

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|                                     |                             |
|-------------------------------------|-----------------------------|
| IN RE OPANA ER ANTITRUST LITIGATION | MDL 2580                    |
| THIS DOCUMENT RELATES TO:           | Lead Case No. 1:14-cv-10150 |
| All End-Payor Actions               | Hon. Harry D. Leinenweber   |

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

I, Eric J. Miller, declare as follows:

1. I am the Senior Vice President of A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”), whose corporate office is located in Milwaukee, Wisconsin. My business address is 5080 PGA Boulevard, Suite 209, Palm Beach Gardens, FL 33418, and my telephone number is 561-336-1801.

2. I submit this Declaration in connection with the above-referenced action (the “Action”). This Declaration is based upon my personal knowledge and upon information provided by my associates and staff members. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

3. Pursuant to the Court’s Order Preliminarily Approving End-Payor Plaintiffs’ Settlement with Defendant Impax Laboratories, Inc. dated August 24, 2022 (the “Preliminary Approval Order”), A.B. Data was responsible for effectuating notice pursuant to the Notice Plan

approved by the Court. This Declaration details the steps taken by A.B. Data, which consisted of the following: a) direct mail to potential third-party payor (“TPP”) Class Members using A.B. Data’s proprietary database (the “TPP Database”); b) a digital advertising campaign on numerous digital and social media platforms; c) a news release disseminated over *PR Newswire*; and d) a toll-free telephone number and class notice website to address potential Class Member inquiries.

#### **DIRECT MAIL NOTICE TO TPPS**

4. On September 13, 2022, A.B. Data mailed the postcard notice (the “Postcard Notice”) via USPS First-Class Mail to 41,642 entities in A.B. Data’s TPP Database. These entities include insurance companies, health maintenance organizations, self-insured entities, pharmacy benefits managers (“PBMs”), third-party administrators (“TPAs”), and other entities that represent potential TPP Class Members. A copy of the Postcard Notice is attached hereto as **Exhibit A**.

5. In addition, A.B. Data sent 1,535 emails to TPPs and their representatives where email addresses were available.

#### **DIGITAL AND SOCIAL MEDIA**

6. Beginning on September 7, 2022, A.B. Data coordinated internet banner ads and social media ads to appear on various websites and social media platforms for 30 days. When clicked, the banners directed potential Class Members to the Class website ([OpanaERAntitrustLitigation.com](http://OpanaERAntitrustLitigation.com)). Over 299 million impressions were delivered to potential Class Members. To provide additional reach to TPP Class Members, A.B. Data also caused digital banner ads to appear on [BenefitNews.com](http://BenefitNews.com), [SHRM.org](http://SHRM.org), and [ThinkAdvisor.com/life-health](http://ThinkAdvisor.com/life-health), which are websites that reach insurance agents/brokers and related TPP professionals. A sampling of the consumer and TPP digital banner ads are attached hereto as **Exhibit B**.

7. A.B. Data caused the notice to be published in *People* magazine that hit newsstands

on September 30, 2022. Proof of publication is attached hereto as **Exhibit C**.

8. On September 7, 2022, A.B. Data caused the notice formatted as a news release to be disseminated via *PR Newswire*. This news release was distributed via *PR Newswire* to the news desks of approximately 10,000 newsrooms across the United States, including those in general-market print, broadcast, and digital media. A true and correct copy of the press release is attached hereto as **Exhibit D**.

#### **TELEPHONE HELPLINE AND WEBSITE**

9. On September 7, 2022, A.B. Data updated the Class website, [OpanaERAntitrustLitigation.com](http://OpanaERAntitrustLitigation.com), to announce the proposed settlement with Impax Laboratories, Inc. The website includes information regarding the Action, including the objection and claim filing deadlines, and the date, time, and location for the Court's Fairness Hearing. Copies of the long form Notice (attached hereto as **Exhibit E**), Complaint, Class Certification Order, Preliminary Approval Order, Class Action Settlement Agreement Between End-Payor Plaintiffs and Defendant Impax Laboratories, Inc. and other relevant documents are posted on the website and are available for downloading. In addition, the website provides Class Members with the ability to submit their claim form through the website. The website is accessible 24 hours a day, 7 days a week.

10. On October 12, 2022, A.B. Data posted End-Payers Plaintiffs' Motion for Payment of Attorneys' Fees, Reimbursement of Expenses, and Class Representative Service Awards and supporting documents.

11. A.B. Data established a case-specific toll-free number, 1-877-888-6423, with an IVR system and live operators, to accommodate potential Class Members with questions about the Action. The automated attendant answers the calls and presents callers

with a series of choices to respond to basic questions. If callers need further help, they have the option of being transferred to a live operator during business hours. On September 7, 2022, A.B. Data updated the automated attendant answers as it pertains to the proposed settlement.

**REPORT ON OPT OUT REQUESTS**

12. Class Members were previously provided an opportunity to request exclusion from the Classes by December 6, 2021. In my Declaration of Eric J. Miller Regarding (a) Mailing of the Postcard Notice; (b) Publication of Summary Notice; and (c) Report on Requests for Exclusion Received to Date dated January 5, 2022 (ECF 774), I reported that A.B. Data received three (3) requests for exclusion.

13. As of the date of this Declaration, A.B. Data has not received any additional requests for exclusion.

**REPORT ON OBJECTIONS**

14. The Notices inform potential Class Members that any objection to the Settlement and/or request to speak in person at the Fairness Hearing must be filed with the Court and mailed to Co-Lead Counsel and Defense Counsel on or before November 7, 2022. As of the date of this Declaration, A.B. Data has not received or been made aware of any objections to the Settlement and/or requests to speak in person at the Fairness Hearing

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of November 2022.



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Eric J. Miller

# EXHIBIT A

## LEGAL NOTICE

**If you paid for or provided reimbursement for some or all of the purchase price of brand or generic Opana ER<sup>®</sup> (oxymorphone hydrochloride extended release), you could get a payment from a class action lawsuit.**

Opana ER Class Action  
P.O. Box 173067  
Milwaukee, WI 53217

Your rights may be affected by a proposed partial settlement in a class action lawsuit regarding the prices paid for brand and generic Opana ER by consumers and third-party payors filed against Defendant Impax Laboratories, Inc. (“Impax”). The case name is *In re Opana ER Antitrust Litigation*, MDL No. 2580, Lead Case No. 14-cv-10150 (N.D. Ill.) (the “Lawsuit”). The Lawsuit, which is pending in the Northern District of Illinois, alleges that Impax, together with Endo Health Solutions Inc., Endo Pharmaceuticals Inc., and Penwest Pharmaceuticals Co. (collectively, “Endo”), violated certain state antitrust, consumer protection, and unjust enrichment laws by entering into a “pay for delay” or “reverse payment” agreement, delaying the launch of Impax’s generic version of Opana ER until January 2013. As a result, the Lawsuit alleges that the End-Payor Classes paid or reimbursed for brand and generic Opana ER at prices that were higher than they would have otherwise been. Impax denies any wrongdoing. After Plaintiffs settled with Impax, a federal jury determined that as to Endo, Plaintiffs did not meet their burden in showing that Endo violated federal or state laws arising from Plaintiffs’ allegations.

