Exhibit D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
This Document Relates to:	Hon. LaShonda A. Hunt
Non-Converter Seller Purchaser Class	

NOTICE OF PRESENTMENT OF MOTION FOR LEAVE TO FILE EXCESS PAGES

TO: ALL COUNSEL OF RECORD (via CM-ECF)

PLEASE TAKE NOTICE that on June 11, 2025, at 10:00 a.m., or as soon thereafter as counsel may be heard, counsel will appear before the Honorable LaShonda A. Hunt, in Courtroom 1425 of the United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, and shall present Non-Converter Seller Purchaser Class Plaintiffs' Motion for Leave to File Excess Pages a copy of which is being served on you herewith.

Dated: June 6, 2025

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN PLLP

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Co-Lead Class Counsel for Purchasers of PVC Pipes Through a Non-Converter Seller

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NORTHERN DISTRICT OF ILLINOIS
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In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
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NOTICE OF PRESENTMENT OF NON-CONVERTER-SELLER PURCHASER CLASS PLAINTIFFS' MOTION—UNOPPOSED BY SETTLING DEFENDANT OIL PRICE INFORMATION SERVICE, LLC ("OPIS")— FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT WITH DEFENDANT OPIS AND RELATED RELIEF

TO: ALL COUNSEL OF RECORD (via CM-ECF)

PLEASE TAKE NOTICE that on June 11, 2025, at 10:00 a.m., or as soon thereafter as counsel may be heard, counsel will appear before the Honorable LaShonda A. Hunt, in Courtroom 1425 of the United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, and shall present Non-Converter-Seller Purchaser Class Plaintiffs' Motion—Unopposed by Settling Defendant Oil Price Information Service, LLC ("OPIS")—For Preliminary Approval of Settlement Agreement with Defendant OPIS and Related Relief, a copy of which is being served on you herewith.

Dated: June 6, 2025

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN PLLP

/s/ *Brian D. Clark*
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Co-Lead Class Counsel for Purchasers of PVC Pipes Through a Non-Converter Seller

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
This Document Relates to:	Hon. LaShonda A. Hunt
Non-Converter Seller Purchaser Class	

MOTION FOR LEAVE TO FILE EXCESS PAGES

The Non-Converter Seller Purchaser Class ("NCSPs") through their undersigned counsel, intend to file Non-Converter-Seller Purchaser Class Plaintiffs' Motion—Unopposed By Settling Defendant Oil Price Information Service, LLC ("OPIS")—for Preliminary Approval of Settlement Agreement with Defendant OPIS and Related Relief ("Motion"), and hereby move this Court for entry of an Order granting them leave to file a brief in support of the Motion not to exceed 35 pages. In support, NCSPs state the following:

1. On May 5, 2025, NCSPs filed a Notice of Settlement with Defendant Oil Price Information Service, Inc. ("OPIS"). ECF No. 282.

2. NCSPs now seek to move for preliminary approval of the settlement with OPIS.

3. In order to fully and completely explain the justification for the preliminary approval of the settlement with OPIS, NCSPs require additional pages in excess of the 15 pages under Local Rule 7.1 of the Local Rules of the United States District Court for the Northern District of Illinois.

4. While NCSP have made every effort to be as concise as possible, they request up to 35 pages for their brief in support of the Motion.

WHEREFORE, for the above reasons, NCSPs respectfully request this Court enter an Order granting them leave to file a brief in support of their Motion, not to exceed 35 pages.

Dated: June 6, 2025

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN PLLP

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Co-Lead Class Counsel for the Non-Converter Seller Purchaser Class

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2025, this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Brian D. Clark

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation THIS DOCUMENT RELATES TO: Non-Converter Seller Purchaser Class Plaintiffs	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

NON-CONVERTER-SELLER PURCHASER CLASS PLAINTIFFS' MOTION— UNOPPOSED BY SETTLING DEFENDANT OIL PRICE INFORMATION SERVICE, LLC ("OPIS")[1]— FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT WITH DEFENDANT OPIS AND RELATED RELIEF

[1] *Local Rule 37.2 Meet and Confer Statement*: OPIS, the Settling Defendant, does not oppose NCSPs' motion. NCSPs did not have the ability to meet and confer with the other parties to this litigation, excepting OPIS, pursuant to the Court's individual Motion Practice Procedures because the terms of NCSPs' and OPIS's Settlement Agreement were confidential until the actual filing of this motion for preliminary approval. NCSPs anticipate, though, that Erie County may oppose the motion based on its May 8, 2025 filing (ECF No. 286), and will update the Court if Erie County advises NCSPs of its plans to do so. However, on May 7, 2025, NCSPs asked if Erie County wished to meet and confer regarding the Settlement Agreement, but Erie County never responded, and instead filed a May 8, 2025 "response" to NCSPs' May 5, 2025, notice of settlement. *See* Joint Declaration of NCSP Interim Co-Lead Counsel, Exhibit 19.

Additionally, as NSCPs explain in this brief, they have requested certain contact information from the non-settling Defendants to facilitate settlement class notice. The non-settling Defendants advised during email discussions on June 4 and 5, 2025, that that they were not in a position to evaluate the request until after they had reviewed the preliminary approval filings and until other issues were resolved. If, after reviewing this filing, the non-settling Defendants oppose that part of the motion, NCSPs' Interim Lead Counsel will promptly confer with non-settling Defendants and submit an agreed proposed briefing schedule with respect to the request that non-settling Defendants produce their customer information in order to facilitate notice.

PLEASE TAKE NOTE that the Non-Converter Seller Purchaser Class ("NCSPs") hereby move the Court to: (i) Preliminary Approval the Settlement Agreement Between NCSPs and Defendant Oil Price Information Service, LLC; (ii) preliminarily certify the proposed Settlement Class; (iii) appoint Interim Co-Lead Counsel as Settlement Class Counsel; (iv) appoint the NCSP Class Named Representatives as named representatives for the Settlement Class; (v) approve the proposed plan for disseminating notice to the Settlement Class; (vi) appoint the Settlement Administrator and Escrow Agent, including permitting NCSPs to withdraw from the Settlement Funds up to $250,000 without further approval for Settlement notice and administration costs; (vii) set a Fairness Hearing for the Settlement; and (viii) as described in the accompanying Memorandum of Law, NCSPs also seek the Court's permission to request customer lists from the remaining Defendants and non-converter sellers of PVC Pipe, in order to facilitate Notice to the Settlement Class.

This motion is based on this notice of motion and motion, Federal Rules of Civil Procedure 23, the concurrently filed Memorandum of Law and supporting declaration and exhibits, and all other evidence and arguments presented in the briefings and at the hearing of this motion.

Dated: June 6, 2025

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN PLLP

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UNITED STATES DISTRICT COURT
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In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
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Non-Converter Seller Purchaser Class	

MEMORANDUM OF LAW IN SUPPORT OF NON-CONVERTER-SELLER PURCHASER CLASS PLAINTIFFS' MOTION—UNOPPOSED BY SETTLING DEFENDANT OIL PRICE INFORMATION SERVICE, LLC ("OPIS")[1]— FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT WITH DEFENDANT OPIS AND RELATED RELIEF

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Additionally, as NSCPs explain in this brief, they have requested certain contact information from the non-settling Defendants to facilitate settlement class notice. The non-settling Defendants advised during email discussions on June 4 and 5, 2025, that that they were not in a position to evaluate the request until after they had reviewed the preliminary approval filings and until other issues were resolved. If, after reviewing this filing, the non-settling Defendants oppose that part of the motion, NCSPs' Interim Lead Counsel will promptly confer with non-settling Defendants and submit an agreed proposed briefing schedule with respect to the request that non-settling Defendants produce their customer information in order to facilitate notice.

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I. INTRODUCTION

The Non-Converter Seller Purchaser Plaintiff ("NCSP") Class has reached a proposed "icebreaker" settlement ("Settlement") with Defendant Oil Price Information Service, LLC ("OPIS").[2] In addition to $3 million in monetary relief, OPIS has and will continue to provide extensive cooperation to NCSPs[3]—cooperation that has already substantially advanced NCSPs' understanding of this case. Settlement Agreement, ¶¶ 9-10; Joint Decl., ¶¶ 17-18. Indeed, based on the agreed-upon cooperation by OPIS, assuming preliminary approval of the Settlement is granted, NCSPs will be far better positioned to litigate this case on behalf of the class, and NCSPs intend to amend their complaint to expand the scope of the alleged conspiracy and to add substantial details regarding allegations of price fixing. Joint Decl., ¶ 18.

Given the significant cooperation, monetary, and other relief OPIS has agreed to provide, in the experienced opinion of Interim Co-Lead Counsel, the Settlement is fair, reasonable, and adequate to the Settlement Class and will substantially advance NCSPs' continued litigation against the remaining Converter Defendants. Joint Decl., ¶ 25; *see also* Settlement Agreement, ¶¶ 9-11. Importantly, all commerce associated with the alleged conspiracy remains in the case, as OPIS did not sell any PVC Pipe, so this Settlement strengthens the possibility of recovery from Converter Defendants without reducing the treble damages available to the NCSP Class.

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[2] All capitalized terms not defined herein have the meanings ascribed to them in the Long-Form Settlement Agreement, dated May 16, 2025 ("Settlement Agreement" or "Settlement"), which is attached as Exhibit 1 to the Joint Declaration of Brian D. Clark and Karin E. Garvey in Support of Plaintiffs' Motion for Preliminary Approval of Settlement between Non-Converter Seller Purchaser Class Plaintiffs and Defendant Oil Price Information Service, LLC ("Joint Decl."), filed concurrently herewith. Unless otherwise noted, ECF cites are to the docket in this Action, and all internal citations and quotations are omitted.

[3] The NCSP Class Named Representatives are George Bavolak, City of Omaha, Delta Line Construction Co., TC Construction, Inc., Water District No. 1 of Johnson County (Kansas), Blake Wrobbel, and James Corsey.

NCSPs now move the Court to (i) preliminarily approve the Parties' Settlement Agreement; (ii) preliminarily certify the proposed Settlement Class; (iii) appoint Interim Co-Lead Counsel as Settlement Class Counsel; (iv) appoint the NCSP Class Named Representatives as named representatives for the Settlement Class; (v) approve the proposed plan for disseminating notice to the Settlement Class; (vi) appoint the Settlement Administrator and Escrow Agent, including permitting NCSPs to withdraw from the Settlement Funds up to $250,000 without further approval for Settlement notice and administration costs; and (vii) set a Fairness Hearing for the Settlement. As further described below, in order to facilitate Notice to the Settlement Class, NCSPs also seek the Court's permission to request customer lists from the remaining Defendants and non-converter sellers of PVC Pipe.

NCSPs propose deferring commencement of the claims process and distribution of the Settlement Fund in this case until later in the litigation and after Interim Co-Lead Counsel have had the opportunity to explore the possibility of additional settlements. This practical approach is often used in antitrust cases and is likely to result in major efficiencies and cost savings for the NCSP Class.[4] Further, discovery in this case will further guide the development of the plan of distribution and plan of allocation of the Settlement Fund. To that end, at an appropriate time, NCSPs will file with the Court a specific and detailed Motion for Approval of an Allocation and Distribution Process ("Allocation Process Motion"), which will propose the process by which counsel for NCSPs will develop a Plan of Allocation and Distribution of the settlement fund (including appointment of allocation counsel and/or a Special Master, as needed or required by the Court), as is commonly used in antitrust litigation and discussed further below.

[4] *See, e.g., In re Broiler Chicken Antitrust Litig.*, 1:16-cv-08637 (TMD), ECF No. 462, at 2 (N.D. Ill. Aug. 8, 2017) (order granting preliminary approval of icebreaker settlement and deferral of notice and distribution plans) (Joint Decl., Ex. 18).

II. LITIGATION BACKGROUND

NCSPs are purchasers of PVC Pipe manufactured by Converter Defendants[5] through a non-converter PVC Pipe seller in the United States between January 1, 2021 and May 16, 2025[6] ("Settlement Class Period"). NCSPs bring their claims under Section 1 of the Sherman Act and under various state antitrust and consumer protection laws to address alleged anticompetitive conduct by Converter Defendants and OPIS. NCSPs allege that Converter Defendants conspired and combined to fix the price for PVC Pipes through the use of OPIS, a reporting service which, for a fee, provides pricing and market information to Converter Defendants. NCSPs allege that the Converter Defendants fixed, stabilized, and raised the price of PVC Pipe to supracompetitive levels.

Co-Lead Counsel's extensive pre-suit investigation, done without any knowledge of the parallel investigation by the U.S Department of Justice ("DOJ"), led to the filing of the first three class action complaints in this consolidated action, alleging an industry-wide conspiracy involving Converter Defendants and OPIS. Joint Decl., ¶ 6. On August 23, 2024, Plaintiff George Bavolak filed the first of these lawsuits on behalf of himself individually and on behalf of a class of purchasers from non-converter sellers of PVC Pipe. ECF No. 1. Interim Co-Lead Counsel filed substantially similar actions, *Wrobbel* and *TC Construction*, in September 2024 on behalf of overlapping classes of purchasers from non-converter sellers of PVC Pipe. These cases were

[5] Converter Defendants, also referred to herein as the "remaining Defendants" or "Non-Settling Defendants," are Atkore, Inc.; Cantex, Inc.; Diamond Plastics Corporation; IPEX USA LLC; PipeLife Jetstream, Inc.; J-M Manufacturing Company, Inc. d/b/a JM Eagle; National Pipe & Plastics, Inc.; Northern Pipe Products, Inc.; Otter Tail Corporation; Prime Conduit, Inc.; Sanderson Pipe Corporation; Southern Pipe, Inc.; Westlake Corporation; Westlake Pipe & Fittings Corporation; and Vinyltech Corporation.

[6] The Execution Date of the long-form Settlement Agreement was May 16, 2025.

consolidated for pretrial purposes pursuant to Rule 42(a) of the Federal Rules of Civil Procedure. ECF No. 109, ¶ 2, *as amended*, ECF No. 165.[7]

On September 30, 2024, the Court granted NCSPs' motion (i) appointing Lockridge Grindal Nauen PLLP and Scott+Scott Attorneys at Law LLP as Interim Co-Lead Counsel and Cohen Milstein Sellers & Toll PLLC as Interim Liaison Counsel for a putative class consisting of "all purchasers of PVC Pipes through a non-converter seller" and (ii) consolidating all actions alleging such purchases under Interim Co-Lead Counsel's leadership. ECF No. 122, *as amended*, ECF No. 164.

