deposition, October 1, 2015
- Testified at deposition, February 13, 2017
- Opinion concerning class certification and damages issues
- Opinion concerning Defendants' replacement data



- Opinion concerning Defendant and LKQ transaction-level data
- Opinion concerning merits and damages issues
- Retained by Stueve Siegel Hanson, LLP

*Meredith Corporation, et al., v. SESAC, LLC, et al.*

- United States District Court for the Southern District of New York
- 09 Civ. 9177 (PAE)
- Expert Report, July 10, 2014
- Opinion concerning class certification issues
- Retained by Weil, Gotshal & Manges LLP

*Janet Skold, et al., v. Intel Corporation, et al.*

- Superior Court of the State of California for the County of Santa Clara
- Case No. 1-05-CV-039231
- Expert Report, June 14, 2007
- Testified at deposition, August 31, 2007
- Testified at deposition, January 10, 2014
- Opinion concerning class certification issues
- Opinion concerning damages issues
- Retained by Girard Gibbs LLP

*In Re: Polyurethane Foam Antitrust Litigation*

- United States District Court Northern District of Ohio Western Division 8
- MDL No. 2196
- Declaration, June 11, 2013
- Reply Declaration, October 23, 2013
- Trial Declaration, March 18, 2014
- Reply Trial Declaration, June 30, 2014
- Testified at deposition, August 20, 2013
- Testified at deposition, November 20, 2013
- Testified at class certification hearing, January 15, 2014
- Testified at deposition, April 14, 2014
- Testified at deposition, July 14, 2014
- Opinion concerning class certification issues regarding indirect purchasers
- Opinion concerning merits and damages issues
- Retained by Miller Law LLC

## **Professional Experience**

### **Economic Consulting Positions**

**Monument Economics Group**, Oct. 11, 2016 - Present

**Nathan Associates, Inc.**, Arlington, VA, *Senior Vice President*, Jan. 2013 – Sep. 20, 2016

**Advanced Analytical Consulting Group, Inc.**, Washington, DC, *Principal*, Mar. 2011– Jan. 2013

**Econ One Research, Inc.**, Washington, DC, Managing Director and DC Office Head, Jul. 2006 – Mar. 2011

- Opened and staffed the DC office; managed office affairs on a daily basis
- Retained as an expert witness for damages and class certification issues in antitrust, breach of contract, product liability and RICO cases; representative testimony includes determination of liability and damages in a case involving resale price maintenance in consumer products, class certification in a horizontal price-fixing case involving international travel in the airline industry, class certification in a consumer class action involving RICO claims in state court
- Industry pre-litigation analyses for consumer products, chemicals, and other industries

**Navigant Consulting, Inc.**, Washington, DC, *Associate Director*, Feb. 2006 – Jul. 2006

- Case manager for damages analysis in asbestos litigation and personal injury claims

**Nathan Associates, Inc.**, Arlington, VA, *Managing Economist*, Jul. 2004 – Feb. 2006

- Case manager for economic analysis of class certification and damages issues in antitrust and RICO cases involving the chemical, consumer products, and tobacco industries
- Retained as expert on damages for direct purchasers of NBR in the Crompton Global Settlement; submitted an Affidavit on damages and appeared before the Special Master for the Crompton Global Settlement (the Hon. Kenneth Feinberg)

### **Board Membership**

- Board of Advisors, American Antitrust Institute, Washington, DC
- Department of Economics Advisory Council, University of Tennessee, Knoxville, Chairman, Spring 2006 – April 2011

### **Teaching Positions**

- The University of Tennessee, Knoxville, *Adjunct Professor*, Spring 2019 – present
- The George Washington University, Washington, DC, *Adjunct Assistant Professor of Economics*, Fall 2004 – present
- North Carolina State University (NCSU), *Assistant Professor* (Department of Agricultural and Resource Economics), Fall 1999 – Spring 2004
- The University of Pennsylvania, *Adjunct Instructor*, Summer 1990 – Spring 1994

### **Additional Teaching Experience**

- The Wharton School Evening Division, Philadelphia, PA, summer 1993
- Rutgers University, Camden, NJ, summer 1993
- Philadelphia College of Textiles and Science, Philadelphia, PA, fall 1992

- The Pennsylvania State University, Media, PA, 1991
- St. Mary's College of Maryland, St. Mary's City, MD, summer 1989
- The University of Maryland University College, College Park, MD, 1988-1989