**Postmaster: Please DO NOT Cover Up Barcode**

The Court has preliminarily approved the proposed settlement between the End-Payor Classes and Impax (the "Settlement"). The proposed Impax Settlement will provide for the payment of \$15 million (the "Settlement Fund") to resolve the End-Payor Classes' claims against Impax. The full text of the proposed Settlement Agreement is available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

The Court has scheduled a hearing to decide whether to approve the Settlement, the plan for allocating the Settlement Fund to Class Members, and the request of Co-Lead Counsel for payment of attorneys' fees and reimbursement of expenses and service awards to the Class Representative Plaintiffs out of the Settlement Fund (the "Fairness Hearing"). The Fairness Hearing is scheduled for December 15, 2022, at 10:00a.m., before Judge Harry D. Leinenweber at the Everett McKinley Dirksen U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604.

#### Who Is Included?

You are a member of the End-Payor Plaintiff Classes if:

You purchased, paid for, or provided reimbursement for some or all of the purchase price of brand or generic Opana ER sold by Endo or Impax for the purpose of consumption, and not resale, by yourself, your family member(s), insureds, plan participants, employees, or beneficiaries, at any time from April 2011 through September 2018 in any of the following states or commonwealths: Arizona\*, California, Florida, Hawaii, Iowa, Maine, Massachusetts\*, Michigan, Minnesota, Missouri, Mississippi\*, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Oregon, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin, and the District of Columbia.

\* With respect to Arizona, Massachusetts, and Mississippi unjust enrichment claims, Class Members must have purchased, paid for, and/or provided reimbursement for some or all of the purchase price of brand or generic Opana ER from June 4, 2011, through September 2018.

The following are NOT members of the Classes:

- Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;
- Persons or entities whose only purchases of or reimbursements or payments for brand or generic Opana ER were of or for the generic Opana ER product sold by Actavis South Atlantic LLC or its successors;
- All governmental entities and Medicare Part D plans and beneficiaries, except for non-Medicare Part D government-funded employee benefit plans;
- All persons or entities who purchased Opana ER for purposes of resale or directly from Defendants or their affiliates;
- Fully insured health plans (plans that purchased insurance from another third-party payor covering 100 percent of the plan's reimbursement obligations to its members);
- Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs);
- Any consumer who purchased only Endo's brand version of Opana ER after the AB-rated generic version became available in January 2013 (*i.e.*, "brand loyalists");
- Consumers with copay insurance plans who purchased only generic versions of Opana ER (*i.e.*, "generic-only copay consumers");
- Pharmacy Benefit Managers;
- All Counsel of Record; and
- The Court, Court personnel, and any member of their immediate families.

For additional details, please read the Long Form Notice available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

#### Your Rights and Options

**DO NOTHING:** If you are a member of a Class, by doing nothing you will remain in that Class but will not be entitled to share in any distribution from the Settlement Fund. You will be bound by any decision of the Court in this Lawsuit, including rulings on the Settlement.

**SUBMIT A CLAIM FORM:** If you did not exclude yourself from one or more of the Classes prior to the December 6, 2021, deadline and believe you are a Class Member, you will need to complete and return a Claim Form to obtain a share of the Settlement Fund. The Claim Form, and information on how to submit it, are available on the Settlement website. Claim Forms must be postmarked (if mailed) or received (if submitted online) on or before January 5, 2023. **Because a federal jury has recently determined that Impax's co-defendant Endo has not violated federal or state law arising from its reverse payment agreement, this may be your only opportunity to receive compensation in this Litigation.**

**OBJECT TO THE SETTLEMENT:** If you object to all or any part of the Settlement or desire to speak in person at the Fairness Hearing, you must file a written letter of objection and/or a notice of intention to speak, including a summary statement, with the Court, Co-Lead Counsel, and Counsel for Impax by November 7, 2022.

#### Want More Information?

Go to [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com). You may also contact the Claims and Notice Administrator, by mail at Opana ER Antitrust Litigation, P.O. Box 173067, Milwaukee, WI 53217, email at [info@opanaerantitrustlitigation.com](mailto:info@opanaerantitrustlitigation.com), or phone at 877-888-6423. The deadlines contained in this notice may be amended by Court Order, so check the Settlement website for any updates.

Please do not call the Court or the Clerk of the Court for information about the Impax Settlement.

# EXHIBIT B

**\$15 Million Settlement**



**For People  
Who Purchased  
Opana ER<sup>®</sup>  
Or Its Generic  
Equivalent**

**File Your CLAIM TODAY →**

[OpanaERAntitrustLitigation.com](http://OpanaERAntitrustLitigation.com)

**\$15 Million Settlement**

For Entities Who Purchased or  
Provided Reimbursement  
**for Opana ER<sup>®</sup>**  
Or Its Generic Equivalent for Members, Employees,  
Insureds, Participants or Beneficiaries



**File Your CLAIM TODAY →**

[OpanaERAntitrustLitigation.com](http://OpanaERAntitrustLitigation.com)

# EXHIBIT C

**If you paid for or provided reimbursement for some or all of the purchase price of brand or generic Opana ER® (oxymorphone hydrochloride extended release), you could get a payment from a class action lawsuit.**

Your rights may be affected by a proposed partial settlement in a class action lawsuit regarding the prices paid for brand and generic Opana ER by consumers and third-party payors filed against Defendant Impax Laboratories, Inc. ("Impax"). The case name is *In re Opana ER Antitrust Litigation*, MDL No. 2580, Lead Case No. 14-cv-10150 (N.D. Ill.) (the "Lawsuit"). The Lawsuit, which is pending in the Northern District of Illinois, alleges that Impax, together with Endo Health Solutions Inc., Endo Pharmaceuticals Inc., and Penwest Pharmaceuticals Co. (collectively, "Endo") violated certain state antitrust, consumer protection, and unjust enrichment laws by entering into a "pay for delay" or "reverse payment" agreement, delaying the launch of Impax's generic version of Opana ER until January 2013. As a result, the Lawsuit alleges that the End-Payor Classes paid or reimbursed for brand and generic Opana ER at prices that were higher than they would have otherwise been. Impax denies any wrongdoing. After Plaintiffs settled with Impax, a federal jury determined that as to Endo, Plaintiffs did not meet their burden in showing that Endo violated federal or state laws arising from Plaintiffs' allegations.