Since filing the initial complaints in this Action, Interim Co-Lead Counsel have appeared at multiple in-person hearings, coordinated with all parties on consolidation and case deadlines, ensured service of the complaints, held a discovery conference with all defense counsel, served discovery, and vetted potential class representatives. Joint Decl., ¶ 8.

In addition, on October 30, 2024, NCSPs filed the currently operative First Consolidated Class Action Complaint ("Complaint"). ECF Nos. 179 (sealed version) and 180 (public redacted version). The depth and detail of the allegations in the Complaint showcase Interim Co-Lead Counsel's extensive investigation, which spanned numerous fronts—legal, factual, and economic—and entailed substantial resources, in both attorney time and monetary expense. Interim Co-Lead Counsel held discussions with class members and other industry participants, developed sources, collected relevant information, retained expert economists, and conducted considerable industry research. Joint Decl., ¶ 9. Defendants intend to move to dismiss the

[7] A related action, *Bill Wagner & Sons*, on behalf of direct purchaser plaintiffs ("DPPs") was subsequently related, reassigned, and consolidated. ECF No. 162. The Court appointed separate counsel to represent the DPP class. ECF No. 163. A motion is pending to modify the Court's Order appointing interim class counsel for the DPP class. ECF No. 269. Additional related cases have been related, reassigned, and consolidated. ECF Nos. 281, 247, 244, 213.

Complaint but have not yet done so. The parties' proposals as to timing and page limits for this motion are pending before the Court. ECF Nos. 259. "Formal discovery has been stayed for now." ECF Nos. 213, 225.

On November 7, 2024, the DOJ's inquiry into price-fixing in the PVC Pipe market was publicly disclosed for the first time when Defendant Otter Tail revealed that it had received a federal criminal grand jury inquiry. Joint Decl., ¶ 10. Subsequently, Defendants Atkore and Westlake also confirmed that they too received a criminal grand jury subpoena. *Id.*

The day after Otter Tail first disclosed the federal criminal investigation, the Fegan Scott firm filed a near-complete copy-paste replication of the original Bavolak complaint (filed in August 2024), which was no longer the operative complaint, on behalf of Plaintiff Erie County Water Authority. *See* ECF No. 206. On November 14, 2024, based on the Fegan Scott firm's representations of its intent to try to carve out from the class alleged in NCSPs' Complaint a subclass of private and public entities that provide drinking water and sewer services, Interim Co-Lead Counsel brought a Motion to Enforce the Court's Leadership and Consolidation Orders. ECF No. 206. The Court held a hearing on NCSPs' Motion, granted the Motion, and ordered that any new motion for the creation of additional subclasses of plaintiffs be filed by December 20, 2024. ECF Nos. 213, 225.

Changing tacks from seeking to represent entities that provide drinking water and sewer services, the Fegan Scott firm subsequently filed a motion to appoint the firm as interim lead counsel for a broader "indirect purchaser End-User Class." ECF No. 237. Co-Lead Counsel opposed the motion on January 22, 2025. ECF No. 248. The Fegan Scott firm replied on January 31, 2025. ECF No. 258. That motion is pending before the Court.

On May 5, 2025, NCSPs and DPPs informed the Court that they had reached proposed settlements with OPIS. ECF Nos. 282-83. Following the notification, NCSPs and OPIS negotiated the Long-Form Settlement Agreement, which was executed on May 16, 2025.

III. SUMMARY OF THE SETTLEMENT NEGOTIATIONS AND AGREEMENT

NCSPs reached the Settlement Agreement with OPIS after hard-fought and arm's-length negotiations over the course of nearly four months. Joint Decl., ¶ 12. Interim NCSP Co-Lead Counsel led negotiations with OPIS for over seven weeks before negotiations advanced to a point that OPIS requested that Interim Lead Counsel for DPPs be brought into settlement negotiations as well to permit OPIS to have full resolution of the case. *Id*. Once both classes were at the table with OPIS, further negotiations continued for nearly two months before settlement agreements were reached fully resolving both classes' claims against OPIS, in exchange for a combination of monetary relief and substantial non-monetary consideration. *Id*.

First, and most importantly, OPIS is providing NCSPs with extensive cooperation in their ongoing prosecution of claims against the remaining Defendants. *See* Settlement Agreement, ¶ 10. OPIS's cooperation includes providing NCSPs with: (a) an attorney proffer within 10 days of execution of the Settlement Agreement regarding material facts known to OPIS's counsel relating to NCSPs' Complaint; (b) three depositions; (c) three live trial witnesses, in the event that NCSPs' claims against any of the remaining Defendants proceed to trial; (d) documents produced by OPIS to DOJ in connection with DOJ's investigation (as well as to any other governmental entity investigating the PVC Pipe market), including structured data; PVC & Pipe Weekly reports; all messages or communications between Donna Todd[8] and employees of PVC converters and

[8] Donna Todd is OPIS's senior PVC editor. NCSPs allege that OPIS (via Ms. Todd) served as the primary facilitator of the alleged conspiracy by directly contacting PVC pipe buyers and sellers

distributors; other documents to be provided pursuant to search terms to be negotiated by the Parties; and other materials responsive to the DOJ's subpoena, such as interrogatory responses and privilege logs; and (e) declarations to establish the authenticity and admissibility of OPIS's documents. *Id*., ¶ 10. An initial attorney proffer meeting has already occurred between OPIS and Interim Co-Lead Counsel. Joint Decl., ¶ 16.

Second, OPIS has agreed to pay $3,000,000 into the Escrow Account for the benefit of the NCSP Settlement Class. *See* Settlement Agreement, ¶ 9. This amount exceeds the monetary relief obtained in ice-breaker settlements that provide substantial cooperation in other cases in this jurisdiction with a large number of defendants, such as the ice-breaker settlements with Fieldale Farms in *Broilers* that combined both smaller monetary relief and early cooperation by the Direct Purchaser Plaintiff Class ($2,250,000), Commercial IPP Class ($1,400,000), and End User Class ($1,700,000). Joint Decl., ¶ 22.

Third, OPIS also agrees that for a period of two years from the date of the entry of the Final Approval Order and Final Judgment, it will not engage in conduct that is determined in a final non-appealable judgment to constitute a *per se* violation of Section 1 of the Sherman Act in the PVC Pipe Market. Settlement Agreement, ¶ 11.

In consideration, NCSPs and the proposed Settlement Class agree, among other things, to release claims against OPIS that were, or could have been, asserted in the Action from January 1, 2021, through the Execution Date of the Settlement Agreement (May 16, 2025). *Id*., ¶¶ 15-16.

The Settlement Agreement also contains two relevant termination provisions. First, OPIS, at its sole discretion, may elect to terminate the Settlement Agreement if more than a specific

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to collect confidential pricing information, which enabled Defendants to coordinate their pricing strategies and monitor the conspiracy.

number of NCSP class members opt out of the Settlement Class. Settlement Agreement, ¶ 19(c). The precise number of opt-outs needed to trigger the termination provision is contained in the Parties' Confidential Side Letter.[9] *Id.* Second, the Settlement Agreement also permits OPIS, at its sole discretion, to terminate the Agreement with NCSPs if OPIS's settlement with the DPP Class is not approved. *Id.*, ¶ 19(d).

Subject to the approval and direction of the Court, the Settlement Sum (plus interest) will be used to: (1) pay for notice costs and the costs incurred in the administration and distribution of the Settlement; (2) pay taxes and tax-related costs associated with the Escrow Account for the proceeds of the Settlement; and (3) distribute funds to claimants in accordance with the Plan of Allocation and Plan of Distribution to be approved by the Court. *Id.*, ¶¶ 1(v), 6(h), 12, 13.

As set forth in the proposed notice documents (*see* Section VI *infra*) and the Settlement Agreement, $250,000 of the $3 million to be paid by OPIS is non-refundable, *see id.*, ¶ 1(v), and NCSPs may withdraw that amount from the Settlement Fund, without further approval of the Court, to pay for actual costs of Settlement Class Notice and for Preliminary Approval and Final Approval of this Settlement Agreement. *See id.*, ¶ 1(v).

IV. THE PROPOSED SETTLEMENT MERITS PRELIMINARY APPROVAL

Settlement is a strongly favored method for resolving class action litigation. *See Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996) ("Federal courts naturally favor the settlement of class action litigation."); *Goldsmith v. Tech. Sols. Co.*, No. 92 C 4374, 1995 WL 17009594, at *1 (N.D. Ill. Oct. 10, 1995) ("[T]he federal courts look with great favor upon the voluntary resolution of litigation through settlement. In the class action context in particular, there is an overriding public interest in favor of settlement.").

[9] This Confidential Side Letter will be provided to the Court for *in camera* review upon request.

Rule 23(e) requires judicial approval of class action settlements in a two-step process. *See Reynolds, v. Beneficial Nat'l Bank*, 288 F.3d 277, 279 (7th Cir. 2002). *First*, under Rule 23(e)(1), a court performs a preliminary review of the terms of the proposed settlement to determine whether it is sufficient to warrant notice to the class and a hearing. *Second*, under Rule 23(e)(2), after notice has been provided and a hearing held, a court determines whether to grant final approval of the settlement. *See* MANUAL FOR COMPLEX LITIGATION (FOURTH) §13.14 (2020).

A court should grant preliminary approval and authorize notice of a settlement to the class upon a finding that it "will likely be able" to: (i) finally approve the settlement under Rule 23(e)(2) and (ii) certify the class for settlement purposes. *See* Fed. R. Civ. P. 23(e)(1)(B). This standard codifies case law holding that preliminary approval is warranted where "the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible [judicial] approval." 4 WILLIAM B. RUBENSTEIN, NEWBERG ON CLASS ACTIONS §13:13 (5th ed. 2021) (alteration in original).[10]

In considering whether final approval is likely, courts consider 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.

[10] *See also Armstrong v. Bd. of School Dirs. of City of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980) (the question at preliminary approval is "whether the proposed settlement is 'within the range of possible approval'"); *Kaufman v. Am. Express Travel Related Servs. Co., Inc.*, 264 F.R.D. 438, 447 (N.D. Ill. 2009) (a relevant consideration is "whether [the settlement] 'has no obvious deficiencies [and] does not improperly grant preferential treatment to class representatives or segments of the class'") (second alteration in original).

Fed. R. Civ. P. 23(e)(2).[11] At the preliminary approval stage, however, the purpose of the inquiry is only "'to ascertain whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing, not to conduct a full-fledged inquiry into whether the settlement meets Rule 23(e)'s standards.'" *In re TikTok, Inc., Consumer Priv. Litig.*, 565 F. Supp. 3d 1076, 1083 (N.D. Ill. 2021) (quoting *Am. Int'l Grp. v. ACE INA Holdings, Inc.*, Nos. 07 C 2898, 09 C 2026, 2011 WL 3290302, at *6 (N.D. Ill. July 26, 2011)). Because these factors are satisfied here, preliminary approval of the Settlement is warranted. Fed. R. Civ. P. 23(e)(1)(B).

A. The Proposed Settlement Should Be Approved.

1. Procedural Aspects of the Settlement Satisfy Rule 23(e)(2)

Rule 23(e)(2)'s first two factors "look[] to the conduct of the litigation and of the negotiations leading up to the proposed settlement." Rule 23(e)(2) advisory committee's notes to 2018 amendment.

a. The Proposed Settlement Was Negotiated at Arm's Length

Pursuant to Rule 23(e)(2)(B), to determine whether a settlement is procedurally fair, courts evaluate the process undertaken to achieve it. Courts have found that a settlement arrived at after arm's-length negotiations by fully informed, experienced, and competent counsel may be properly presumed to be fair and adequate. *See, e.g., In re Mexico Money Transfer Litig. (W. Union &*

[11] Final approval will involve an analysis of the Rule 23(e)(2) factors and, to the extent they do not overlap, the Seventh Circuit's approval factors: (i) the strength of the case, balanced against the settlement amount; (ii) the defendant's ability to pay; (iii) the complexity, length, and expense of further litigation; (iv) the amount of opposition to the settlement; (v) the presence of collusion in reaching a settlement; (vi) the reaction of class members to the settlement; (vii) the opinion of competent counsel; and (viii) the stage of the proceedings. *See Armstrong*, 616 F.2d at 314.

Valuta), 164 F. Supp. 2d 1002, 1020 (N.D. Ill. 2000), *aff'd sub nom. In re Mexico Money Transfer Litig.*, 267 F.3d 743 (7th Cir. 2001).

Here, the Settlement embodies all the hallmarks of a procedurally fair resolution under Rule 23(e)(2). First, NCSPs' settlement posture was informed by Interim Co-Lead Counsel's extensive factual investigation that preceded the Settlement, including discussions with class members and other industry participants, developing sources, collecting relevant information, retaining expert economists, and conducting considerable industry research. Joint Decl., ¶ 11. Interim Co-Lead Counsel comprehensively vetted the factual record, analyzed OPIS's arguments and contrary facts, and thoroughly considered the costs and risks of ongoing litigation. Interim Co-Lead Counsel, who have extensive experience litigating antitrust class actions, were well informed of the strengths and weaknesses of the claims and defenses in this action, as well as the potential value in early cooperation from a Defendant situated at the center of the alleged conspiracy, and conducted the settlement negotiations seeking to achieve the best possible result for the Settlement Class in light of the risks, costs, and delays of continued litigation. *Id*. Courts may give considerable weight to the opinion of experienced and informed counsel. *See, e.g.*, *In re Sears, Roebuck & Co. Front-Loading Washer Prods. Liab. Litig.*, Nos. 06 c 7023, 07 C 0412, 08 C 1832, 2016 WL 772785, *12 (N.D. Ill. Feb. 29, 2016); *Armstrong*, 616 F.2d at 325 (in assessing a class settlement, "the court is entitled to rely heavily on the opinion of competent counsel").

Second, the Parties' settlement negotiations were at arm's length (*see id*., Joint Decl., ¶¶ 12, 14). The Parties negotiated the Settlement over the course of several months after OPIS, through its experienced and respected counsel, initially approached NCSP Interim Co-Lead Counsel and expressed an interest in discussing a potential settlement. The negotiations were hard-fought, over both non-monetary (*e.g.*, cooperation) and monetary components of a settlement.

Over the course of more than a dozen Zoom meetings, plus additional telephone calls, the Parties reached an agreement in principle reflected in a term sheet executed on May 5, 2025, and subsequently incorporated into the Settlement Agreement on May 16, 2025. At all times, counsel zealously advocated for their respective clients. Joint Decl., ¶ 12.[12]

Accordingly, the Settlement negotiations were procedurally fair, as the Settlement Agreement was entered into only after extensive factual investigation and legal analysis and was the result of extensive good faith negotiations between knowledgeable and skilled counsel.