### **Courses Taught**

- Managerial Economics for MBA students (George Washington University)
- Law and Economics (George Washington University)
- Intermediate Microeconomics – graduate level (George Washington University)
- Latin American Economic Development (George Washington University)
- International Trade: Theory and Policy (George Washington University)
- International Finance: Theory and Policy (George Washington University)
- Agricultural Production and Supply – Ph.D. field course (North Carolina State University)
- U.S. Agricultural Policy (North Carolina State University)
- Microfinance: Theory, Practice and Regulation (Superintendencia de Banca y Seguros)
- Statistical Analysis for Economics (University of Pennsylvania)
- Principles of Microeconomics (University of Maryland, St. Mary's College of Maryland)
- Principles of Macroeconomics (University of Pennsylvania, The Wharton School, Penn State University)
- Fundamentals of Micro/Macro Economics (University of Maryland)
- Environmental and Natural Resource Economics (Rutgers)

### **Federal Reserve Experience**

Federal Reserve Bank of Kansas City, *Senior Economist* Jan. 1998 – Aug. 1999; *Economist*, Jan. – Dec. 1997

- Analysis of regional, macroeconomic developments in agriculture, and energy
- Research on public policy towards agriculture in the U.S., especially the impact of farm policy reform
- Briefings to the Bank president and outside groups on the regional economy, agriculture, agricultural trade

Board of Governors of the Federal Reserve System, *Economist*, Jun. 1994 – Dec. 1996

- Analysis of macroeconomic conditions, commodity markets, and prices (CPI, PPI, Core prices)
- Forecasting of agricultural output, prices, and income

- Briefings to the Board of Governors on agriculture and food-price developments

### **Other Consulting Experience**

World Perspectives, Inc., 2003 - 2004

- Analysis of trade barriers for U.S. exports of feed ingredients, pet food ingredients, and food ingredients
- Analysis of the impact of a Free Trade Area of the Americas on U. S. soybean producers
- Analysis of the potential for U.S. Halal-certified meat exports to the Middle East

Womble Carlyle Sandridge & Rice, LLP, 2003 - 2004

- Provided expert testimony related to the estimation of business profitability Smith-Moore, 2002 - 2003
- Provided economic analysis of the U.S. Tobacco Program

Superintendencia de Banca y Seguros (Lima, Peru), 1998 - 2000

- Developed and taught a class on Microfinance issues (in English) to students enrolled in a training program for bank examiners; the program was sponsored by the Inter-American Development Bank.

World Bank, Africa Technical Department, 1992 – 1993

- Summarized and provided an overview of data available on African economic and social indicators

ACG-Afrique, January 1993

- Provided critical review of a study document outlining the impact of structural adjustment on African agriculture

### **Professional Organizations**

- National Association for Business Economics
- American Economic Association

### **Papers, Publications, and Speeches**

#### **Papers Published in Refereed Journals**

- “Losing the Forest for the Trees: On the Loss of Economic Efficiency and Equity in Federal Price-Fixing Class Actions,” (with Martin A. Asher and Gregory K. Arenson) *Virginia Law & Business Review*, Vol. 16, No. 2, Spring 2022, 293-325
- “Government Regulation and Quality in the U.S. Beef Market,” (with Peyton Ferrier) *Food Policy*, Vol. 32, No. 1, February 2007, 84-97
- “Rent-seeking in U.S.-Mexican Avocado Trade,” *Cato Journal*, Vol. 26, No. 1, December 2006, 159-177

- “Consolidation in U.S. Agriculture and the Role of Public Policy,” *The ICFAI Journal of Agricultural Economics*, Vol. 1, 2004, 7-16
- “Fertilizer Use, Risk, and Off-farm Labor Markets in the Semi-Arid Tropics of India,” *American Journal of Agricultural Economics*, Vol. 85, No. 2, May 2003, 359-371
- “Inverse Productivity: Land Quality, Labor Markets, and Measurement Error,” *Journal of Development Economics*, Vol. 71, No. 1, June 2003, 71-95
- “A Market-Forces Policy for the New Farm Economy?” *Review of Agricultural Economics*, Vol. 24, No. 1, 1 March 2002, 15-30
- “Food Crops, Exports, and the Short-run Policy Response of Agriculture in Africa,” *Agricultural Economics*, Vol. 22, No. 3, April 2000, 271-298
- “FAIR Act Implications for Land Values in the Corn Belt,” (with Jason Henderson) *Review of Agricultural Economics*, Vol. 22, No. 1, Summer – Spring 2000, 102-119
- “Why are Estimates of Agricultural Supply Response So Variable?” (with Francis X. Diebold) *Journal of Econometrics*, Vol. 76, No. 1-2, January – February 1997, 367-373