The Court has preliminarily approved the proposed settlement between the End-Payor Classes and Impax (the "Settlement"). The proposed Impax Settlement will provide for the payment of \$15 million (the "Settlement Fund") to resolve the End-Payor Classes' claims against Impax. The full text of the proposed Settlement Agreement is available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

The Court has scheduled a hearing to decide whether to approve the Settlement, the plan for allocating the Settlement Fund to Class Members, and the request of Co-Lead Counsel for payment of attorneys' fees and reimbursement of expenses and service awards to the Class Representative Plaintiffs out of the Settlement Fund (the "Fairness Hearing"). The Fairness Hearing is scheduled for December 15, 2022, at 10:00 a.m., before Judge Harry D. Leinenweber at the Everett McKinley Dirksen U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604.

**Who Is Included?**

You are a member of the End-Payor Plaintiff Classes if:

You purchased, paid for, or provided reimbursement for some or all of the purchase price of brand or generic Opana ER sold by Endo or Impax for the purpose of consumption, and not resale, by yourself, your family member(s), insureds, plan participants, employees, or beneficiaries, at any time from April 2011 through September 2018 in any of the following states or commonwealths:

Arizona\*, California, Florida, Hawaii, Iowa, Maine, Massachusetts\*, Michigan, Minnesota, Missouri, Mississippi\*, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Oregon, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin, and the District of Columbia.

\* With respect to Arizona, Massachusetts, and Mississippi unjust enrichment claims, Class Members must have purchased, paid for, and/or provided reimbursement for some or all of the purchase price of brand or generic Opana ER from June 4, 2011, through September 2018.

The following are NOT members of the Classes:

- Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;
- Persons or entities whose only purchases of or reimbursements or payments for brand or generic Opana ER were of or for the generic Opana ER product sold by Actavis South Atlantic LLC or its successors;
- All governmental entities and Medicare Part D plans and beneficiaries, except for non-Medicare Part D government-funded employee benefit plans;
- All persons or entities who purchased Opana ER for purposes of resale or directly from Defendants or their affiliates;
- Fully insured health plans (plans that purchased insurance from another third-party payor covering 100 percent of the plan's reimbursement obligations to its members);
- Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs);
- Any consumer who purchased only Endo's brand version of Opana ER after the AB-rated generic version became available in January 2013 (i.e., "brand loyalists");
- Consumers with copay insurance plans who purchased only generic versions of Opana ER (i.e., "generic-only copay consumers");
- Pharmacy Benefit Managers;
- All Counsel of Record; and
- The Court, Court personnel, and any member of their immediate families.

For additional details, please read the Long Form Notice available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

**Your Rights and Options**

**DO NOTHING:** If you are a member of a Class, by doing nothing you will remain in that Class but will not be entitled to share in any distribution from the Settlement Fund. You will be bound by any decision of the Court in this Lawsuit, including rulings on the Settlement.

**SUBMIT A CLAIM FORM:** If you did not exclude yourself from one or more of the Classes prior to the December 6, 2021, deadline and believe you are a Class Member, you will need to complete and return a Claim Form to obtain a share of the Settlement Fund. The Claim Form, and information on how to submit it, are available on the Settlement website. Claim Forms must be postmarked (if mailed) or received (if submitted online) on or before January 5, 2023. **Because a federal jury has recently determined that Impax's co-defendant Endo has not violated federal or state law arising from its reverse payment agreement, this may be your only opportunity to receive compensation in this Litigation.**

**OBJECT TO THE SETTLEMENT:** If you object to all or any part of the Settlement or desire to speak in person at the Fairness Hearing, you must file a written letter of objection and/or a notice of intention to speak, including a summary statement, with the Court, Co-Lead Counsel, and Counsel for Impax by November 7, 2022.

**Want More Information?**

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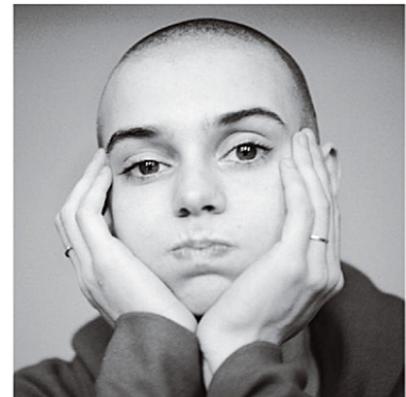
Please do not call the Court or the Clerk of the Court or information about the Impax Settlement.



Reid (left) and Anderson.

**AMC | Anne Rice's Interview With the Vampire**

**HORROR** The famous vampire saga, the source of 1994's problematic Tom Cruise movie, has risen again, this time as a sumptuous, bloody, funny series. As romantically entwined Lestat and Louis de Pointe du Lac, Sam Reid and Jacob Anderson are—oh, let's just say it!—to die for. (Premieres Oct. 2, 10 p.m.)



**SHOWTIME | Nothing Compares**

**DOCUMENTARY** This film about pop star Sinéad O'Connor focuses on her swift ascent and the price of her resolute conscience: Her career collapsed in 1992, when she tore up Pope John Paul II's photo on *Saturday Night Live* to protest sexual abuse. "They broke my heart, and they killed me," she says of the fallout, "but I didn't die." (Oct. 2, 10 p.m.)