[12] Counsel for a single plaintiff, Erie County Water Authority, filed a "response" to NCSPs notice of settlement on May 8, 2025. In addition to requesting "that the Court immediately order NCSP Counsel to refrain from filing a motion for preliminary approval of the Proposed OPIS Settlement," the response insinuated that NCSP Interim Co-Lead Counsel had ulterior motives for reaching a settlement at this time. ECF No. 286.

As discussed above, **OPIS** approached NCSP Interim Lead Counsel about settlement, not the other way around. Given that this Court's Order appointing the undersigned to serve as NCSP Interim Lead Counsel was then and remains in force, it was not only appropriate for Interim Lead Counsel to negotiate with OPIS, but Interim Lead Counsel had a duty to do so. *See* ECF 164 at 3 (NCSP Interim Lead Counsel "duties" include "explore, develop, and *pursue* settlement options with Defendants on behalf of the Class.") (emphasis added). Further, the only case counsel for Erie County cites, *In re Air Cargo Shipping Services Antitrust Litigation*, 240 F.R.D. 56 (E.D.N.Y. 2006) is completely inapplicable here. In that case, no lead counsel had been appointed by the Court and no monetary payment was reached, but here, leadership was already appointed by the Court and the OPIS settlement was negotiated through experienced defense counsel for OPIS (Brian K. O'Bleness and Natalie J. Spears of Dentons) and provides $3 million and substantial and highly valuable cooperation.

The exceptional requests and insinuations, made by Ms. Fegan as counsel for Erie County without even waiting to see the actual relief obtained on behalf of the NCSP Class that includes her client, is misguided and unfortunate. Moreover, it lacks thoughtful analysis of what is best for the NCSP Class. As the Settlement Agreement makes plain, the cooperation and monetary relief obtained for the NCSP Class are exceptional, and benefit all purchasers of PVC Pipe through non-converter sellers. There is no conflict among these purchasers of PVC Pipe, particularly in the context of an ice-breaker settlement from a Defendant that sold no PVC Pipe, where all NCSP class members are equally receiving the benefit of substantial cooperation to benefit their remaining claims against Converter Defendants.

b. The Class Representatives and Interim Co-Lead Counsel Have Adequately Represented the Class

Rule 23(e)(2)(A) asks whether "the class representatives and class counsel have adequately represented the class." Adequacy is measured by a two-part test: (i) the named plaintiffs cannot have claims in conflict with other class members, and (ii) the named plaintiffs and proposed class counsel must demonstrate their ability to litigate the case vigorously and competently on behalf of named and absent class members alike. *See Kohen v. Pacific Inv. Mgmt., Co. LLC*, 571 F.3d 672, 679 (7th Cir. 2009).

First, NCSPs and Interim Co-Lead Counsel have already demonstrated their ability to vigorously and diligently represent the absent class members through their actions in this case, including the thoroughness of their investigation, leading to the detailed allegations in the Complaint. In addition, Interim Co-Lead Counsel have appeared at multiple in-person hearings, coordinated with all parties on consolidation and case deadlines, ensured service of the complaints, held a discovery conference, served discovery, and vetted potential class representatives. These facts, and Interim Co-Lead Counsel's financial ability to fund this litigation, led the Court to appoint Interim Co-Lead Counsel. ECF No. 122, *as amended*, ECF No. 164. The proposed Settlement Class will likewise be well served by Interim Co-Lead Counsel as their advocates.

Second, there are no present conflicts between NCSPs and absent class members. As discussed in detail in NCSPs' Motion to Enforce the Court's Leadership and Consolidation Orders (ECF No. 206) and Memorandum in Opposition to Erie County's Motion for Leave to Plead a Separate End-User Class (ECF No. 248), which are incorporated by reference herein. No live, actual conflicts exist. To that end, the only conflict raised by the Fegan Scott firm to Interim Co-Lead Counsel's appointment on behalf of the NCSP class relates to the determination and allocation of monetary relief between various members of the NCSP class, which is a potential

issue that can be addressed at a later date to the extent it arises. *See In re Silicone Gel Breast Implant Prods. Liab. Litig.*, No. CIV.A.CV94-P-11558-2., 1994 WL 114580, at *3 (N.D. Ala. Apr. 1, 1994) (court granting preliminary settlement approval while reserving the power to "define appropriate subclasses, including the designation of representatives and appointment of counsel for subclasses as necessary.").

As previously argued, Interim Co-Lead Counsel believes it is in the best interests of the NCSP class for the Court to allow the case to proceed with the current class structure, reserving the option to address any actual conflicts that materialize during or after discovery. If it should turn out to be appropriate, then at that time the Court could consider appointing allocation counsel and/or a Special Master to apportion the Settlement Fund among Settlement Class Members. This approach respects Rule 23's framework for addressing potential conflicts, avoids needless complexity and expense, and maintains the Court's flexibility to implement appropriate remedies if and when a genuine conflict manifests. Consistent with this reasoning, NCSPs propose to defer distribution of the Settlement Fund until later in the case. As noted above, waiting will provide an opportunity for additional settlements to be reached, which will ultimately save the Settlement Class money through a number of efficiencies. But also, just as discovery in this case will inform the ultimate class structure, so too should it guide the development of the plan of distribution and allocation of the Settlement Fund.

Third, each of the seven NCSP Named Representatives reviewed the terms of the settlement before it was executed, agreed it was in the best interest of the class, and believe the Court should grant preliminary approval of the motion to allow this case to move forward. Joint Decl., Exs. 2-8. These Named Representatives include multiple end-users of PVC Pipe—*i.e.*, the subset of NCSPs that the Fegan Scott firm has argued require separate counsel—such as a

municipality responsible for combined water and stormwater collection systems, electrical services companies, residential and commercial construction companies, an independent water utility, and individual end-user purchasers. Compl., ¶¶ 17-23.

2. The Terms of the Proposed Settlement Are Fair, Reasonable, and Adequate

Rule 23(e)(2)'s factors (C) and (D) constitute the "substantive" analysis factors and examine "[t]he relief that the settlement is expected to provide to class members . . . ." Rule 23(e)(2) advisory committee's notes to 2018 amendment.

a. The Settlement Provides Substantial Relief, Especially in Light of the Costs, Risks, and Delay of Further Litigation

Rule 23(e)(C)(i) evaluates whether the "relief provided for the class is adequate," considering "the costs, risks, and delay of trial and appeal." One factor in this assessment is the plaintiff's likelihood of success on the merits, balanced against the relief offered in settlement. "Twenty years ago, in *Reynolds v. Beneficial National Bank*, the Seventh Circuit advised that, in making this inquiry, district courts should 'quantify the net expected value of continued litigation' by 'estimating the range of possible outcomes and ascribing a probability to each point on the range.'" *In re TikTok, Inc., Consumer Privacy Litig.*, 617 F. Supp. 3d 904, 933 (N.D. Ill. 2022) (quoting *Reynolds*, 288 F.3d at 284–85). "More recently," however, "the Seventh Circuit has endorsed a less formulaic scrutiny of class action settlements when indicia of trustworthiness . . . work against any suggestion of impropriety." *Id*. at 934.[13]

[13] *See Kaufman v. Am. Express Travel Related Servs. Co., Inc.*, 877 F.3d 276, 285 (7th Cir. 2017) (stating that "potential outcomes need not always be quantified, particularly where there are other reliable indications that the settlement reasonably reflects the relative merits of the case"); *Wong v. Accretive Health, Inc.*, 773 F.3d 859, 864 (7th Cir. 2014) (holding "it was not an abuse of discretion to approve the settlement without" attempting "'to quantify the net expected value of continued litigation'"); *In re Nat'l Collegiate Athletic Ass'n Student-Athlete Concussion Inj. Litig.*, 332 F.R.D. 202, 218–19 (N.D. Ill. 2019) (approving class action settlement without quantifying

As discussed above, the Parties reached the Settlement only after Co-Lead Counsel's extensive investigation and the filing of the detailed, 114-page Complaint. Moreover, the Settlement was reached after months of negotiations and only after numerous conference calls and Zoom meetings. There is a complete absence of any suggestion of impropriety with respect to this Settlement, which, as noted above, assuming preliminary approval of the Settlement is granted, will allow NCSPs to amend their complaint substantially with additional, specific allegations of price-fixing. Joint Decl., ¶ 14.

While NCSPs believe that their case is strong, any complex antitrust litigation is inherently costly and risky, and this Settlement mitigates that risk and protects the NCSP Class, enabling it to move forward more effectively against the remaining Defendants. Conversely, OPIS has neither conceded nor admitted liability concerning Plaintiffs' allegations that it entered into an agreement to reduce or suppress competition in the market for PVC Pipes with Converter Defendants. Indeed, absent this Settlement, OPIS would vigorously defend this case. *See* Settlement Agreement, Recitals at p. 2-3, ¶ 18. But in the interests of avoiding the risk and uncertainty of litigation and trial, OPIS has agreed to settle. *Id.*

The core of NCSPs' claims in the operative Complaint concern allegations that beginning at least as early as January 1, 2021, the major PVC pipe manufacturers in the United States (Converter Defendants) and OPIS entered into an illegal price-fixing conspiracy to artificially inflate and stabilize PVC pipe prices at supracompetitive levels, exploiting supply chain disruptions from the COVID-19 pandemic. The conspiracy allegedly involves coordinated information exchange through OPIS, which allowed competitors to share competitively sensitive

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net expected value), *aff'd sub nom. Walker v. Nat'l Collegiate Athletic Ass'n*, No. 19-2638, 2019 WL 8058082 (7th Cir. Oct. 25, 2019).

pricing data, coordinate price increases, and signal future pricing intentions to maintain historically high profit margins even as input costs and demand declined. NCSPs allege that this conspiracy, facilitated by OPIS and involving major distributors as co-conspirators, resulted in PVC Pipe prices remaining approximately 3x - 4.7x higher across municipal, plumbing, and electrical conduit applications, causing purchasers to pay artificially inflated prices and generating record profits for Converter Defendants at the expense of free market competition.

While NCSPs will vigorously dispute any defenses that Defendants assert, this case will present complex issues of fact and law that will require extensive discovery and expert analysis to resolve. As numerous courts have recognized, "'[f]ederal antitrust cases are complicated, lengthy[, and] . . . bitterly fought[,]' as well as costly." *In re Vitamin C Antitrust Litig.*, No. 06-MD-1738, 2012 WL 5289514, at *4 (E.D.N.Y. Oct. 23, 2012) (internal citation omitted); *see also Virgin Atl. Airways Ltd. v. British Airways PLC*, 257 F.3d 256, 263 (2d Cir. 2001) (noting the "factual complexities of antitrust cases"); *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 533 (E.D. Mich. 2003) (noting that "[a]ntitrust class actions are inherently complex, and this case in particular presented a number of complicated factual and legal issues").

Beyond the pleading stage, OPIS was certain to mount formidable defenses to fact discovery and class certification (including a potential interlocutory appeal to the Seventh Circuit). OPIS also would have undoubtedly asserted numerous arguments and defenses at summary judgment and trial. A jury trial might well turn on questions of proof, many of which would be the subject of dueling expert testimony, making the outcome of such a trial uncertain for both Parties. In sum, "[t]here can be no doubt that this class action would be enormously expensive to continue, extraordinarily complex to try, and ultimately uncertain of result." *In re NASDAQ Mkt.-Makers*

Antitrust Litig., 187 F.R.D. 465, 477 (S.D.N.Y. 1998); *Ball Mem'l Hosp., Inc. v. Mut. Hosp. Ins., Inc.*, 784 F.2d 1325, 1333 (7th Cir. 1986) (noting that "[a]ntitrust cases are notoriously extended").

In contrast, the Settlement, if approved, would resolve NCSPs' claims against OPIS and provide a monetary benefit, extensive cooperation, and other relief to the Settlement Class. Further, this Settlement does not affect the potential full recovery of damages for the Class because, as noted above, OPIS did not produce any PVC Pipe, so all damages relating to sales by Converter Defendants remain in the case even after this Settlement.

In addition to not affecting the overall damages, the Settlement should hasten and improve the Class's recovery by providing NCSPs with access to information that likely would otherwise only be obtainable through protracted discovery, which has been stayed for now. This provides an immediate strategic advantage. *See, e.g., Lucas v. Vee Pak, Inc.*, No. 12-CV-09672, 2017 WL 6733688, at *10 (N.D. Ill. Dec. 20, 2017) (noting that a "cooperation agreement will save the plaintiffs from trying to determine the right questions to ask the right people"). Further, NCSPs believe OPIS's cooperation will help streamline discovery, making the litigation more efficient against remaining Defendants. Joint Decl., ¶¶ 17-18.

Substantively, the value of OPIS's cooperation cannot be overstated. The Complaint alleges that the conspiracy involved a coordinated information exchange among competitors through OPIS, which allowed competitors to share competitively sensitive pricing data, coordinate price increases, and signal future pricing intentions. OPIS's cooperation provides valuable insights into how the alleged information exchange functioned among Converter Defendants through OPIS' report Donna Todd and resulted in the alleged anticompetitive behavior. Joint Decl., ¶ 17. Courts have recognized that cooperation such as that agreed to by OPIS "is valuable consideration in light of the risks in proceeding with this suit against the remaining Defendants." *In re Processed*

Egg Prods. Antitrust Litig., 284 F.R.D. 249, 275 (E.D. Pa. 2012)*; see also In re IPO Sec. Litig.*, 226 F.R.D. 186, 198-99 (S.D.N.Y. 2005) (noting value of cooperation and stating that "[t]he [settling defendants] know far better than the plaintiff classes precisely what occurred in the [relevant] period . . . and their willingness to open their files . . . may ease the plaintiffs' discovery burden enormously"); *In re Pressure Sensitive Labelstock Antitrust Litig.*, 584 F. Supp. 2d 697, 702 (M.D. Pa. 2008) (recognizing value of early cooperation); *In re Linerboard Antitrust Litig.*, 292 F. Supp. 2d 631, 643 (E.D. Pa. 2003) (same). Accordingly, the Settlement provides a substantial recovery for Settlement Class Members in light of the costs, risk, and delay of trial and appeal.

b. The Settlement Will Effectively Distribute Relief to the Class

Rule 23(e)(2)(C)(ii) evaluates the "effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims." The Settlement Agreement provides that the Court-approved Settlement Administrator will administer and calculate the claims and oversee the distribution of the Settlement Fund in accordance with the Plan of Allocation and Plan of Distribution, the details of which will be provided for the Court's consideration at future date. Settlement Agreement, ¶ 6(i); *see also* § I, *supra*.