#### **Non-refereed Publications, Articles, and Editorials**

- “The Predominance Requirement for Antitrust Class Actions – Can Relevant Market Analysis Help?” (with Jeffrey Leitzinger) American Bar Association – Section of Antitrust Law, *Economics Committee Newsletter*, Vol. 7, No. 1, Spring 2007, 17-22
- “Reform of U.S. Farm Policy in an Integrating World Economy,” *Developing Countries in the WTO System*, 2006
- “New Farm Economy,” *Regulation*, Winter 2003-2004, Cato Institute for Public Policy Research, 2003
- “What Road Will U.S. Economy Take in 2003?” *Southeast Farm Press*, 5 February 2003
- “Fast Track for the Tax Cuts,” guest editorial, *News and Observer*, 18 January 2003
- “The 2002 Farm Bill,” (with Blake Brown and Michele Marra) *NC State Economist*, November – December 2002
- “Economy-minded Tax Cuts: Bush's Reductions Provided the Boost to Lift U.S. From Recession,” guest editorial, *News and Observer*, 2 July 2002
- “Policy Only Effective if Farm Economy is Recognized,” special report to *Feedstuffs*, 5 June 2000
- “Aid During Crisis of Little Long-term Help to Farmers,” guest editorial, *Kansas City Star*, 23 August 1999
- “Survey of Agricultural Credit Conditions,” Federal Reserve Bank of Kansas City,” *Regional Economic Digest*, various issues, 1997-1999
- “U.S. Agriculture at the Crossroads in 1999,” *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 84, No. 1, 1999, 73-91

- “Can U.S. Oil Production Survive the 20th Century?” *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 84, Quarter I, 1999
- “Will the Tenth District Catch the Asian Flu?” (with Ricardo Gazel) *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 83, Quarter II, 1998, 9-26
- “From the Plains to the Plate: Can the Beef Industry Regain Market Share?” (with Michelle Beshear) *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 83, Quarter IV, 1998, 49-66
- “U.S. Agriculture: Another Solid Year in 1998?” (with Mark Drabenstott) *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 83, No. 1, Quarter I, 1998, 55-74
- “How Will the 1996 Farm Bill Affect the Outlook for District Farmland Values?” *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 82, Quarter IV, 1997, 85-101
- “Food Prices and the Farm Sector,” monthly *Greenbook*, Federal Reserve Board of Governors, various issues 1994-1996
- “Hedge to Arrive Contracts,” Memo to the Board of Governors, Federal Reserve Board of Governors, 5 June 1996
- “Prices in the May Greenbook,” Federal Reserve Board of Governors, 19 May 1996
- “Prices in the March Greenbook,” Federal Reserve Board of Governors, 24 March 1996
- “Commodity Price Developments,” Weekly memo to the Board of Governors, Federal Reserve Board of Governors, August 1994 – December 1996

### **Conference Presentations**

- “Class Action Developments,” panelist at the American Antitrust Institute’s 6<sup>th</sup> Annual Private Antitrust Enforcement Conference, Washington, DC: 4 December 2012
- “Consequences for Antitrust Thought and Practice,” presented at the American Antitrust Institute Invitational Symposium: Antitrust Challenge of Multi-Channel Distribution in the Internet Age, Washington, DC: 22 June 2011
- “The U.S. Economy in the Year Ahead,” presented at the Long Company Annual Conference, Chicago, IL: 11 September 2009 and 19 September 2008
- “The U.S. Economic Outlook,” presented at the Industry Outlook Conference, Chicago, IL: 17 October 2006 and 18 October 2005
- “How Will the Economy Impact Your Business?” presented at the Long Company Annual Conference, Las Vegas, NV: 14 August 2004
- “Focus on The Economy” presented at *Milling and Baking News* Annual Purchasing Managers’ Conference, Kansas City, MO: 14 June 2004, 10 June 2003 and 11 June 2002