# EXHIBIT D

# Dicello Levitt LLC and Freed Kanner London & Millen LLC Announce a Proposed Settlement of a Class Action Involving Purchasers of Opana ER and/or its Generic Equivalent

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NEWS PROVIDED BY

**Dicello Levitt LLC and Freed Kanner**

**London & Millen LLC →**

Sep 07, 2022, 17:00 ET

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CHICAGO, Sept. 7, 2022 /PRNewswire/ --

**If you paid for or provided reimbursement for some or all of the purchase price of brand or generic Opana ER<sup>®</sup> (oxymorphone hydrochloride extended release), you could get a payment from a class action lawsuit.**

Your rights may be affected by a proposed partial settlement in a class action lawsuit regarding the prices paid for brand and generic Opana ER by consumers and third-party payors filed against Defendant Impax Laboratories, Inc. ("Impax"). The case name is *In re Opana ER Antitrust Litigation*, MDL No. 2580, Lead Case No. 14-cv-10150 (N.D. Ill.) (the "Lawsuit"). The Lawsuit, which is pending in the Northern District of Illinois, alleges that Impax, together with Endo Health Solutions Inc., Endo Pharmaceuticals Inc., and Penwest Pharmaceuticals Co. (collectively, "Endo"), violated certain state antitrust, consumer protection, and unjust enrichment laws by entering into a "pay for delay" or "reverse payment" agreement, delaying the launch of Impax's generic version of Opana ER until January 2013. As a result, the Lawsuit alleges that the End-Payor Classes paid or reimbursed for brand and generic Opana ER at prices that were higher than they would have otherwise been. Impax denies any wrongdoing. After Plaintiffs settled with Impax, a federal jury determined that as to Endo, Plaintiffs did not meet their burden in showing that Endo violated federal or state laws arising from Plaintiffs' allegations.

The Court has preliminarily approved the proposed settlement between the End-Payor Classes and Impax (the "Settlement"). The proposed Impax Settlement will provide for the payment of \$15 million (the "Settlement Fund") to resolve the End-Payor Classes' claims against Impax. The full text of the proposed Settlement Agreement is available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

The Court has scheduled a hearing to decide whether to approve the Settlement, the plan for allocating the Settlement Fund to Class Members, and the request of Co-Lead Counsel for payment of attorneys' fees and reimbursement of expenses and service awards to the Class Representative Plaintiffs out of the Settlement Fund (the "Fairness Hearing"). The Fairness Hearing is scheduled for December 15, 2022, at 10:00a.m., before Judge Harry D. Leinenweber at the Everett McKinley Dirksen U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604.

### **Who Is Included?**

You are a member of the End-Payor Plaintiff Classes if:

You purchased, paid for, or provided reimbursement for some or all of the purchase price of brand or generic Opana ER sold by Endo or Impax for the purpose of consumption, and not resale, by yourself, your family member(s), insureds, plan participants, employees, or beneficiaries, at any time from April 2011 through September 2018 in any of the following states or commonwealths:

Arizona\*, California, Florida, Hawaii, Iowa, Maine, Massachusetts\*, Michigan, Minnesota, Missouri, Mississippi\*, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Oregon, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin, and the District of Columbia.

\* With respect to Arizona, Massachusetts, and Mississippi unjust enrichment claims, Class Members must have purchased, paid for, and/or provided reimbursement for some or all of the purchase price of brand or generic Opana ER from June 4, 2011, through September 2018.

The following are NOT members of the Classes:

- Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;
- Persons or entities whose only purchases of or reimbursements or payments for brand or generic Opana ER were of or for the generic Opana ER product sold by Actavis South Atlantic LLC or its successors;
- All governmental entities and Medicare Part D plans and beneficiaries, except for non-Medicare Part D government-funded employee benefit plans;
- All persons or entities who purchased Opana ER for purposes of resale or directly from Defendants or their affiliates;
- Fully insured health plans (plans that purchased insurance from another third-party payor covering 100 percent of the plan's reimbursement obligations to its members);
- Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs);
- Any consumer who purchased only Endo's brand version of Opana ER after the AB-rated generic version became available in January 2013 (*i.e.*, "brand loyalists");
- Consumers with copay insurance plans who purchased only generic versions of Opana ER (*i.e.*, "generic-only copay consumers");
- Pharmacy Benefit Managers;
- All Counsel of Record; and
- The Court, Court personnel, and any member of their immediate families.

For additional details, please read the Long Form Notice available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

### **Your Rights and Options**

**DO NOTHING:** If you are a member of a Class, by doing nothing you will remain in that Class but will not be entitled to share in any distribution from the Settlement Fund. You will be bound by any decision of the Court in this Lawsuit, including rulings on the Settlement.

**SUBMIT A CLAIM FORM:** If you did not exclude yourself from one or more of the Classes prior to the December 6, 2021, deadline and believe you are a Class Member, you will need to complete and return a Claim Form to obtain a share of the Settlement Fund. The Claim Form, and information on how to submit it, are available on the Settlement website. Claim Forms must be postmarked (if mailed) or received (if submitted online) on or

**that Impax's co-defendant Endo has not violated federal or state law arising from its reverse payment agreement, this may be your only opportunity to receive compensation in this Litigation.**

OBJECT TO THE SETTLEMENT: If you object to all or any part of the Settlement or desire to speak in person at the Fairness Hearing, you must file a written letter of objection and/or a notice of intention to speak, including a summary statement, with the Court, Co-Lead Counsel, and Counsel for Impax by November 7, 2022.

### **Want More Information?**

Go to [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com). You may also contact the Claims and Notice Administrator, by mail at Opana ER Antitrust Litigation, P.O. Box 173067, Milwaukee, WI 53217, email at [info@opanaerantitrustlitigation.com](mailto:info@opanaerantitrustlitigation.com), or phone at 877-888-6423. The deadlines contained in this notice may be amended by Court Order, so check the Settlement website for any updates.

Please do not call the Court or the Clerk of the Court for information about the Impax Settlement.

SOURCE Dicello Levitt LLC and Freed Kanner London & Millen LLC

# EXHIBIT E

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS**

**If you paid for or provided reimbursement for some or all of the purchase price of brand  
or generic Opana ER (oxymorphone hydrochloride extended release),**

*You Could Get a Payment from a Class Action Lawsuit.  
A Federal Court ordered this Class Notice.*

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

*This is not a solicitation from a lawyer. You are not being sued.*

The purpose of this Notice is to alert you of a proposed partial settlement in a lawsuit (the “Lawsuit”) brought by consumers and third-party payors (“End Payors”) who indirectly purchased, paid for, and/or reimbursed for some or all of the purchase price for brand or generic Opana ER against Impax Laboratories, Inc. (“Impax”) and Endo Health Solutions Inc., Endo Pharmaceuticals Inc., and Penwest Pharmaceuticals Co. (collectively, “Endo,” and, together with Impax, “Defendants”). The proposed settlement only concerns End Payors’ claims against Impax.