As noted in § I, *supra*, at a future time, NCSPs will file an Allocation Process Motion, which will come after discovery in this case has commenced, and will provide the Court with a suggested process by which separate allocation counsel and/or a Special Master may, as needed, assist in fairly and equitably allocating the Settlement Fund among the Settlement Class. *See Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 289-290 (3d Cir. 2011) (describing role of Special Master in developing a plan of allocation for indirect purchasers).[14] After the Allocation Process Motion

[14] *See also In re HealthSouth Corp. Sec. Litig.*, 334 F. App'x 248, 254 (11th Cir. 2009) ("The district court had reasonable grounds to withhold the preliminary Plan of Allocation from the Class

is resolved by the Court, an allocation and distribution plan for the Settlement Class will be developed pursuant to the Court-approved process in conjunction with allocation counsel and/or a Special Master, if either has been appointed. Then, Interim Co-Lead Counsel will file a Motion for Approval of an Allocation and Distribution Plan, which will seek preliminary approval of the (i) proposed plan of allocation and distribution of the Settlement Fund and (ii) plan for notifying the Settlement Class of the plan of allocation and distribution, and the process for making a claim. The NCSP Class will be provided with an opportunity to object to the proposed plan of allocation and distribution at that time. NCSPs will then ask the Court to resolve any objections and permit the claims process to commence.

Deferral of approval of a plan of distribution until after final approval of the underlying settlement, with a second notice and opportunity to object to the distribution plan, has repeatedly been allowed in this District and other courts because it allows for additional settlement funds to be obtained and the accumulation of additional information as to the value of claims. *See, e.g.*, *In re Domestic Airline Travel Antitrust Litig.*, 378 F. Supp. 3d 10, 21-22 (D.D.C. 2019) ("In a case such as this, involving a large number of Class Members and two Non-Settling Defendants, it would be inefficient to distribute and process claims until the entire case has been resolved through litigation or otherwise and the Total Funds Available for Distribution are known. The Court finds that Settlement Class Counsel has demonstrated the adequacy of the Settlements with regard to their proposed means of distributing and processing claims, which will be done through a second notice to Class Members, followed by a right to object and/or file a claim."); *In re Broiler Chicken Antitrust Litig.*, 1:16-cv-08637 (TMD), ECF No. 7134 (N.D. Ill. Jan. 10, 2024) (order approving

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Notice. The Plan of Allocation was preliminary—the final Plan of Allocation was dependent on other ongoing negotiations—and portions of the Plan were necessarily confidential to avoid revealing details about the blow provision.").

Commercial & Institutional Indirect Purchaser Plaintiffs' plan of distribution for seven settlements, previously approved at various points in the two prior years) (Joint Decl., Ex. 9), *In re Turkey Antitrust Litig.*, 1:20-cv-02295 (VMK), ECF No. 206 (N.D. Ill. Oct. 4, 2021) (order approving settlement with first defendant in case that included notice to commercial indirect purchaser class stating "You will be notified later when there is an opportunity to make a claim to receive a payment.") (Joint Decl., Ex. 10); *In re Surescripts Antitrust Litig.*, 1:19-cv-06627 (JJT), ECF No. 126 (Motion) & 175 (Order) (N.D. Ill.) (order granting preliminary approval to settlement with one of three defendants where motion stated, "The notice documents describe the terms of the settlement with Defendant RelayHealth and inform the Settlement Class Members that there is no plan of distribution at this time to qualifying Class Members.") (Joint Decl., Exs. 11-12).[15]

c. Co-Lead Counsel Are Not Requesting Attorneys' Fees at this Time

Rule 23(e)(2)(C)(iii) evaluates the "terms of any proposed award of attorney's fees, including the timing of payment." Interim Co-Lead Counsel and NCSPs are not seeking an award of attorneys' fees, litigation expenses or costs, or service awards for the named representatives for the Settlement Class from the Settlement Fund at this time but will do so at a future time and will request up to one-third of the Settlement Sum (plus interest) as attorneys' fees and reimbursement of expenses.

[15] *See also In re Drexel Burnham Lambert Grp., Inc.*, 130 B.R. 910, 925 (S.D.N.Y. 1991) ("It is not an impediment to approval of the Settlement that the actual amounts to be distributed to Class members will be subject to further allocation procedures."), *aff'd*, 960 F.2d 285 (2d Cir. 1992); *In re Corrugated Container Antitrust Litig.*, 643 F. 2d 195, 223-24 (5th Cir. 1981) (finding that the district court did not abuse its discretion when it approved a notice of settlement that did not give "an estimated range of unitary recovery"); *NASDAQ Mkt.-Makers*, 187 F.R.D. at 480 ("[I]t is appropriate, and often prudent, in massive class actions to follow a two-stage procedure, deferring the Plan of Allocation until after final settlement approval[.]").

d. Plaintiffs Have Identified All Agreements Made in Connection with the Settlement

Rule 23(e)(2)(C)(iv) evaluates "any agreement required to be identified under Rule 23(e)." In addition to the Settlement Agreement, the Parties have entered into a Confidential Letter Agreement the sole purpose of which is to give OPIS the option to terminate the Settlement if requests for exclusion from the Settlement Class exceed certain agreed-upon conditions. *See* Settlement Agreement, ¶ 19(c). This type of agreement is standard in class action settlements and has no negative impact on the fairness of the Settlement. *See, e.g.*, *Hefler v. Wells Fargo & Co.*, No. 16-cv-05479, 2018 WL 4207245, at *11 (N.D. Cal. Sept. 4, 2018) ("The existence of a termination option triggered by the number of class members who opt out of the Settlement does not by itself render the Settlement unfair."); *see also In re Turkey Antitrust Litig.*, No. 1:19-cv-08318 (KLH), ECF No.1100-1 at 23-24 (N.D. Ill. Jan. 15, 2025) (setting out settlement termination rights in long-form settlement agreement between direct purchaser plaintiffs and Cargill) (Joint Decl., Ex. 13).[16]

[16] The Parties agree to provide the Confidential Letter Agreement to the Court *in camera* upon request. Settlement Agreement, ¶ 19(c). Confidential letter agreements are routinely used in class action settlements to specify the precise opt-out threshold. *In re HealthSouth Corp. Sec. Litig.*, 334 F. App'x 248, 250, 250 n.4 (11th Cir. 2009) ("The Stipulation included a "blow provision," granting HealthSouth the opportunity to withdraw from the proposed settlement if a certain undisclosed number of class members opted out of the Partial Settlement," and noting "the threshold number of opt outs required to trigger the blow provision is typically not disclosed and is kept confidential to encourage settlement and discourage third parties from soliciting class members to opt out."); *Wave Lengths Hair Salons of Fla., Inc. v. CBL & Assocs. Props., Inc.*, No. 2:16-cv-206, 2019 WL 13037030, at *9 (M.D. Fla. Apr. 24, 2019) ("Here, the only agreement made in connection with the Settlement Agreement is a side letter between Class Counsel and Defendants' Counsel identifying the number of opt-outs that would allow Defendants to invalidate the Settlement Agreement under Section 9.4. The side letter does not impact the fairness of the Settlement Agreement because it does not contain any relevant information for the Settlement Class and therefore the Court finds that this factor weighs in favor of a finding that the Settlement Agreement is fair and adequate.").

e. The Settlement Treats Class Members Equitably Relative to Each Other

Rule 23(e)(2)(D) evaluates whether "the proposal treats class members equitably relative to each other." Here, NCSPs are treated the same as all other Settlement Class Members and all share a common interest in obtaining OPIS's early and substantial cooperation to prosecute this case. Further, the release applies uniformly to all Settlement Class Members and does not affect the apportionment of the relief. *See* Settlement Agreement, ¶¶ 15-16. Finally, all Settlement Class Members will receive further notice and an opportunity to object to a proposed plan of allocation and distribution.

V. THE SETTLEMENT CLASS SHOULD BE CERTIFIED

The second part of the approval process is to determine whether the Action may be maintained as a class action for settlement purposes under Rule 23. *See* Fed. R. Civ. P. 23(e)(1)(B)(ii). At the preliminary approval stage, the Court should determine whether it "will likely be able" to certify the proposed Settlement Class at final approval. Fed. R. Civ. P. 23(e)(1)(B).

The Settlement Class NCSPs ask the Court to approve is provided for in Paragraph 4(a) of the Settlement Agreement:

> All persons and entities who purchased PVC Pipe manufactured by a Defendant and subsequently sold through a non-converter PVC Pipe seller in the United States between January 1, 2021 through [May 16, 2025].
>
> Specifically excluded from the Class are Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from the Class are any federal government entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, any business majority-owned by any such person, and any Co-Conspirator identified in this Action.

This definition meets the requirements of Fed. R. Civ. P. 23(e)(1)(B).

A. The Settlement Class Satisfies the Requirements of Rule 23(a).

Rule 23(a) requires for class certification that:

> (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical . . .; and (4) the representative parties will fairly and adequately protect the interests of the class.

First, Rule 23(a)(1)'s numerosity requirement is satisfied where "the class is so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). Numerosity is typically satisfied where there are more than 40 class members. *See Kramer v. Am. Bank & Tr. Co., N.A.*, No. 11 C 8758, 2017 WL 1196965, at *4 (N.D. Ill. Mar. 31, 2017); *see also Anderson v. Weinert Enters., Inc.*, 986 F.3d 773, 777 (7th Cir. 2021). Here, the Settlement Class consists of tens of thousands of members. Accordingly, the numerosity requirement is met.

Second, Rule 23(a)(2)'s commonality requirement is satisfied where "there are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). Common questions "need not address every aspect of the plaintiffs' claims," but they "must 'drive the resolution of the litigation.'" *Phillips v. Sheriff of Cook Cnty.*, 828 F.3d 541, 553 (7th Cir. 2016). "Where the same conduct or practice by the same defendant gives rise to the same kind of claims from all class members, there is a common question." *Suchanek v. Sturm Foods, Inc.*, 764 F.3d 750, 756 (7th Cir. 2014); *Keele v. Wexler*, 149 F.3d 589, 594 (7th Cir. 1998); *Kaufman*, 264 F.R.D. at 442 (characterizing Rule 23(a)(2)'s commonality requirement as a "'low . . . hurdle'"). Commonality is regularly found in antitrust cases because questions of the existence, nature, and scope of an antitrust conspiracy are common. *See In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 299 F. Supp. 3d 430, 590 (S.D.N.Y. 2018) (stating that "the existence of a conspiracy is a common question").

Here, the claims present common questions of law and fact, including whether OPIS, Converter Defendants, and their co-conspirators engaged in a conspiracy to artificially inflate and

stabilize the price of PVC Pipe. *See, e.g.*, *Thillens, Inc. v. Cmty. Currency Exch. Ass'n of Illinois, Inc.*, 97 F.R.D. 668, 677 (N.D. Ill. 1983) ("The overriding common issue of law is to determine the existence of a conspiracy."). In addition to that overarching question, this case is replete with other questions of law and fact common to the Settlement Class including: (1) the identities of the participants in the alleged agreement; (2) the duration of the alleged agreement and the acts performed by Defendants and Co-conspirators in furtherance of the agreement; (3) whether the conduct of Defendants and their Co-conspirators, as alleged in the Complaint, caused injury to the business or property of NCSPs and other class members; (4) the effect of the alleged conspiracy on the prices of PVC Pipe in the United States during the Class Period; and (5) the appropriate class-wide damages. Accordingly, the Settlement Class satisfies Ruler 23(a)(2). Thus, commonality is satisfied.

Third, Rule 23(a)(3)'s typicality requirement is satisfied if a plaintiff's claims arise from the same "event or practice or course of conduct that gives rise to the claims of other class members and . . . are based on the same legal theory." *Keele*, 149 F.3d at 595. Here, NCSPs' claims are typical of the Settlement Class's claims because NCSPs allege the same unlawful course of conduct harmed all Settlement Class Members. *See In re Amaranth Nat. Gas Commodities Litig.*, 269 F.R.D. 366, 376 (S.D.N.Y. 2010) (stating that "the typicality requirement may be satisfied where 'injuries derive from a unitary course of conduct by a single system."'). Therefore, typicality is established.

Fourth, Rule 23(a)(4) is satisfied if "the representative parties will fairly and adequately protect the interests of the class." For the reasons stated in § IV.A.1.a., *supra*, the adequacy requirement is satisfied.

B. The Settlement Class Satisfies Rule 23(b)(3).

The Settlement Class satisfies Rule 23(b)(3)'s requirement that "questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." *See* Fed. R. Civ. P. 23(b)(3).

The predominance requirement of Rule 23(b)(3) is satisfied because common questions comprise a substantial aspect of the case and can be resolved for all Settlement Class Members in a single adjudication. Predominance is '"a test readily met in certain cases alleging . . . violations of the antitrust laws.'" *Cordes & Co. Fin. Servs., Inc. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91, 105 (2d Cir. 2007) (citing *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997)).

Here, each element of the Plaintiffs' antitrust claims—collusion, causation and impact, and damages—would be proven through common evidence. *See In re Vitamin C Antitrust Litig.*, 279 F.R.D. 90, 109 (E.D.N.Y. 2012) (stating that in price-fixing conspiracy cases, "courts have frequently held that the predominance requirement is satisfied because the existence and effect of the conspiracy are the prime issues in the case and are common across the class.") (citing cases). The existence and scope of OPIS and Converter Defendants' alleged conspiracy to fix prices for PVC Pipe can be established by common evidence, such as OPIS's PVC & Pipe Weekly reports and communications with the Converter Defendants, price increase announcement and implementation letters issued by Converter Defendants, Converter Defendants' public statements and investor presentations about their price increases, internal corporate documents and communications reflecting pricing strategy and coordination, communications between the Converter Defendants, and deposition testimony of Defendants' employees. *See In re NASDAQ Mkt.-Makers Antitrust Litig.*, 169 F.R.D. 493, 518 (S.D.N.Y. 1996) ("Courts repeatedly have held that the existence of a conspiracy is the predominant issue in price fixing cases, warranting

certification of the class even where significant individual issues are present."). In other words, proof of the alleged conspiracy "will focus on the actions of the defendants, and, as such, proof for these issues will not vary among class members." *In re Vitamins Antitrust Litig.*, 209 F.R.D. 251, 264 (D.D.C. 2002). Further, class-wide impact, causation, and damages can also be demonstrated using predominantly common evidence, including through expert testimony and modeling that relies on market and transaction data, which is common to all members of the Settlement Class.