- “The U.S. Economic Outlook and Agriculture,” presented at the Industry Outlook Conference, Chicago, IL: October 2003
- “The U.S. Economic Outlook and Agriculture,” presented at the Industry Outlook Conference, Breckenridge, CO: 7 April 2002
- “The U.S. Economic Outlook: The Cost of Terror,” presented at the Southern Agricultural Outlook Conference, Atlanta, GA: 24 September 2001
- “The Economy in Focus,” presented at *Milling and Baking News* annual purchasing managers’ conference, Kansas City, MO: 5 June 2001
- “The Great American Growth Machine,” presented at the Southern Agricultural Outlook Conference, Atlanta, GA: 27 September 2000
- “The Economy in Focus,” presented at *Milling and Baking News* annual purchasing managers’ conference, Kansas City, MO: 6 June 2000
- “The Outlook for the U.S. Pork Sector,” presented to the Industry Outlook Conference, Las Vegas, NV: 17 April 2000
- “The National Economic Outlook: The Road Ahead,” presented to the Food Industry Outlook Conference, Breckenridge, CO: 11 April 1999
- “Farm Policy for the New Millennium,” presented to Federal Reserve Bank of Kansas City, Division of Bank Supervision and Regulation, Bank Examiners’ Annual Training Conference, 7 January 1999
- “The Impact of the 1996 Farm Bill on Farmland Values,” (with Jason Henderson) first place poster presentation at the annual meetings of the American Agricultural Economics Association, Salt Lake City, UT: 4 August 1998
- “A Note on the Inverse Productivity Relationship,” presented at the annual meetings of the Western Economic Association International, Seattle, WA: July 1997
- “Off-farm Labor Supply and Fertilizer Use in the Semi-Arid Tropics of India,” presented at the annual meetings of the American Agricultural Economics Association, August 1995
- “Prices for Food-Away-From-Home and Core Inflation: Some Empirical Relationships,” (with James E. Kennedy) presented at the Federal Reserve System Committee on Agriculture, Richmond, VA: October 1995
- “Some Simple Dynamics of Farming,” presented at the annual meetings of the American Agricultural Economics Association, Orlando, FL: August 1993
- “Structural Adjustment and Food Security,” (with W. Graeme Donovan), presented at the annual meetings of the American Agricultural Economics Association, Orlando, FL: August 1993
- “Structural Adjustment and African Agricultural Supply Response to Exchange Rate and Price Movements,” (with W. Graeme Donovan), presented at the annual meetings of the Southern Agricultural Economics Association, Tulsa, OK: January 1993

### **Other Presentations**

- Panelist, “Injured V. Non-Injured In Class Actions,” American Bar Association, 18 October 2022
- Panelist, “If I Am Uninjured, Do I Not Bleed? The Packaged Seafood Decision,” American Bar Association Webinar, 22 June 2022
- Panelist, “Antitrust Class Actions – Where Are We? A 360 Degree Perspective,” NYSBA Annual Antitrust Law Section Meeting,” 30 January 2014
- Panelist, Retrospective on the Baby Products Litigation, ABA Section of Antitrust Law: Pricing Conduct Committee, 31 July 2013
- Panelist, Economic Forecasting Summit, Northern Indiana Workforce Investment Board, Inc., 29 March 2007
- “The Welfare Benefits of USDA Beef Quality Certification Programs” (with Peyton Ferrier), presentation memo, 2007
- “Reform of U.S. Farm Policy in an Integrating World Economy,” presented to the Cordell Hull Institute, Trade Policy Roundtable on Reform of U.S. Farm Policy and the WTO System, Washington, DC: 31 March 2006
- “The Case for a Market-forces Farm Policy in the U.S.” presented at the Cordell Hull Institute Trade Policy Roundtable, Washington DC: 26 May 2005
- “How Will the Economy Impact Your Business?” presented at the Apple Processors Association annual meeting, Homewood Resort, 20 June 2004
- “The U.S. and International Economic Outlook,” presented at the AgFirst Loan Officer’s Seminar, Atlanta, GA: 30-31 October 2002
- “Will the U.S. Economy Bounce or Crawl?” presented to the Eastern Bankruptcy Institute, North Myrtle Beach, SC: 1 June 2002
- “The U.S. Economic Outlook and Agriculture,” presented to the National Pork Producers Pork Action Group, Washington, DC: 10 April 2002
- “The U.S. Economic Outlook” presented to the Risk Management Associates, Raleigh, NC: 7 February 2002
- “The U.S. Economic Outlook: The Cost of Terror,” presented at the National Pork Producers Pork Action Group, Marco Island, FL: 14 November 2001
- “Consolidation in Agriculture and the Role of Public Policy,” paper presented to the Southern Extension Meetings, Williamsburg, VA: 13 June 2000
- “The New Farm Economy,” presented at the annual meetings of the National Association of County Agricultural Agents, Omaha, NE: 14 September 1999
- “Regional Economic Update,” presented to bankers in Kansas, Nebraska, Missouri, and Oklahoma as part of the Regulatory Update Seminar, Federal Reserve Bank of Kansas City, April 1999