No one is claiming the drugs at issue are unsafe. Rather the Lawsuit alleges that Defendants violated certain state antitrust, consumer protection, and unjust enrichment laws, harming competition and causing Class Members to overpay for Opana ER products. Specifically, End Payors allege that in June 2010, Endo and Impax entered into a “pay for delay” or “reverse payment” agreement, delaying the launch of Impax’s generic version of Opana ER until January 2013. Absent the alleged reverse payment agreement, End Payors claim that Impax would have launched its generic version of Opana ER earlier than January 2013 and that Endo would have launched an authorized generic version of Opana ER at or about the same time as Impax launched its generic product. End Payors allege that the prices of brand and generic versions of Opana ER sold by Defendants were higher than they would have been absent the alleged unlawful conduct, causing drug purchasers to overpay for brand and generic Opana ER. Defendants deny all these allegations, that they violated any law, or that End Payors or the Classes, as defined below, are entitled to damages or any relief. Defendants have denied any wrongdoing. After Plaintiffs settled with Impax, a federal jury determined that as to Impax’s co-Defendant Endo, Plaintiffs did not meet their burden in showing that Endo’s reverse payment agreement with Impax violated federal or state laws.

The Court previously determined that the Lawsuit can be a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. The “End-Payor Plaintiff Classes” (or “Classes”) are defined as follows:

- **Antitrust/Consumer Protection Class:** All persons or entities who indirectly purchased, paid for, and/or provided reimbursement for some or all of the purchase price for brand or generic Opana ER 5 mg, 10 mg, 20 mg, 30 mg, and/or 40 mg sold by Defendants, other

**QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)**

than for resale, in the states and commonwealths of Arizona, California, Florida, Hawaii, Iowa, Maine, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, South Dakota, Tennessee, Vermont, West Virginia, Wisconsin, and the District of Columbia from April 2011 through September 2018; and

- **Unjust Enrichment Subclasses:** All persons or entities who from April 2011 through September 2018 indirectly purchased, paid for, and/or provided reimbursement for some or all of the purchase price for brand or generic Opana ER 5 mg, 10 mg, 20 mg, 30 mg, and/or 40 mg sold by Defendants, other than for resale, in the following states and commonwealths:
  - Subclass 1: Iowa, Michigan, Oregon, West Virginia
  - Subclass 2: Maine, New Mexico, Wisconsin
  - Subclass 3: Hawaii, Massachusetts\*, Mississippi\*, Nebraska, Vermont
  - Subclass 4: Florida, Minnesota, Missouri, Nevada, Pennsylvania, South Dakota, Utah
  - Subclass 5: Arizona\*, North Dakota.

\* With respect to Arizona, Massachusetts, and Mississippi unjust enrichment claims, Class Members must have purchased, paid for, and/or provided reimbursement for some or all of the purchase price of brand or generic Opana ER from June 4, 2011, through September 2018.

**Excluded from the Classes are:**

- Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;
- Persons or entities whose only purchases of or reimbursements or payments for brand or generic Opana ER were of or for the generic Opana ER product sold by Actavis South Atlantic LLC or its successors;
- All governmental entities and Medicare Part D plans and beneficiaries, except for non-Medicare Part D government-funded employee benefit plans;
- All persons or entities who purchased Opana ER for purposes of resale or directly from Defendants or their affiliates;
- Fully insured health plans (plans that purchased insurance from another third-party payor covering 100 percent of the plan's reimbursement obligations to its members);
- Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs);
- Any consumer who purchased only Endo's brand version of Opana ER after the AB-rated generic version became available in January 2013 (*i.e.*, "brand loyalists");
- Consumers with copay insurance plans who purchased only generic versions of Opana ER (*i.e.*, "generic-only copay consumers");
- Pharmacy Benefit Managers;
- All Counsel of Record; and

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- The Court, Court personnel, and any member of their immediate families.

In addition, people who or entities that submitted a valid exclusion request before the December 6, 2021, exclusion deadline described in the previous notice of this Lawsuit sent to all Class Members are also excluded.

The Court preliminarily approved the proposed settlement between the End-Payor Plaintiff Classes and Impax (the “Impax Settlement” or “Settlement”) on August 24, 2022. The proposed Impax Settlement provides for the payment of \$15 million (the “Settlement Fund”) to resolve the Classes’ claims against Impax. The full text of the proposed Settlement Agreement is available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

a. The Court scheduled a hearing to decide whether to approve the Impax Settlement, the plan for allocating the Settlement Fund to members of the Classes (“Class Members”), and the request of the attorneys for the Classes (“Co-Lead Counsel”) for payment of attorneys’ fees and reimbursement of expenses and possible service awards to the Class Representatives (defined below) out of the Settlement Fund (the “Fairness Hearing”). The Fairness Hearing is scheduled for December 15, 2022 at 10:00 a.m. Central Time by video conference before Judge Harry D. Leinenweber at the Everett McKinley Dirksen U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. Anyone wishing to appear may do so by accessing the following link from a computer, mobile telephone, or tablet:

[https://meet.uc.uscourts.gov/meeting/971179555?secret=axe\\_OtIs0SDNZx4qFKoc7g](https://meet.uc.uscourts.gov/meeting/971179555?secret=axe_OtIs0SDNZx4qFKoc7g)

Meeting ID: 971179555. For audio access only, participants can dial 517-353-2301.

| <b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>             |   |
|--|---|
| <b>DO NOTHING</b>  | <p>If you are a member of a Class, by doing nothing you will remain in that Class but will not be entitled to share in any distribution from the Settlement Fund. You will be bound by any decision of the Court in this Lawsuit, including rulings on the Impax Settlement. See <b>Question 11</b>.</p>  |
| <b>SUBMIT A CLAIM FORM</b>                                       | <p>If you did not exclude yourself from one or more of the classes prior to the December 6, 2022, deadline and believe you are a Class Member, you will need to complete and return a Claim Form to obtain a share of the Settlement Fund. The Claim Form, and information on how to submit it, are available on the Settlement website. Claim Forms must be postmarked (if mailed) or received (if submitted online) on or before January 5, 2023. See <b>Question 7</b> for more information.</p> |
| <b>OBJECT TO THE SETTLEMENT OR SPEAK AT THE FAIRNESS HEARING</b> | <p>If you object to all or any part of the Settlement or desire to speak in person at the Fairness Hearing, you must file a written letter of objection and/or a notice of intention to speak, including a summary statement, with the Court, Co-Lead Counsel, and Counsel for Impax by November 7, 2022. See <b>Question 10</b>.</p>   |
| <b>GET MORE INFORMATION</b>                                      | <p>If you would like more information about the Lawsuit, you can review this Notice and send questions to the Claims and Notice Administrator and/or Co-Lead Counsel. See <b>Questions 12 and 18</b>.</p> <p style="text-align: center;"><b>DO NOT CONTACT THE COURT OR THE DEFENDANTS IF YOU HAVE QUESTIONS REGARDING THIS NOTICE.</b></p>   |

This Notice incorporates by reference the definitions in the Settlement Agreement. The Settlement Agreement and the Court’s Preliminary Approval Order are posted on the Settlement website, [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com). All capitalized terms used, but not defined, shall have the same meanings as in the Settlement Agreement and the Court’s Preliminary Approval Order.

**QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)**

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## BASIC INFORMATION

### 1. Why did I receive this Notice?

A federal court authorized this Notice because you have a right to know that you may be part of one or more of the certified Classes and about all of your options under the proposed Impax Settlement. This Notice explains the Lawsuit and the Impax Settlement; describes the certified Classes whose rights may be affected by the Impax Settlement; and explains your legal rights. Note that you may have received this Notice in error; simply receiving this Notice does not mean that you are definitely a member of one or more Classes. You may confirm that you are a member of one or more of the Classes by reviewing the criteria set forth in **Question 5** below. You may also call, email, or write to the lawyers in this case at the telephone numbers or addresses listed in **Question 12** below.

### 2. What is the Lawsuit about?

Plaintiffs Plumbers and Pipefitters Local 178 Health & Welfare Trust Fund, Louisiana Health Service & Indemnity Company, d/b/a Blue Cross and Blue Shield of Louisiana, Fraternal Order of Police, Miami Lodge 20, Insurance Trust Fund, Wisconsin Masons' Health Care Fund, Pennsylvania Employees Benefit Trust Fund, and International Union of Operating Engineers, Local 138 Welfare Fund (collectively, "Plaintiffs") filed lawsuits individually and as representatives of all persons or entities in the Classes. The Court has appointed them as class representatives ("Class Representatives").

The Lawsuit alleges that Defendants violated certain state antitrust, consumer protection, and unjust enrichment laws, harming competition and causing Class Members to overpay for Opana ER products. Specifically, Plaintiffs allege that in June 2010, Endo and Impax entered into a "pay for delay" or "reverse payment" agreement, delaying the launch of Impax's generic version of Opana ER until January 2013. Absent the alleged reverse payment agreement, Plaintiffs claim that Impax would have launched its generic version of Opana ER earlier than January 2013 and that Endo would have launched an authorized generic version of Opana ER at or about the same time as Impax launched its generic product.

The Lawsuit asserts that, as a result of Defendants' alleged unlawful conduct, the prices paid for brand and generic Opana ER were higher than they otherwise would have been. Plaintiffs seek to recover damages in the form of overcharges they allege were caused by Defendants' conduct. A copy of the operative class action complaint, filed May 4, 2015, is available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com), a website designed to keep Class Members informed of the status of the Impax Settlement. Defendants deny these allegations, including that the Plaintiffs or Class Members are entitled to damages or other relief.

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Following the completion of fact discovery, expert discovery, class certification, summary judgment motions, motions determining the admissibility of expert testimony, and several days of trial, and following extensive negotiations, Plaintiffs, individually and on behalf of the Classes, entered into the Impax Settlement. The Settlement Agreement is available for review at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com). The Impax Settlement is not an admission of wrongdoing by Impax or an admission by Plaintiffs of any lack of merit in their claims.

THE COURT HAS NOT DECIDED WHETHER IMPAX HAS VIOLATED ANY LAWS. THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF PLAINTIFFS' CLAIMS OR THE DEFENSES ASSERTED BY IMPAX.

However, after Plaintiffs settled with Impax, a federal jury determined that Plaintiffs had not met their burden in establishing that Impax's co-Defendant Endo had violated federal or state law arising from its reverse payment agreement with Impax. Specifically, the jury found that although Endo had market power over Opana ER and that it made a large, unjustified reverse payment to Impax, it found that the procompetitive benefits of the settlement outweighed any anticompetitive effect of the payments. Although Plaintiffs intend to file post-trial briefs and appeals seeking to vacate the jury's verdict, there is no certainty that they will be successful.

### **3. Why is this Lawsuit a class action?**

In a class action lawsuit, one or more persons or entities sue on behalf of others who have similar claims. Together, all these entities make up the "classes" and are called the "classes" or "class members." The companies that filed suit are called the "plaintiffs" (or "class representatives"). The companies that are sued, in this case Impax and Endo, are called the "Defendants."

In a class action lawsuit, one court resolves the issues for everyone in the classes, except for those class members who exclude themselves from the class.

In allowing this Lawsuit to proceed as a class action, on June 4, 2021, as amended by orders dated August 11, 2021, and September 23, 2021, Judge Harry D. Leinenweber certified the End-Payor Classes, described in more detail in **Question 5** below.

The Court decided that this Lawsuit can proceed as a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. Specifically, the Court found that:

- The members of the Classes are so numerous that joinder of all members is impractical ("numerosity");
- There are questions of law or fact common to the Classes ("commonality");
- The claims or defenses of the representative parties are typical of the claims or defenses of the Classes ("typicality");

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- The representative parties and their lawyers will fairly and adequately protect the interests of the Classes (“adequacy”); and
- Common legal and factual questions predominate over any questions affecting only individual members of the Classes, and this class action is the superior method for fair and efficient adjudication of this controversy (“predominance” and “superiority”).

In so doing, the Court found that Plaintiffs sufficiently showed that class-wide injury “is provable through common evidence” to the Class and that common issues predominate over individualized inquiries.

A copy of the Court’s orders may be found at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

#### **4. Why is there a Settlement with Impax?**

The Impax Settlement is the product of extensive negotiations between Co-Lead Counsel and counsel for Impax, after lengthy, hard-fought litigation. At the time of the Settlement, discovery was complete, expert reports had been exchanged and experts examined, motions for class certification and summary judgment and to determine the admissibility of expert testimony had been decided, and the trial had begun with opening arguments having taken place and several witnesses having been examined. By settling, the End Payors and Impax avoid the cost and risks of trial and possible appeals. For the End Payors, the Settlement, if approved by the Court, ensures that the Class Members will receive compensation for harm arising from Defendants’ alleged scheme to delay the market entry of less expensive, generic versions of Opana ER. Plaintiffs and Co-Lead Counsel believe that the terms of the Impax Settlement, including payment by Impax of \$15 million in exchange for a release of End Payors’ claims against Impax, are fair, adequate, and reasonable, and in the best interests of the Classes.

#### **WHO CAN PARTICIPATE IN THE SETTLEMENT?**

To see if you are in the Classes and, if so, how you will be able to share in the Settlement Fund, you need to determine whether you may be a Class Member.