A class action is the superior method for the fair and efficient adjudication of these claims. NCSPs' claims are shared by tens of thousands of other Settlement Class Members nationwide. The resolution of all claims of all Settlement Class Members in a single proceeding promotes judicial efficiency and avoids inconsistent decisions. *See Gen. Tel. Co. of the Sw. v. Falcon*, 457 U.S. 147, 155 (1982) (noting "'the class-action device saves the resources of both the courts and the parties by permitting an issue potentially affecting every [class member] to be litigated in an economical fashion under Rule 23'") (alteration in original). Further, it is unlikely that many, if any, Class Members would be willing or able to pursue relief on an individual basis. *Suchanek*, 764 F.3d at 760 (holding that superiority demonstrated "because no rational individual plaintiff would be willing to bear the costs of this lawsuit"); *Carnegie v. Household Int'l, Inc.*, 376 F.3d 656, 661 (7th Cir. 2004).

Thus, Rule 23(b)(3)'s predominance and superiority requirements are satisfied.

VI. THE COURT SHOULD APPROVE THE PROPOSED CLASS NOTICE PLAN

NCSPs respectfully request the Court's approval of the Settlement Class Notice Plan, which will inform the Settlement Class Members of the Settlement and their rights. NCSPs have retained Kroll Settlement Administration ("Kroll") to administer the Notice Plan and the Settlement. As discussed in detail below, Kroll has developed a multi-method campaign for the Notice Plan based on similar notice campaigns previously approved by other Courts in this District.

Ultimately, "the form and content of the class notice is committed to the sound discretion of the court." *Mangone v. First USA Bank*, 206 F.R.D. 222, 231 (S.D. Ill. 2001).

A. The Content and Form of the Proposed Notice Documents Are Fairly Balanced, Easy to Read, and Contain All the Rule 23 Notice Requirements.

Notice to a class certified under Rule 23(b)(3), whether litigated or by virtue of settlement, requires that:

> [t]he notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified class; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any members who request exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

Fed. R. Civ. P. 23(c)(2)(B). The manner of the notice is reasonable "if it may be understood by the average class member." 4 Newberg on Class Actions, § 11.53 (4th ed. 2002).

The Class Notice documents conform to the seven plain language requirements of Rule 23(c)(2)(B). They provide the following information to the Certified Class: (1) the nature of the action and the Settlement; (2) the definition of the Settlement Class; (3) the Settlement Class's claims, issues, and defenses; (4) that any Settlement Class member may enter an appearance through an attorney if the member so desires; (5) that the Court will exclude from the Settlement Class any Settlement Class member who requests exclusion; (6) the time and manner for requesting such exclusions; and (7) the binding effect of a class judgment on Settlement Class members under Rule 23(c). *See* Declaration of Christie Reed ("Reed Decl."), ¶¶ 7-16, Exs. 2-3. As such, the Class Notice documents provide the required information to the Settlement Class about the Settlement. Moreover, the Notice Documents avoid legalese in favor of modern language and direct Settlement Class members to a toll-free number and the case-specific website maintained by Kroll for purposes of providing information about the case to the Settlement Class. *Id*.

B. The Proposed Class Notice Plan Provides the Best Notice Practicable Under the Circumstances of this Case.

Rule 23(c)(2)(B) requires the Court to direct to a class certified under Rule 23(b)(3) "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." *See Hughes v. Kore of Indiana Enter., Inc.*, 731 F.3d 672, 676 (7th Cir. 2013) (holding that the federal law requires only the best notice that practicable under the circumstances). Such notice may be by "United States mail, electronic means, or other appropriate means," including by publication. Fed. R. Civ. P. 23(c)(2B); *see Aranda v. Carribbean Cruise Line, Inc.*, No. 12 C 4069, 2017 WL 818854, at *2 (N.D. Ill. March 2, 2017) (holding that publication is permissible if class members are not reasonably identifiable), *affirmed sub nom. Birchmeier v. Caribbean Cruise Line, Inc.*, 896 F.3d 792 (7th Cir. 2018). The notice must contain specific information in plain, easily understood language, including the nature of the action and the rights of class members. Fed. R. Civ. P. 23(c)(2)(B)(i)-(vii); *see also In re AT&T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 352 (N.D. Ill. 2010). Additionally, the Settlement Class is entitled to receive notice of the Settlement in a reasonable manner. *See* Fed. R. Civ. P. 23(e)(1)(B). This requirement is satisfied by providing the best notice practicable under the circumstances. *See In re TikTok, Inc.*, 565 F. Supp. 3d at 1084.

The proposed Detailed Notice (Reed Decl., Ex. 2) and Postcard/Email Notice (*Id.*, Ex. 3) objectively and neutrally apprise recipients of (among other disclosures): (i) the nature of the Action; (ii) the definition of the Settlement Class; (iii) the claims and issues involved; (iv) that a Settlement Class Member may enter an appearance through an attorney if desired; (v) that the Court will exclude from the Settlement Class any Settlement Class Member who requests exclusion (and the procedures and deadlines for doing so); (vi) the binding effect of a class judgment on Settlement Class Members under Rule 23(c)(3)(B); and (vii) the deferral of

distribution of Settlement Funds until after approval of a plan of allocation and distribution, with a further opportunity to object.

As explained in the Declaration of Christie Reed, Kroll (the proposed Settlement Administrator, *see* Section VII *supra*), has designed a proposed Notice Plan that provides individual, direct email or postcard notice to all reasonably identifiable Settlement Class Members, combined with a state-of-the-art media campaign including internet, social media, and paid search advertising. Reed Decl., ¶¶ 17-31; *see* Fed. R. Civ. P. 23(e)(1) (calling for notice to be provided in a "reasonable manner to all class members who would be bound by the proposal").

As to individual direct mailed and emailed notice, NCSPs seek permission from the Court to obtain customer lists from the Non-Settling Defendants[17] and non-converter PVC sellers in order to facilitate notice. Settlement Agreement, ¶ 6(d). The proposed Preliminary Approval Order submitted herewith seeks the Court's authorization to request customer lists from the remaining Defendants and serve non-party discovery on non-converter PVC sellers with a deadline to respond within 30 days of the Court's Preliminary Approval Order.[18] Settlement Agreement, ¶ 6(e). To supplement these customer lists, Kroll will purchase lists of municipalities, contractors, and other

[17] While Non-Settling Defendants' customer lists will primarily pertain to direct sales to distributors, Interim Co-Lead Counsel's experience is that such data may contain information on downstream purchasers in the "ship to" field of transactional data. NCSPs raised this request with Non-Settling Defendants by email on May 30, 2025. Joint Decl., ¶ 21.

[18] *See, e.g.*, *In re Domestic Airline Travel Antitrust Litig.*, 322 F. Supp. 3d 64, 68 (D.D.C. 2018) (granting class plaintiffs' request to order non-settling defendants "to provide Plaintiffs with e-mail customer contact information in order that Plaintiffs may give notice to possible class members," noting that the "Non-Settling Defendants 'do not object to providing the e-mail addresses associated with the relevant tickets in their transactional data" so long as they had 30 days from the court's order to do so); *In re Broiler Antitrust Litigation*, 1:16-cv-08637, ECF No. 980 (N.D. Il. June 22, 2018) ("Each Defendant to produce customer names, addresses, phone numbers and email addresses, to the extent the Defendant has that information in its structured transactional data or other sources as agreed, to Direct Purchaser Plaintiffs and the Settlement Administrator") (Joint Decl., Ex. 17).

entities likely to have bought PVC Pipe and will provide emailed and/or mailed notice to such entities. Reed Decl., ¶ 11. Additionally, NCSPs and the Settlement Administrator will contact relevant trade associations composed of likely NCSP Class members, such as the American Water Works Association and Association of Metropolitan Water Agencies, and encourage them to advise their members of the settlement and how they can visit the Settlement Website for more information. Reed Decl., ¶ 32.

As set forth in the Reed Declaration, the Settlement Administrator will provide individual direct email or postcard notice to Settlement Class Members. The Postcard/Email Notice will be sent (a) via email to those Class Members for whom Kroll has an email address on record[19] and (b) via postcard to all other Members, including those to whom emails are undeliverable.[20] The Postcard/Email Notice, in its email and postcard forms, will direct recipients to the case-specific Settlement Website, which will include the Detailed Notice as well as additional information and documents (including the pleadings and various Court orders) relating to the case. Reed Decl., ¶ 33.

For email notice, the Settlement Administrator will utilize best practices to increase deliverability and avoid spam and junk filters. Prior to mailing the postcard, Kroll will run all addresses through the U.S. Postal Service's National Change of Address database and update any

[19] Courts permit notice by email. *See, e.g.*, *In re TikTok, Inc.*, 617 F. Supp. 3d at 920; *Yates v. Checkers Drive-In Rests., Inc.*, No. 17 C 9219, 2020 WL 6447196, at *5 (N.D. Ill. Nov. 3, 2020).

[20] Courts "regularly permit the use of postcard notices that provide information about the action and that direct class members to a website containing a long-form notice" as consistent with due process and Rule 23. *Sansone v. Charter Commc'ns, Inc.*, No. 17-cv-1880, 2023 WL 9051463, at *2 (S.D. Cal. Aug. 21, 2023); *see also Beezley v. Fenix Parts, Inc.*, No. 1:17-CV-07896, 2020 WL 4581733, at *2 (N.D. Ill. Aug. 7, 2020) (approving notice program that included postcard notice); *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 789 F. Supp. 2d 935, 968 (N.D. Ill. 2011) (same); *Wright v. Nationstar Mortg. LLC*, No. 14 C 10457, 2016 WL 4505169, at *2 (N.D. Ill. Aug. 29, 2016) (same).

addresses where a more recent address is found. Reed Decl., ¶ 14. The Settlement Administrator will track the deliverability of postcard and email notices sent and provide statistics on the number of undeliverable postcards and email notices, opened emails, and click-throughs to the settlement website and attempts to resend any undeliverable mail or email notices. Reed Decl., ¶ 13.

Additionally, the Settlement Administrator will establish a paid media program, digital and social media, and earned media which will attempt to provide notice to Settlement Class Members who do not receive direct notice. Reed Decl., ¶¶ 17-34, Ex. 4 (digital ads notices), Ex. 5 (press release).

The Notice Plan outlined above includes individual, direct notice to all reasonably identifiable Settlement Class Members combined with a media campaign consisting of state-of-the-art internet advertising, a robust social media campaign, and a paid search campaign. Reed Decl., ¶ 36. Accordingly, NCSPs respectfully request that the proposed forms of Notice and the Notice Plan be approved.

VII. APPOINTMENT OF CLASS NOTICE AND SETTLEMENT ADMINISTRATOR AND ESCROW AGENT

NCSPs move the Court for an order appointing the necessary administrators to implement Settlement Class Notice and the Settlement Agreement. First, NCSPs respectfully request the Court to appoint Kroll as the Settlement Administrator of the Class Notice Plan and the Settlement. Kroll is an experienced national class action notice provider and settlement administrator. *See* Reed Decl., Ex. 1.

Second, NCSPs respectfully ask the Court to appoint The Huntington National Bank as the Escrow Agent for the Settlement, to maintain the Qualified Settlement Fund as called for in the Settlement Agreement (*see* Settlement Agreement, ¶ 8), and to provide escrow services for the Settlement. The Huntington National Bank's qualifications are attached as Exhibits A and B to the

Declaration of Robyn Griffin filed contemporaneously herewith.

VIII. THE COURT SHOULD SCHEDULE A FAIRNESS HEARING

The last step in the settlement approval process is the Fairness Hearing. There, the Court may hear all the evidence necessary to evaluate the proposed Settlements. Proponents of the Settlements may explain and describe the terms and conditions of the Settlements and offer argument in support of the Settlements' approval. Additionally, members of the Settlement Class, or their counsel, may be heard regarding the proposed Settlements, if they choose. NCSPs propose the following schedule of events necessary for disseminating Notice to the Settlement Class and the Fairness Hearing.

DATE	EVENT
10 days after the filing of this Motion for Preliminary Approval	Defendant OPIS shall file via ECF confirmation of its provision of notice to government regulators pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715(d)
No later than 2 days after the Court's entry of a Preliminary Approval Order	NCSP Interim Co-Lead Counsel Shall Commence Service of Subpoenas on non-converter pipe sellers for purposes of obtaining contact information with a response date of 30 days after the Court's entry of an Order Granting Preliminary Approval of the Settlement.
Within 14 days of the production of customer data by non-converter sellers of PVC Pipe	Settlement Administrator to commence direct mail and email notice, and commence implementation of publication notice plan
84 days after the commencement of the Notice	Last day for Certified Class Members to: (1) request exclusion from the Certified Class and/or Settlements; (2) file objections to the Settlements, and (3) file notices to appear at the Fairness Hearing
7 days after last day to request exclusion from the Settlement	Co-Lead Counsel to provide OPIS with a list of all persons and entities who have timely and validly requested exclusion from the Settlement Class
14 days before the Fairness Hearing	Co-Lead Counsel shall file a motion for Final Approval of the Settlements and all supporting papers, providing a list of all timely and valid exclusions from the Settlement Class and/or Settlement (as well as all rejected exclusion requests), and Co-Lead Class

	Counsel and Defendant OPIS may respond to any objections to the proposed Settlement
40 days after the last day to request exclusion from the Settlement Class and/or Settlements or as soon thereafter as may be heard by the Court	Fairness Hearing regarding the Settlement[21]

IX. CONCLUSION

For all the foregoing reasons, NCSPs respectfully request that the Court: (i) preliminarily approve the Parties' Settlement Agreement; (ii) preliminarily certify the proposed Settlement Class; (iii) appoint Interim Co-Lead Counsel as Settlement Class Counsel; (iv) appoint the NCSP Class Named Representatives as named representatives for the Settlement Class; (v) approve the proposed plan for disseminating notice to the Settlement Class, including allowing NCSPs to seek contact information for NCSP Settlement Class Members; (vi) appoint the Settlement Administrator and Escrow Agent, including permitting NCSPs to withdraw from the Settlement Funds up to $250,000 without further approval for Settlement notice and administration costs, and (vii) set a Fairness Hearing for the Settlement. As further described below, in order to facilitate Notice to the Settlement Class, NCSPs also seek the Court's permission to request customer lists from the remaining Defendants and non-converter sellers of PVC Pipe.

[21] Under CAFA, the Court may not issue an order giving final approval to a proposed settlement earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with notice of these proposed Settlements. *Id.* at § 1715(d). Under the Settlement Agreement, within 10 days of the filing of this motion, OPIS will serve upon the appropriate state officials and the appropriate federal official the CAFA notice required by Section 1715(b). This schedule will allow the Court to schedule a Fairness Hearing as NCSPs propose in the schedule above, in conformance with CAFA's requirements.