- “The National Economic Outlook,” presented to Oklahoma State University Advanced Cattle Management Seminar, Stillwater, OK: 11 March 1999
- “Regional Economic Update,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 13 November 1998
- “Can the Tenth District Survive the Asian Flu?” The Federal Reserve Bank of Kansas City Economic Forums, nine presentations to bankers in Wyoming, Oklahoma, and New Mexico, 21 September – 21 October 1998
- “The Impact of Asian Economic Developments on Tenth District Agriculture,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 30 January 1998
- “The Outlook for the Nebraska Economy,” The Federal Reserve Bank of Kansas City: Nebraska Economic Forums, six presentations to bankers in Nebraska, 6-15 October 1997
- “Update on the Macroeconomy and Special Briefing on Forecast Performance at the Kansas City Fed,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 13 August 1997
- “Regional Economic Update,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 14 May 1997 and 21 March 1997
- “Producer Prices, Retail Sales, and Agricultural Commodity Markets,” presented to the Board of Governors of the Federal Reserve System, 15 July 1996

## **Referee Experience**

### **Referee for the Following Academic Journals**

- World Development, 1993
- Journal of Development Economics, 1994, 1995
- International Economic Review, 1995
- Journal of Human Resources, 1997
- Journal of Business and Economics Statistics, 1997
- American Journal of Agricultural Economics, 1999, 2001, 2002
- Agricultural Economics, 2000, 2001, 2004
- Agricultural Finance Review, 2000, 2004
- Review of Agricultural Economics, 2000, 2002, 2004
- Journal of Agricultural and Resource Economics, 2000, 2001, 2002
- Emerging Markets Review, 2001
- Contemporary Economic Policy, 2004

## **Fellowships, Honors, and Awards**

### **Fellowships**

- Departmental Fellowship, University of Pennsylvania, 1989-1990
- Dean's Fellowship, University of Pennsylvania, 1991-1992
- Graduate School Fellowship, University of Maryland, College Park, 1987-1989

### **Honor Societies and Professional Organizations**

- Phi Eta Sigma National Honor Society
- Mortar Board National Honor Society
- Golden Key National Honor Society
- Vice President for Professional Activities, Delta Sigma Pi

### **Awards**

- Top Graduate in Liberal Arts, University of Tennessee, Knoxville, Spring 1987
- Chancellor's Citation for Extraordinary Professional Promise, University of Tennessee, Knoxville
- Chancellor's Citation for Outstanding Academic Achievement, University of Tennessee, Knoxville
- First place poster presentation, American Agricultural Economics Association annual meetings, August 1998 (with Jason Henderson)
- Honorable mention, American Agricultural Economics Association, Essay for the 21<sup>st</sup> Century, 2001, "A Market Forces Policy for the New Farm Economy"
- Honorable mention, American Antitrust Institute Antitrust Enforcement Awards, Outstanding Antitrust Litigation Achievement in Economics (for work in *In Re Titanium Dioxide Antitrust Litigation*)
- American Antitrust Institute Antitrust Enforcement Awards, Outstanding Antitrust Litigation Achievement in Economics (for work in *In Re Domestic Drywall Antitrust Litigation*)
- American Antitrust Institute Antitrust Enforcement Awards, Outstanding Antitrust Litigation Achievement in Economics (for work in *In Re Namenda Direct Purchaser Antitrust Litigation*)

### **External Funding**

- "Unmanufactured Flue-Cured Tobacco Exports and the Export Component of the Quota Formula." \$13,890 NC Tobacco Foundation. With Blake Brown 2000 – 2001.

## **Professional Activities and Services**

### **Graduate Student Advising**

M.A. degree, North Carolina State University

- Joe Weinberg (Political Science)

Master of Economics, North Carolina State University

- William Pole (2000)
- Dwight Wilder (Chairman, 2002)
- Adrian Atkeson (2002)
- Sarah Spivey
- Li Zhang (Chairman, 2003)
- Nia Atmadja (2003)

Doctor of Philosophy, North Carolina State University

- William Deese (2003)
- Peyton Ferrier (Chairman, 2004)
- Yang Wang (2003)
- Bobby Huggett (2003)
- Syed Wadood (Chairman, 2004)
- Henry Kuo

### **Economic and Statistical Modeling Skills**

- Experience with all major statistical software including SAS, STATA, LIMDEP and C++; applied econometric modeling skills in damage analysis of consumer industries, chemicals industries, and agricultural markets, correlation analysis for class certification.