#### **5. Am I part of one or more of the Classes?**

End Payors included individuals and Third-Party Payors. Third-Party Payors are entities (besides the patient) that provide payment or reimbursement for health care expenses, like prescription drug benefits. They include entities such as health insurance companies, self-insured health and welfare plans that make payments from their own funds, and other health benefit providers and entities with self-funded plans that contract with a health insurer or administrator to administer their prescription drug benefits. Third-Party Payors include such private entities that may provide prescription drug benefits for current or former public employees and/or public benefits programs, but only to the extent that such a private entity purchased for consumption by its members, employees, insureds, participants, or beneficiaries, brand or generic Opana ER. You are a member

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of the Class(es) if you are an End Payor and you purchased or provided reimbursement for prescription drugs as described below.

You are a member of the Classes if:

You purchased, paid for, or provided reimbursement for some or all of the purchase price of brand or generic Opana ER sold by Endo or Impax for the purpose of consumption, and not resale, by yourself, your family member(s), insureds, plan participants, employees, or beneficiaries, at any time from April 2011 through September 2018 in any of the following states or commonwealths:

Arizona\*, California, Florida, Hawaii, Iowa, Maine, Massachusetts\*, Michigan, Minnesota, Missouri, Mississippi\*, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Oregon, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin, and the District of Columbia.

\* With respect to Arizona, Massachusetts, and Mississippi unjust enrichment claims, Class Members must have purchased, paid for, and/or provided reimbursement for some or all of the purchase price of brand or generic Opana ER from June 4, 2011, through September 2018.

You are not a member of the Classes if you are among the following:

- Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;
- Persons or entities whose only purchases of or reimbursements or payments for brand or generic Opana ER were of or for the generic Opana ER product sold by Actavis South Atlantic LLC or its successors;
- All governmental entities and Medicare Part D plans and beneficiaries, except for non-Medicare Part D government-funded employee benefit plans;
- All persons or entities who purchased Opana ER for purposes of resale or directly from Defendants or their affiliates;
- Fully insured health plans (plans that purchased insurance from another third-party payor covering 100 percent of the plan's reimbursement obligations to its members);
- Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs);
- Any consumer who purchased only Endo's brand version of Opana ER after the AB-rated generic version became available in January 2013 (*i.e.*, "brand loyalists");
- Consumers with copay insurance plans who purchased only generic versions of Opana ER (*i.e.*, "generic-only copay consumers");
- Pharmacy Benefit Managers;
- All Counsel of Record; and
- The Court, Court personnel, and any member of their immediate families.

**QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)**

People who or entities that submitted a valid exclusion request before the December 6, 2021, exclusion deadline described in the previous notice of this Lawsuit sent to all Class Members are also excluded.

If you are not sure whether you are included, you may call, email, or write to the Claims and Notice Administrator in this case at the telephone number, email address, or address listed in **Question 12** below.

## THE SETTLEMENT BENEFITS

### 6. What does the Impax Settlement provide?

Impax has paid \$15 million into the Settlement Fund, which will be held in escrow for the benefit of the Classes (including any interest that accrues) pending the Court's approval of the Settlement and Co-Lead Counsel's plan to distribute the Settlement Fund to Class Members.

If the Settlement is approved by the Court and becomes final, Co-Lead Counsel will seek approval from the Court to obtain from the Settlement Fund: (i) reimbursement of reasonable costs and expenses incurred by Co-Lead Counsel in connection with the Settlement and the litigation; (ii) attorneys' fees for Co-Lead Counsel of up to 33 1/3% of the Settlement Fund; and (iii) payment for service awards to End-Payor Plaintiffs in recognition of their efforts to date on behalf of the Classes. The remainder after payment of the above expenses and payment of any Administration Expenses (the "Net Settlement Fund") will be divided among Class Members that timely return valid, approved Claim Forms pursuant to the Plan of Allocation, which is subject to Court approval.

In exchange, Plaintiffs' and the Classes' claims against Impax will be dismissed with prejudice, and Impax will be released by Class Members from all claims concerning the subject matter of or acts, omissions, or other conduct alleged in the operative complaint. The full text of the release is included in the Impax Settlement, which is available at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

The Impax Settlement may be terminated if, for example, the Court does not approve the Impax Settlement. If the Impax Settlement is terminated, the Lawsuit will proceed against Impax as if a settlement had not been reached.

Please note that after Plaintiffs settled with Impax, a federal jury determined that as to Impax's co-Defendant Endo, Plaintiffs had not met their burden in establishing that Endo violated federal or state law based on the conduct Plaintiffs alleged. Although Plaintiffs intend to file post-trial briefs and appeals seeking to vacate the jury's verdict, there is no certainty that they will be successful. **As a result, this may be your only opportunity to receive compensation in this Litigation.**

QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)

## HOW YOU GET A PAYMENT: SUBMITTING A CLAIM FORM

### **7. How can I get a payment?**

To be eligible to receive a payment if the Court approves the Impax Settlement, all Class Members must complete and submit a valid Claim Form to request their *pro rata* shares of the Net Settlement Fund. You will not be responsible for calculating the amount you are entitled to receive. You can get a Claim Form at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com) or by calling 1-877-888-6423 or writing to the address below and requesting a Claim Form. Claim Forms must be received (if submitted online) or postmarked (if mailed) by **January 5, 2023**, and may be submitted online at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com) or mailed to the address below:

Opana ER Class Action  
c/o A.B. Data, Ltd.  
P.O. Box 173067  
Milwaukee, WI 53217

### **8. How much will my payment be?**

Each Class Member's share of the Net Settlement Fund will be based on its qualifying purchases of brand or generic Opana ER and will be determined according to the Plaintiffs' proposed Plan of Allocation, if approved by the Court. Payments will be based on a number of factors, including the number of valid claims filed by all members of the Classes and the dollar value of each member of the Classes' purchase(s) in proportion to the total claims filed. Complete details of how your recovery will be calculated are in the detailed Plan of Allocation, which can be viewed at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com).

### **9. When would I get my payment?**

The Court must approve the Impax Settlement and any appeals of that decision must be resolved before any money is distributed to Class Members. The Claims and Notice Administrator must also complete processing of all of the Claim Forms and determine distribution amounts. This process can take several months.

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with any part of the Impax Settlement and/or Co-Lead Counsel's request for attorneys' fees and reimbursement of expenses by filing an objection.

QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)

**10. How do I tell the Court what I think about the Impax Settlement?**

If you are a Class Member, you can ask the Court to deny approval of the Impax Settlement by filing an objection. You may tell the Court that you object, entirely or in part, to the Settlement and/or Co-Lead Counsel's request for attorneys' fees and reimbursement of expenses and End-Payor Plaintiffs' request for service awards. You cannot ask the Court to order a different Settlement; the Court can only approve or reject the Impax Settlement. If the Court denies approval, no Settlement payments will be sent out and the Lawsuit against Impax will continue. If that is what you want to happen, you must object. You may also ask the Court to speak in person at the Fairness Hearing.

Any objection to the Settlement and/or requests to speak in person at the Fairness Hearing must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers and/or requests to speak in person at the Fairness Hearing must (a) include your name, address, telephone number, and signature and clearly identify the case name and number (*In re Opana ER Antitrust Litigation*, No. 14-cv-10150 (N.D. Ill.)); (b) provide a summary statement outlining the position to be asserted and the grounds for the objection, including whether the objection applies only to you, to a specific subset of one or more of the Classes, or to an entire Class or Classes, together with copies of any supporting papers or briefs; (c) be submitted to the Court either by filing them electronically via the Court's Case Management/Electronic Case Files (CM/ECF) system or by mailing it to the Clerk of the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604 on or before November 7, 2022; and (d) also be mailed and postmarked by November 7, 2022 to Co-Lead Counsel listed in **Question 12** and to Defense Counsel: Devora Allon, KIRKLAND & ELLIS LLP, 601 Lexington Avenue, New York, NY 10022.

**IF YOU DO NOTHING**

**11. What happens if I do nothing at all?**

If you are a Class Member and you do nothing, you will remain in the Classes and be bound by the decision in the Action and on the Impax Settlement, but you may not participate in the Impax Settlement as described in this Notice, if the Impax Settlement is approved. To participate in the Impax Settlement, you must complete, sign, and return the Claim Form before the claims filing deadline provided on the Claim Form and on the Settlement website to be eligible to receive a payment.

**QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)**

## THE LAWYERS REPRESENTING THE CLASSES

### 12. Do I have a lawyer in this case?

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

|   |   |
|---|---|
| <b>DICELLO LEVITT LLC</b><br>485 Lexington Avenue, 10th Floor, Suite 1001<br>New York, NY 10017<br>gasciolla@dicellolevitt.com<br>kgarvey@dicellolevitt.com<br>mperez@dicellolevitt.com | <b>FREED KANNER LONDON<br/>&amp; MILLEN LLC</b><br>2201 Waukegan Road, Suite 130<br>Bannockburn, IL 60015<br>rwozniak@fklmlaw.com |
|---|---|

You will not be personally charged for the services of these lawyers in litigating this case against the Defendants.

### 13. Should I hire my own lawyer?

You do not need to hire your own lawyer 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.

### 14. How will the lawyers be paid?

If the Court approves the Impax Settlement, Co-Lead Counsel will ask the Court for an award of attorneys' fees of up to 33 1/3% of the Settlement Fund, and reimbursement of litigation expenses incurred prior to the Impax Settlement. Co-Lead Counsel may ask for service awards for the Class Representatives from the Settlement Fund for their efforts to date on behalf of the End-Payor Classes. If the Court grants Co-Lead Counsel's requests, these amounts would be deducted from the Settlement Fund. You will not have to pay these fees, expenses, and costs out of your own pocket. The Administrative Expenses for the Impax Settlement will also be paid out of the Settlement Fund.

Co-Lead Counsel's request for an award of attorneys' fees and reimbursement of expenses and for possible service awards for the Class Representatives will be filed with the Court and made available for download or viewing on or before November 7, 2022 on the Impax Settlement website at [info@opanaerantitrustlitigation.com](mailto:info@opanaerantitrustlitigation.com), on the Court docket for this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.ilnd.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States

**QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)**

Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays. You can tell the Court you do not agree with Co-Lead Counsel's request for attorneys' fees and expenses, or for service awards for the Class Representatives, by filing an objection as described in **Question 10**.

### THE FAIRNESS HEARING

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

#### **15. When and where will the Court decide whether to approve the Impax Settlement?**

The Court will hold a Fairness Hearing at 10:00 a.m. Central Time on December 15, 2022 by video conference before Judge Harry D. Leinenweber at the Everett McKinley Dirksen U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. Anyone wishing to appear may do so by accessing the following link from a computer, mobile telephone, or tablet: [https://meet.uc.uscourts.gov/meeting/971179555?secret=axis\\_OtIs0SDNZx4qFKoc7g](https://meet.uc.uscourts.gov/meeting/971179555?secret=axis_OtIs0SDNZx4qFKoc7g) Meeting ID: 971179555. For audio access only, participants can dial 517-353-2301. 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 give final approval to the proposed Impax Settlement. We do not know how long the decision will take.

The time and date of the Fairness Hearing may change without additional mailed publication notice. For updated information on the hearing, visit [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com) or check the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.ilnd.uscourts.gov>.

#### **16. Do I have to come to the hearing?**

No. Co-Lead Counsel will answer questions that the Court may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it; as long as you mail your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary. Attendance is not necessary to receive a *pro rata* share of the Settlement Fund.

#### **17. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing, either in person or through your own attorney, if you file a request to speak in person. See **Question 10**. If you appear through your own attorney, you are responsible for paying that attorney.

QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)

## GETTING MORE INFORMATION

### **18. Are more details available?**

You can review relevant decisions and orders and additional information about this Lawsuit on the Settlement website at [www.opanaerantitrustlitigation.com](http://www.opanaerantitrustlitigation.com). You may also contact the Claims and Notice Administrator, by mail, at Opana ER Antitrust Class Action, P.O. Box 173067, Milwaukee, WI 53217, email at [info@opanaerantitrustlitigation.com](mailto:info@opanaerantitrustlitigation.com), or phone at 877-888-6423. Complete copies of all public pleadings, Court rulings, and other filings are available for review by accessing the Court docket for this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.ilnd.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK'S OFFICE TO  
INQUIRE ABOUT THIS CASE.

**DATED: September 7, 2022**

BY ORDER OF THE UNITED STATES DISTRICT  
COURT NORTHERN DISTRICT OF ILLINOIS, HARRY  
D. LEINENWEBER

**QUESTIONS? CALL 877-888-6423 OR VISIT [WWW.OPANAERANTITRUSTLITIGATION.COM](http://WWW.OPANAERANTITRUSTLITIGATION.COM)**