Dated: June 6, 2025

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN PLLP

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Interim Co-Lead Class Counsel for Non-Converter Seller Purchasers

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
This Document Relates to:	Hon. LaShonda A. Hunt
Non-Converter Seller Purchaser Class	

JOINT DECLARATION OF BRIAN D. CLARK AND KARIN E. GARVEY IN SUPPORT OF NON-CONVERTER-SELLER PURCHASER CLASS PLAINTIFFS' MOTION—UNOPPOSED BY SETTLING DEFENDANT OIL PRICE INFORMATION SERVICE, LLC ("OPIS")— FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT WITH DEFENDANT OPIS AND RELATED RELIEF

Pursuant to 28 U.S.C. §1746, I, Brian D. Clark, declare as follows:

1. I am a partner at the law firm of Lockridge Grindal Nauen PLLP ("Lockridge Grindal Nauen"). This Court appointed Lockridge Grindal Nauen and Scott+Scott Attorneys at Law LLP as Interim Co-Lead Class Counsel for the Non-Converter Seller Purchaser Class in this Action. This Declaration is based upon my personal knowledge and experience, and, if called on to do so, I could and would testify competently thereto.

Pursuant to 28 U.S.C. §1746, I, Karin E. Garvey, declare as follows:

2. I am a partner at the law firm of Scott+Scott Attorneys at Law LLP ("Scott+Scott"). This Court appointed Lockridge Grindal Nauen and Scott+Scott as Interim Co-Lead Class Counsel for the Non-Converter Seller Purchaser Class in this Action. This Declaration is based upon my personal knowledge and experience, and, if called on to do so, I could and would testify competently thereto.

Pursuant to 28 U.S.C. §1746, we, Brian D. Clark and Karin E. Garvey, declare as follows:

3. Unless otherwise defined herein, all capitalized terms have the meanings ascribed to them in the Long-Form Settlement Agreement, dated May 16, 2025 ("Settlement Agreement" or "Settlement"), which is attached as **Exhibit 1** to this Joint Declaration. Unless otherwise noted, ECF cites are to the docket in this Action, and all internal citations and quotations are omitted.

4. We submit this Joint Declaration in support of Plaintiffs' Motion, pursuant to Rule 23 of the Federal Rules of Civil Procedure, for preliminary approval of the Settlement with between Plaintiffs George Bavolak, City of Omaha, Delta Line Construction Co., TC Construction, Inc., Water District No. 1 of Johnson County (Kansas), Blake Wrobbel, and James Corsey (collectively, the "NCSPs" or "Plaintiffs") and Defendant Oil Price Information Service, LLC ("OPIS," and together with NCSPs, the "Parties").

5. The Settlement provides for a total of $3,000,000 in cash and OPIS's agreement to provide extensive cooperation, which we believe will assist NCSPs in pursuing their claims against the remaining Defendants. If approved, the Settlement will resolve the Action against OPIS.

I. LITIGATION BACKGROUND

6. Co-Lead Counsel's extensive pre-suit investigation, done without any knowledge of the parallel investigation by the U.S Department of Justice ("DOJ"), led to the filing of the first three class action complaints in this consolidated action, alleging an industry-wide conspiracy involving Converter Defendants, OPIS, and certain named and unnamed co-conspirators.

7. On September 30, 2024, the Court granted NCSPs' motion (i) appointing Lockridge Grindal Nauen and Scott+Scott as Interim Co-Lead Counsel for a putative class consisting of "all purchasers of PVC Pipes through a non-converter seller" and (ii) consolidating all actions alleging such purchases under Interim Co-Lead Counsel's leadership. ECF No. 122, *as amended*, ECF No. 164.

8. Since filing the initial complaints in this Action, Interim Co-Lead Counsel have appeared at multiple in-person hearings, coordinated with all parties on consolidation and case deadlines, ensured service of the complaints, held a discovery conference with all defense counsel, served discovery, and vetted potential class representatives.

9. On October 30, 2024, NCSPs filed the First Consolidated Class Action Complaint ("Complaint"). ECF Nos. 179 (sealed version) and 180 (public redacted version). The depth and detail of the allegations in the Complaint showcase Interim Co-Lead Counsel's extensive investigation which spanned numerous fronts—legal, factual, and economic—and entailed substantial resources, in both attorney time and monetary expense. Interim Co-Lead Counsel held

discussions with class members and other industry participants, developed sources, collected relevant information, retained expert economists, and conducted considerable industry research.

10. On November 7, 2024, DOJ's inquiry into price-fixing in the PVC Pipe industry was publicly disclosed for the first time when defendant Otter Tail[1] revealed that it had received a federal criminal grand jury inquiry into price-fixing in the PVC pipe industry. Subsequently, Defendants Atkore[2] and Westlake[3] have also confirmed that they too received a criminal grand jury subpoena.

II. SETTLEMENT NEGOTIATIONS

11. NCSPs' settlement posture was informed by Interim Co-Lead Counsel's extensive factual investigation that preceded the Settlement, including discussions with class members and other industry participants, developing sources, collecting relevant information, retaining expert economists, and conducting considerable industry research. Interim Co-Lead Counsel comprehensively vetted the factual record, analyzed OPIS's arguments and contrary facts, and thoroughly considered the costs and risks of ongoing litigation. Interim Co-Lead Counsel, who have extensive experience litigating antitrust class actions, were well informed of the strengths and weaknesses of the claims and defenses in this Action and conducted the settlement negotiations seeking to achieve the best possible result for the Settlement Class in light of the risks, costs, and delays of continued litigation.

12. The Parties negotiated the Settlement over the course of nearly four months, beginning in mid-January 2025 when OPIS, through its experienced and respected counsel at

[1] https://www.nasdaq.com/articles/otter-tail-lower-after-disclosing-receipt-doj-subpoena-pvc-pipe-probe (last visited June 2, 2025)

[2] https://www.msn.com/en-us/money/companies/atkore-receives-doj-subpoena-over-product-pricing/ar-AA1z5lcP (last visited June 2, 2025)

[3] https://www.ft.com/content/de2ac6e1-c5ef-4b0a-aa70-c936c46fe9f3 (last visited June 2, 2025)

Dentons US LLP (Brian K. O'Bleness and Natalie J. Spears) initially approached NCSP Interim Co-Lead Counsel and expressed an interest in exploring a potential resolution of the case. Interim NCSP Co-Lead Counsel led negotiations with OPIS's counsel for over seven weeks before negotiations advanced to a point that OPIS requested that Interim Lead Counsel for DPPs be brought into settlement negotiations as well to permit OPIS to have full resolution of the case. Once both classes were at the table with OPIS, further negotiations continued for nearly two months before settlement agreements were reached fully resolving both classes' claims against OPIS, in exchange for a combination of monetary relief and substantial non-monetary consideration. The negotiations were hard-fought over both the monetary and non-monetary (e.g., cooperation) components of the settlement. Over the course of more than a dozen Zooms, plus numerous additional telephone calls, the Parties reached an agreement which was initially memorialized in a term sheet executed on May 5, 2025. At all times, the negotiations were at arm's length, and counsel zealously advocated for their respective clients.

13. Prior to completing negotiations, Interim Co-Lead Counsel, and relevant NCSP class counsel, communicated with the proposed NCSP named representatives regarding the proposed settlement terms. The response of all named representatives was positive and supportive. Attached are the following declarations from each named representative confirming their support for the Settlement Agreement:

a. **Exhibit 2**: Declaration of Austin Camerson, President, TC Construction, Inc.

b. **Exhibit 3**: Declaration of Jeremy Bridges, City Maintenance Superintendent, City of Omaha.

c. **Exhibit 4**: Declaration of James Corsey.

d. **Exhibit 5**: Declaration of Eric R. Arner, General Counsel, Water District No. 1 of Johnson County (Kansas).

e. **Exhibit 6**: Declaration of Blake Wrobbel.

f. **Exhibit 7**: Declaration of Susan Houde, Secretary & Treasurer, Delta Line Construction Co.

g. **Exhibit 8**: Declaration of George Bavolak.

14. There is a complete absence of any suggestion of impropriety with respect to this Settlement, which, was heavily negotiated between experienced counsel on both sides—namely, the undersigned, on behalf of NCSPs, and Brian K. O'Bleness and Natalie J. Spears of Dentons US LLP, on behalf of OPIS. Further, assuming preliminary approval of the Settlement is granted, the Settlement will allow NCSPs to amend their complaint substantially with additional specific allegations of price-fixing.

III. COOPERATION

15. In addition to agreeing to pay $3,000,000 in monetary consideration, OPIS has agreed to provide NCSPs as part of the Settlement extensive cooperation in their ongoing prosecution of claims against the remaining Defendants. OPIS's cooperation includes providing NCSPs with: (a) an attorney proffer, the first session of which to occur within 10 days of execution of the Settlement Agreement regarding material facts known to OPIS's counsel relating to NCSPs' Complaint; (b) three depositions; (c) three live trial witnesses, in the event that NCSPs' claims against any of the remaining Defendants proceed to trial; (d) documents produced by OPIS to DOJ in connection with its investigation (as well as to any other governmental entity investigating the PVC Pipe market), including structured data; PVC & Pipe Weekly reports; all messages or communications to or from Donna Todd[4] and employees of PVC converters and distributors; other documents to be provided pursuant to search terms to be negotiated by the parties; and other

[4] Donna Todd is OPIS's senior PVC editor. NCSPs allege that OPIS (via Ms. Todd) served as the primary facilitator of the alleged conspiracy by directly calling PVC pipe buyers and sellers to collect confidential pricing information, which enabled Defendants to coordinate their pricing strategies and monitor the conspiracy.

materials related to the DOJ's subpoena, such as interrogatory responses and privilege logs; and (e) declarations to establish the authenticity and admissibility of OPIS's documents.

16. An initial attorney proffer meeting has already occurred between OPIS and Interim Co-Lead Counsel.

17. Substantively, the value of OPIS's cooperation cannot be overstated. The Complaint alleges that the conspiracy involved a coordinated information exchange among competitors through OPIS, which allowed competitors to share competitively sensitive pricing data, coordinate price increases, and signal future pricing intentions. OPIS's cooperation provides valuable insights into to how the alleged information exchange functioned among Converter Defendants through OPIS's reporter Donna Todd and resulted in the alleged anticompetitive behavior.

18. OPIS's cooperation to date, including the production of thousands of documents and an initial in-person attorney proffer meeting, has already substantially advanced NCSPs' understanding of this case. Based on the agreed-upon cooperation by OPIS, assuming preliminary approval of the Settlement is granted, NCSPs will be far better positioned to litigate this case on behalf of the class, and NCSPs intend to move to amend their complaint to expand the scope of the alleged conspiracy to add substantial details regarding allegations of price fixing. Further, NCSPs will be able to streamline discovery and go into discovery knowing far more than usual about the who, what, where, and when of the alleged conspiracy.

IV. SELECTION OF ESCROW AGENT AND SETTLEMENT ADMINISTRATOR

19. Interim Co-Lead Counsel propose Huntington National Bank ("HNB") to serve as Escrow Agent, having the duties and responsibilities as described in the Settlement Agreement. HNB was established in 1866, holds over $60 billion in assets, and has more than 700 branches

nationwide. HNB's National Settlement Team has handled more than 1,000 settlements for law firms, claims administrators, and regulatory agencies. *See, e.g., In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices & Antitrust Litig.*, No. 2:17-md-02785, ECF No. 2590-1 (D. Kan.) (preliminary approval motion seeking appointment of Huntington Bank as escrow agent) (Joint Decl., Ex. 14); *id*. at ECF No. 2594 (order granting preliminary approval) (Joint Decl., Ex. 15); *In re Solodyn (Minocycline Hydrochloride) Antitrust Litig.*, No. 1:14-md-02503, ECF No. 1145 (D. Mass. Apr. 5, 2018) (appointing Huntington Bank as escrow agent) (Joint Decl., Ex. 16). Interim Co-Lead Counsel believe HNB is qualified to serve as Escrow Agent and request that the Court approve our selection.

20. Interim Co-Lead Counsel propose Kroll Settlement Administration ("Kroll") to serve as Settlement Administrator, having the duties and responsibilities as described in the Settlement Agreement. Interim Co-Lead Counsel previously selected Kroll after reviewing the available options and undertaking a rigorous bidding process consisting of bids from four experienced settlement administration firms. As indicated in the Reed Declaration, Kroll has been in the business of administering class action settlements for decades and has administered hundreds of class action settlements, including many well-known antitrust settlements. Interim Co-Lead Counsel believe Kroll is qualified to serve as Settlement Administrator and request that the Court approve our selection.

V. MISCELLANEOUS

21. On May 30, 2025, NCSPs requested that Non-Settling Defendants agree to produce to NCSPs their customer information, including both "bill to" and "ship to" information, as it may assist in identifying downstream customers. Further, such information will also assist in

identifying the direct purchasers of PVC Pipe from which NCSPs can target subpoenas for NCSP Class contact information.

22. In the *Broiler Chicken Antitrust Litigation*, No. 1:16-cv-08637 (TMD) (N.D. Ill.) the first settlement reached by each class was with Defendant Fieldale Farms and was described as an ice-breaker settlement, as it provided a relatively small amount of monetary relief, but was paired with substantial early cooperation by the settling defendant. In addition to the cooperation, Fieldale Farms provided monetary to each class as follows: Direct Purchaser Plaintiff Class ($2,250,000), Commercial IPP Class ($1,400,000), and End User Class ($1,700,000).

23. This Declaration and the Memorandum attach a number of relevant unpublished cases, which are attached as exhibits to this declaration as noted below:

a. **Exhibit 9:** *In re Broiler Chicken Antitrust Litig.*, 1:16-cv-08637 (TMD), ECF No. 7134 (N.D. Ill. Jan. 10, 2024).

b. **Exhibit 10:** *In re Turkey Antitrust Litig.*, 1:20-cv-02295 (VMK), ECF No. 206 (N.D. Ill. Oct. 4, 2021).

c. **Exhibit 11:** *In re Surescripts Antitrust Litig.*, 1:19-cv-06627 (JJT), ECF No. 126 (N.D. Ill. Jul. 29, 2020).

d. **Exhibit 12:** *In re Surescripts Antitrust Litig.*, 1:19-cv-06627 (JJT), ECF No. 175 (N.D. Ill. Apr. 19, 2021).

e. **Exhibit 13:** *In re Turkey Antitrust Litig.*, No. 1:19-cv-08318 (KLH), ECF No.1100-1 (N.D. Ill. Jan. 15, 2025).

f. **Exhibit 14:** *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices & Antitrust Litig.*, No. 2:17-md-02785, ECF No. 2590-1 (D. Kan.).

g. **Exhibit 15:** *In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices & Antitrust Litig.*, No. 2:17-md-02785, ECF No. 2594 (D. Kan.).

h. **Exhibit 16:** *In re Solodyn (Minocycline Hydrochloride) Antitrust Litig.*, No. 1:14-md-02503, ECF No. 1145 (D. Mass. Apr. 5, 2018).

i. **Exhibit 17:** *In re Broiler Antitrust Litigation*, 1:16-cv-08637, ECF No. 980 (N.D. Il. June 22, 2018).

j. **Exhibit 18:** *In re Broiler Antitrust Litigation*, 1:16-cv-08637, ECF No. 462 (N.D. Il. Aug. 8, 2017).

24. Attached hereto as **Exhibit 19** is an email chain dated May 6-7, 2025, with Beth Fegan, counsel for Erie County.

VI. CONCLUSION

25. For the reasons set forth herein, in Plaintiffs' motion for preliminary approval of the Settlement, and in the documents filed in support thereof, we believe the Settlement is fair, reasonable, and adequate and will substantially advance NCSPs knowledge of acts taken in furtherance of the conspiracy by the remaining Converter Defendants. As such, we believe that the Court should grant Plaintiffs' motion for preliminary approval of the Settlement and to certify, for purposes of effectuating the Settlement, the Settlement Class.

* * *

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct. Executed on the 6th day of June, 2025 in Minneapolis, Minnesota.

/s Brian D. Clark
BRIAN D. CLARK

I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct. Executed on the 6th day of June, 2025 in New York, New York.

/s Karin E. Garvey
Karin E. Garvey

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation THIS DOCUMENT RELATES TO: ALL NON-CONVERTER SELLER PURCHASER CLASS PLAINTIFF ACTIONS	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

LONG-FORM SETTLEMENT AGREEMENT BETWEEN NON-CONVERTER SELLER PURCHASER CLASS PLAINTIFFS AND DEFENDANT OIL PRICE INFORMATION SERVICE, LLC

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is made and entered into as of May 16, 2025 ("Execution Date"), by and between the Non-Converter Seller Purchaser Plaintiffs ("NCSPs", as hereinafter defined), through Interim Co-Lead Counsel (as hereinafter defined) for the proposed NCSP Class (as hereinafter defined), and Oil Price Information Service, LLC (as hereinafter defined) (referred to as "OPIS" or "Settling Defendant"). NCSPs, on behalf of themselves and the proposed classes, and OPIS are referred to herein collectively as the "Parties" or individually as a "Party."

WHEREAS, NCSPs on behalf of themselves and as representatives of the proposed NCSP Class of similarly situated persons or entities allege in the Action (as hereinafter defined), among other things, that OPIS participated in a conspiracy—with other Defendants and alleged non-Defendant co-conspirators—beginning January 1, 2021 and continuing thereafter, to fix, raise, maintain, and stabilize the price of polyvinyl chloride pipe ("PVC Pipe") (as hereinafter defined);

WHEREAS, the Court appointed Interim Co-Lead Counsel to represent the proposed NCSP Class of non-converter seller purchasers of PVC Pipe (ECF No. 164);

WHEREAS, the Parties wish to resolve all claims asserted and all claims that could have been asserted against OPIS in any way arising out of the purchase from a non-converter seller of PVC Pipe produced, processed, or sold by any of the Defendants or their alleged named or unnamed co-conspirators;

WHEREAS, counsel for the Parties have engaged in arm's-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement (as hereinafter defined);

WHEREAS, Interim Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the proposed NCSP Class to enter into this Settlement Agreement with OPIS to avoid the uncertainties of further complex litigation, and to obtain the significant early benefits described herein for the proposed NCSP Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of NCSPs and the proposed NCSP Class, given the uncertainties, risks, and costs of continued litigation, and given the fact that if approved, this Settlement will be the initial icebreaker settlement in a case with many remaining Defendants;

WHEREAS, NCSPs and Interim Co-Lead Counsel believe the cooperation and other relief by OPIS (as set forth in Paragraphs 10 and 11 herein) and the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate consideration for the proposed NCSP Class to release, settle, and discharge the claims against OPIS covered by the release herein, including their claims that they were overcharged in connection with the alleged anticompetitive conduct of which OPIS is accused;

WHEREAS, OPIS has neither conceded nor admitted liability in the Action; and notwithstanding its belief that it has legitimate defenses to the claims that are asserted or could have been asserted by the NCSPs against it in the Action, OPIS enters into this Settlement

Agreement to avoid the costs, expenses, disruptions, and uncertainties of this complex litigation, and thereby put this controversy to rest;

WHEREAS, NCSPs, notwithstanding their belief that they would ultimately prevail at trial and establish liability by OPIS for the conspiracy they have alleged, enter into this Settlement Agreement to avoid the costs, expenses, and uncertainties of this complex litigation;

WHEREAS, all Parties preserve all arguments, defenses, and responses to all claims in the Action, including any arguments, defenses, and responses to any proposed litigation class proposed by NCSPs, in the event this Settlement Agreement does not obtain Final Approval (as hereinafter defined) or otherwise is terminated as provided in Paragraph 19 herein;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties that the claims of the NCSPs and the NCSP Class be settled, compromised, and dismissed on the merits with prejudice as to OPIS, subject to Court approval, and that OPIS be forever fully discharged and released from any and all claims covered by this Settlement Agreement:

1. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement.

a. "Action" means the consolidated litigation proceeding captioned *In re: PVC Pipe Antitrust Litigation*, 1:24-cv-07639 ("*PVC*"), which is currently pending in the United States District Court for the Northern District of Illinois.

b. "NCSP Class" or "NCSP Settlement Class" means the class as defined in Paragraph 4(a) below, excluding all persons who file a valid request for exclusion from the settlement class.

c. "Class Notice" means any notice sent to the NCSP Class pursuant to

Preliminary Approval of this Settlement Agreement and in conjunction with the notices approved by the Court pursuant to Federal Rule of Civil Procedure 23.

d. "Class Period" for the NCSP Settlement Class means January 1, 2021 through the Execution Date of this Settlement Agreement.

e. "Complaint" and "NCSP Complaint" means the NCSPs' Consolidated Class Action Complaint filed with the Court in the Action on October 30, 2024 (ECF No. 179).

f. "Court" means the United States District Court for the Northern District of Illinois and the Honorable Lashonda A. Hunt or her successors, or any other court in which the Action is proceeding.

g. "Days," when used in this Settlement Agreement to specify a deadline or time period by which some event will occur, means the number of calendar days stated, excluding the day that triggers the period, except that if the last day is a Saturday, Sunday, or legal holiday, the period shall continue to run until the next day that is not a Saturday, Sunday, or legal holiday.

h. "Defendant" means any named defendant in the Action; and "Converter Defendant" means the named Defendants in the Action other than OPIS (which does not make, sell or distribute PVC Pipe).

i. "Escrow Account" means the escrow account established with the escrow agent at a bank designated by Interim Co-Lead Counsel ("Escrow Agent") to receive and maintain funds contributed by OPIS for the benefit of the proposed NCSP Class.

j. "Escrow Agreement" means that certain agreement between the Escrow Agent that holds the Settlement Fund and NCSPs (by and through Interim Co-Lead Counsel) pursuant to which the Escrow Account is established and funded for the benefit of the NCSP Class, as set forth in Paragraphs 8 and 9 below.

k. "Fairness Hearing" means a hearing by the Court to determine whether the

Settlement Agreement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

l. "Final Approval" means an order and judgment by the Court which finally approves this Settlement Agreement, including all of its material terms and conditions without modification, and the settlement pursuant to Federal Rule of Civil Procedure 23 and dismisses OPIS with prejudice from the Action.

m. "Final Judgment" means the first date upon which both of the following conditions shall have been satisfied: (a) Final Approval; and (b) either (1) no appeal or petition to seek permission to appeal the Court's Final Approval has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) Days after entry of the order of Final Approval; or (2) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (i) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (ii) the date the Final Approval is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

n. "Interim Co-Lead Counsel" means Lockridge Grindal Nauen PLLP and Scott+Scott Attorneys at Law LLP as appointed by the Court (ECF No. 164) to represent the proposed NCSP Class of non-converter seller purchasers of PVC Pipe in the Action.

o. "Oil Price Information Service, LLC" ("OPIS") and "OPIS Released Parties" or "Released Parties," collectively and individually, means OPIS, together with any and all of OPIS's past, current, and future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities, affiliates, associates, divisions, joint ventures, predecessors, successors, assigns and each of their respective past or present, direct or indirect, officers, directors, trustees, partners, managing directors, shareholders, managers, members, employees, attorneys, equity holders, agents, beneficiaries, executors, insurers, advisors, assigns,

heirs, legal or other representatives. Notwithstanding the foregoing, "OPIS Released Parties" does not include any Defendant or other entity other than OPIS (as defined above) named by NCSPs in the Action, either explicitly or as a third-party beneficiary.

p. "Preliminary Approval" means an order by the Court to preliminarily approve this Settlement Agreement pursuant to Federal Rule of Civil Procedure 23.

q. "PVC Pipe" means all polyvinyl chloride pipe, as described in the NCSP Complaint (ECF No. 179), including, without limitation, all PVC pipe and piping products used in plumbing, electrical conduit, and municipal piping systems that are manufactured by combining chlorine and ethylene. PVC Pipe does not include the market for resin. "PVC Pipe Market" means the United States market for PVC Pipe, as that term is defined herein.

r. "Released Claims" shall have the meaning set forth in Paragraphs 15 and 16 of this Settlement Agreement.

s. "Releasing Parties" means, collectively and individually, NCSPs, the NCSP Class, and all members of it, including the NCSPs, each on behalf of themselves and their respective predecessors, successors, and all of their respective past, present and future (i) direct and indirect parents, subsidiaries, associates and affiliates, (ii) agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions, and (iii) shareholders, partners, directors, officers, owners of any kind, principals, members, agents, employees, contractors, insurers, heirs, executors, administrators, devisees, representatives; the assigns of all such persons or entities, as well as any person or entity acting on behalf of or through any of them in any capacity whatsoever, jointly and severally; and also means, to the full extent of the power of the signatories hereto to release past, present, and future claims, persons or entities acting in a private attorney general, qui tam, taxpayer, or any other capacity, whether or not they object to the Settlement and whether or not they make a claim for payment from the Settlement Fund.

t. "Settlement" means the settlement of all claims that were or could have been asserted by NCSPs and the proposed NCSP Class in the Action according to the terms set forth in this Settlement Agreement.

u. "Settlement Administrator" means the firm retained to disseminate the Class Notice, maintain the settlement website, handle communications related to claims, and to administer the payment of the Settlement Sum from the Settlement Fund (as hereinafter defined) to the NCSP Class, subject to approval of the Court.

v. "Settlement Fund" means $3,000,000.00 (three million U.S. dollars) (the "Settlement Sum"), which includes up to $250,000.00 (U.S. dollars) in non-refundable class notice and administration costs to the NCSP Class, and is inclusive of all Class recovery amounts, fees (including attorneys' fees and any other fees), and costs, which is the absolute amount OPIS shall pay or cause to be paid into a non-reversionary settlement fund. The Settlement Fund will be held in an interest-bearing Escrow Account maintained by an Escrow Agent on behalf of the NCSP Class, pursuant to Paragraphs 8 and 9 below, and shall include any interest accruing within the interest-bearing Escrow Account. The Settlement Fund will be used to pay all valid settlement claims submitted by NCSP Class members at a future date, as well as all settlement Class Notice and administration costs, and all attorneys' fees and any service awards approved by the Court. For the avoidance of doubt, the Settlement Sum is the maximum amount that OPIS will be obligated to pay in consideration of the Settlement, and under no circumstances will OPIS be obligated to provide any additional monetary consideration in connection with the Settlement.

2. The Parties' Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use reasonable efforts to seek the Court's Preliminary Approval and Final Approval of the Settlement Agreement, including cooperating in promptly seeking the Court's approval of the Settlement Agreement consistent with the terms contained within this

Settlement Agreement, the giving of appropriate Class Notice under Federal Rule of Civil Procedure 23, and securing the prompt, complete, and final dismissal with prejudice as to OPIS.

3. Litigation Standstill.

a. Upon execution of this Settlement Agreement, NCSPs shall cease all litigation activities with respect to OPIS except to the extent expressly authorized in the Settlement Agreement, and OPIS shall cease all litigation activities with respect to NCSPs and the proposed NCSP Class except to the extent expressly authorized in the Settlement Agreement or as it pertains to any cooperation terms or as set forth in Paragraph 10(g)(iii) herein, or to the extent any member of any NCSP Class who has validly excluded itself from the NCSP Class files a direct action complaint against OPIS ("Direct Action Plaintiff") or in any other action or claim filed by Parties other than the NCSP Class.[1] Nor shall any of the foregoing provisions be construed to prohibit NCSPs and the proposed NCSP Class from (1) seeking appropriate discovery from non-settling Defendants or alleged co-conspirators or any other person other than OPIS and (2) seeking to prove the conspiracy alleged in this Action. None of the foregoing provisions shall be construed to prohibit OPIS from defending itself in proceedings outside of this Action.

b. The Parties' litigation standstill shall cease in the event that the Settlement does not receive Preliminary Approval from the Court or this Settlement Agreement is terminated for any reason set forth in the Termination Events defined in Paragraph 19.

4. Motion for Preliminary Approval. No later than twenty-one (21) Days after the Execution Date, NCSPs will move the Court for Preliminary Approval of this Settlement.

[1] For the avoidance of doubt, "Direct Actions" includes all actions by plaintiffs who validly opt-out of the NCSP Settlement Class and file a direct action lawsuit against OPIS based on factual allegations that are substantially similar to those asserted in NCSPs' Complaint filed in the Action.

a. NCSP Settlement Class Certification. NCSPs shall seek, and OPIS shall not object to, appointment of Interim Co-Lead Counsel as Settlement Class Counsel for purposes of this Settlement, and certification in the Action of a NCSP Settlement Class, for settlement purposes only, defined as:

> All persons and entities who purchased PVC Pipe manufactured by a Defendant and subsequently sold through a non-converter PVC Pipe seller in the United States between January 1, 2021 through the Execution Date of this Settlement Agreement.
>
> Specifically excluded from the Class are Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from the Class are any federal government entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, any business majority-owned by any such person, and any Co-Conspirator identified in this Action.

b. Preliminary Approval Papers. A reasonable time, no less than four (4) business Days, in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including any proposed orders and the proposed Class Notices and notice plan, shall be provided by Interim Co-Lead Counsel to OPIS for its review. To the extent that OPIS objects to any aspect of the motion, it shall communicate such objection to Interim Co-Lead Counsel and the Parties shall meet and confer in good faith to resolve any such objection. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval.

c. Restrictions Prior to Preliminary Approval. Until Preliminary Approval of the Settlement is granted by the Court, NCSPs and the NCSP Class shall not file with the Court, disseminate to any entity or person not a Party to this Settlement Agreement, or quote from any of the information or materials provided by OPIS pursuant to this Settlement Agreement under Paragraph 10 herein, unless agreed to in writing by OPIS, or said information and materials otherwise has become available through discovery in the Action.

5. Class Action Fairness Act ("CAFA") Notice. Within ten (10) Days of filing of this Settlement Agreement in Court with the above-mentioned motion for Preliminary Approval, OPIS, at its sole discretion and expense, shall serve (or cause to be served) upon appropriate Federal and State officials all materials required pursuant to CAFA, and shall confirm to NCSPs' Interim Co-Lead Counsel via a filing on ECF that such notices have been served.

6. Settlement Class Notices. Along with the Motion for Preliminary Approval, and subject to approval by the Court of the means for dissemination, the Parties shall submit:

a. Notices to the Settlement Class: At a reasonable time, no less than four (4) business days, in advance of submission to the Court for approval, along with the Motion for Preliminary Approval, proposed communications to the NCSP Class regarding the Settlement (including, but not limited to, short-form and long-form notices and advertisements) shall be provided by Interim Co-Lead Counsel to OPIS for its review. To the extent that OPIS has objections to, or has edits or comments to, the proposed Class Notice, it shall communicate such objections, edits and/or comments to Interim Co-Lead Counsel and the Parties shall meet and confer in good faith to resolve them. Each Party reserves all rights in the event that disputes as to form or contents of proposed Class Notice cannot be resolved informally, in good faith, and for the avoidance of doubt, any litigation or disputed motion practice arising between the Parties concerning such disputes shall not be subject to the litigation standstill obligations set forth in Paragraph 3.

b. Notice shall be reasonable under the circumstances based on information that the Parties have available. The Parties will also request that the Court approve a publication notice plan calculated to reach the greatest possible number of class members. Reasonable efforts shall also be made to provide individual notice of this Settlement to NCSP Settlement Class members, which shall be mailed, emailed, or otherwise sent by the Settlement Administrator, at the direction of Interim Co-Lead Counsel, to potential members of the NCSP Class, in conformance with a notice

plan to be approved by the Court, including a required provision in the Class Notice that members of the proposed NCSP Class who wish to opt out and exclude themselves from the NCSP Class must submit an appropriate and timely request for exclusion.

c. The Notice shall include a provision stating that requests to opt out of the NCSP Settlement Class can be made only by individuals or an individual entity on behalf of themselves (and subsidiaries) and personally signed by each individual person or entity requesting exclusion.

d. The Parties recognize that NCSPs and Interim Co-Lead Counsel will seek at the same time as filing of the Preliminary Approval Motion and notice plan, permission from the Court to obtain customer lists from non-settling Defendants, and that the NCSP Class will seek such information from larger direct purchasers in order to provide where feasible direct notice to the class, in addition to publication notice. NCSPs and Interim Co-Lead Counsel will seek to limit any delay caused by obtaining such customer lists from non-settling Defendants.

e. The NCSP class will seek an order from the Court approving service of non-party discovery with a deadline for responses to such discovery thirty (30) Days after such an order for the production of customer data.

f. Neither the NCSPs, the proposed NCSP Class, Interim Co-Lead Counsel, nor OPIS shall have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the NCSP Class or obtaining approval of the Settlement or administering the Settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

g. Subject to Court approval and CAFA requirements, Class Notice to the proposed NCSP Class shall be issued promptly. Interim Co-Lead Counsel will seek to send Class Notice to the proposed NCSP Class within 14 Days of the production of customer data by non-party

direct purchasers from whom they request the Court's permission to obtain NCSP Class contact information.

h. Any costs of notice actually incurred that Interim Co-Lead Counsel are permitted to withdraw from the Settlement Fund up to $250,000.00, either pursuant to the Parties' Settlement Agreement or order of the Court, shall be nonrefundable if, for any reason, this Settlement Agreement is terminated according to its terms or is not granted Final Approval by the Court.

i. The Settlement Administrator shall effectuate the notice plan approved by the Court in the Preliminary Approval Order, shall administer and calculate the claims, and shall oversee distribution of the Settlement Fund in accordance with the plan of distribution at a future date, under the continued supervision of the Court.

7. Motion for Final Approval and Entry of Final Judgment. If the Court grants Preliminary Approval, then NCSPs, through Interim Co-Lead Counsel—in accordance with the schedule set forth in the Court's Preliminary Approval—shall submit to the Court a separate motion for Final Approval of this Settlement Agreement by the Court. At a reasonable time, no less than four (4) business Days, in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by Interim Co-Lead Counsel to OPIS for its review. To the extent that OPIS objects to any aspect of the motion, it shall communicate such objection to Interim Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek entry of an order and Final Judgment:

a. Finally approving the Settlement Agreement as being a fair, reasonable, and adequate settlement for the NCSP Class within the meaning of Federal Rule of Civil Procedure 23, and directing the implementation, performance, and consummation of the Settlement Agreement and its material terms and conditions, without material modification of those terms and

conditions;

b. Determining that the Class Notice provided to the NCSP Settlement Class constituted the best notice practicable under the circumstances of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons entitled to receive notice;

c. Dismissing NCSPs' Complaint, and all other complaints, asserted by Releasing Parties in the Action with prejudice as to OPIS, only, without further costs or fees;

d. Discharging and releasing the OPIS Released Parties from all Released Claims;

e. Enjoining the Releasing Parties from suing any of the OPIS Released Parties for any of the Released Claims;

f. Finding that OPIS has provided the appropriate notice pursuant to the CAFA, 28 U.S.C. §1711 *et seq.*

g. Reserving continuing and exclusive jurisdiction over the Settlement Agreement for all purposes; and

h. Determining under Fed. R. Civ. P. 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to OPIS shall be final and appealable and entered forthwith.

The Parties shall use all reasonable efforts available to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions

8. Escrow Account. The Escrow Account shall be administered by the Escrow Agent pursuant to this Agreement and subject to the supervision of Interim Co-Lead Counsel for the NCSPs and proposed NCSP Class, under the Court's continuing supervision, jurisdiction, and control pursuant to the Escrow Agreement.

9. Settlement Consideration. In consideration for the release of Released Claims, the dismissal of the Action under the terms herein, and the other material terms and conditions herein, within forty-five (45) Days after Preliminary Approval is granted by the Court, OPIS will pay the Settlement Sum into the Escrow Account by wire transfer pursuant to instructions from the Escrow Agent and/or Interim Co-Lead Counsel, and will provide the cooperation set forth in Paragraph 10. In addition, subject to the provisions hereof, as further injunctive relief, and in full, complete, and final settlement of the Action as provided herein, OPIS further agrees to the compliance set forth in Paragraph 11 below.

10. Cooperation. Cooperation by OPIS is a material term of the Settlement Agreement and shall include the following once the Settlement is executed:

a. Attorney Proffer. OPIS's outside counsel will provide up to seven (7) hours of an attorney proffer that may be conducted in multiple sessions regarding the material facts known to OPIS's counsel regarding alleged violations of the antitrust laws, including alleged price-fixing in the PVC Pipe Market, pled in NCSPs' Complaint. The first attorney proffer will take place within ten (10) Days of the Execution Date by video conference and/or in person at a mutually convenient location, at Interim Co-Lead Counsel's election. This provision does not require counsel to provide information protected by the attorney-client privilege or attorney work product doctrine, nor is OPIS waiving any such privileges. By agreement of the Parties, any statements made by counsel as part of the Attorney Proffer contemplated by this Paragraph shall be inadmissible as evidence.

b. Depositions. OPIS will use reasonable efforts to make up to three (3) current or former employees available for depositions, including Donna Todd.

c. Trial Witnesses. OPIS will use reasonable efforts to provide up to three current or former employees to provide testimony live at trial of the NCSPs' claims in the Action.

d. Documents. OPIS will produce, electronically, documents and data that were already (or that are in the future) produced by OPIS to the Department of Justice Antitrust Division ("DOJ") pursuant to the DOJ subpoena served on OPIS as part of the DOJ's investigation into alleged antitrust violations in the PVC Pipe Market ("DOJ Subpoena"), and to any other governmental entity pursuant to a government investigation into alleged antitrust violations in the PVC Pipe Market ("Governmental PVC Pipe Market Investigation"), within (3) Days after the Execution Date. Such document and data productions will be treated as CONFIDENTIAL or HIGHLY CONFIDENTIAL[2] and will include at a minimum:

i. The structured pricing data OPIS maintains regarding PVC Pipe and resin from January 1, 2012 to November 2024, in a structured data format, such as a .csv file.

ii. Copies of all draft and final PVC & Pipe Weekly reports from January 2017 through November 2024.

iii. All messages or communications to or from Donna Todd at OPIS and the work account, user handle, or phone number of an employee of a PVC converter without

[2] NCSPs, Interim Co-Lead Counsel, and other counsel and persons retained or acting at the direction of NCSPs or Interim Co-Lead Counsel, will treat the documents and data produced by OPIS as CONFIDENTIAL or HIGHLY CONFIDENTIAL as indicated in the specific documents and under the terms of and subject to the protective order that will be subsequently entered in the Action. Until such time as such protective order is entered, and if no protective order has been entered at the time of the Final Approval and Final Judgment as to OPIS, the documents and data produced by OPIS will be treated, at a minimum and by agreement, in accordance with the protection for HIGHLY CONFIDENTIAL documents in the draft proposed protective order circulated by Plaintiffs' counsel on October 16, 2024, until the Court enters a protective order in the case, after which the protective order entered by the Court governs confidentiality. OPIS will not be obligated to re-review or redesignate a confidentiality designation; provided however, NCSPs and Interim Co-Lead Counsel are not precluded from making particularized requests to OPIS to redesignate specific documents, which OPIS shall consider in good faith.

any relevance review.[3] OPIS has represented that only Donna Todd engaged in such communications, therefore, based on that representation, only her communications are to be searched at this time. The Parties agree that if further factual information changes the understanding that only Donna Todd has relevant communications with PVC converter employees, then the Parties will meet in good faith to address any production deficiencies. OPIS has also represented that Donna Todd does not use personal accounts for such communications. The Parties agree that if further factual information changes the understanding that Donna Todd does not use personal accounts for relevant communications with PVC converter employees, then the Parties will meet in good faith to address any production deficiencies.

iv. In addition to the prior provision, OPIS will also run search terms on the remaining ESI for Donna Todd relating to the names of each PVC converter and distributors Core & Main Inc., Ferguson Enterprises, Inc., and Fortiline Waterworks; their relevant employees (both full names and shorthand names); and names of the relevant products. OPIS will apply a relevance review to these and will produce any non-privileged document related to the PVC Pipe Market.

v. All documentation of communications with or between Donna Todd and PVC converters and distributors Core & Main, Inc., Ferguson Enterprises, Inc., and Fortiline Waterworks, such as call notes, whether in electronic or hard copy format.

vi. Materials produced from centralized sources of ESI provided to the DOJ pursuant to the DOJ Subpoena or a governmental entity in response to a Governmental PVC

[3] To the extent available to OPIS, this includes text messages and includes the log of both text messages and phone calls from Donna Todd's cellular device(s). Donna Todd's communications with any Westlake employees were reviewed for relevance and will be produced as indicated in Paragraph 10(d)(iv).

Pipe Market Investigation.

vii. Any written analysis, interrogatory response, or other written submission provided to the DOJ pursuant to the DOJ Subpoena or a governmental entity in response to a Governmental PVC Pipe Market Investigation.

e. Declaration. OPIS will provide declarations and/or affidavits and/or testimony necessary to establish the authenticity and admissibility of its documents under the Federal Rules of Evidence to NCSPs, the NCSP Class, and Interim Co-Lead Counsel.

f. NCSPs and Interim Co-Lead Counsel will not share any materials or information provided by OPIS through the cooperation terms herein with any other plaintiff or plaintiff group in any other action, unless authorized by OPIS in writing or directed to do so by the Court.

g. Other Terms.

i. On the Execution Date of this Settlement Agreement, OPIS will withdraw from any joint defense group in this Action, if any, and will not voluntarily share this Settlement Agreement with the other Defendants until such time as it is publicly filed by the Parties in connection with the Motion for Preliminary Approval of the Settlement.

ii. OPIS will not cooperate with the other Defendants further in this Action, but if OPIS is asked to do so, OPIS may seek permission from NCSPs to cooperate, and NCSPs will consider such requests in good faith. Nothing in this Paragraph prevents OPIS from fully defending itself if a Direct Action is filed by a plaintiff who opts-out of this Settlement, or prevents OPIS from coordinating with non-settling Defendants in the joint defense of claims against OPIS in such other Direct Actions, including retention of experts for use in such Direct Actions. However, if such a case is filed, OPIS in its sole discretion will not provide any more information to other Defendants than necessary to defend itself in those actions.

iii. Until the Parties agree or the Court orders otherwise, no cooperation materials which OPIS produces under this Settlement Agreement may be shared with any other Defendant or alleged co-conspirators, except as authorized under this Agreement in connection with the defense of a Direct Action filed against OPIS or in defense of any other action or claim filed by parties other than the NSCP Class.

iv. OPIS will provide NCSPs any privilege log it provides to DOJ pursuant to the DOJ Subpoena or any other private or governmental party in response to a Governmental PVC Pipe Market Investigation within seven (7) Days of the Execution Date, or no later than seven (7) Days after such privilege log is served. Any document that OPIS identifies on such privilege log and which OPIS subsequently produces in a less redacted or unredacted format will be produced to NCSPs' within seven (7) Days of production to any other entity. Both Parties wish to avoid any dispute regarding documents withheld on the privilege log. Should NCSPs have any specific concerns with the privilege log, they will raise such concerns with OPIS, and OPIS will respond in good faith to those concerns.

v. OPIS will not assert any reporter's privilege with respect to the materials agreed to be produced in this Settlement Agreement. OPIS is not waiving any reporter's privilege in the event this Settlement is not consummated, or for other materials, products, or documents that are not required to be produced under this Settlement Agreement. Nor is OPIS waiving the attorney-client privilege or attorney work product doctrine Further, for the avoidance of doubt, notwithstanding any other provision in this Settlement Agreement, OPIS shall not be deemed to have waived any privileges in the event that this Agreement does not receive Preliminary or Final Approval from the Court, or is otherwise terminated in accordance with this Agreement.

vi. To the extent that OPIS responds to discovery, produces documents, or provides proffers or other cooperation or information to any other plaintiff or government entity regarding the PVC Pipe Market during the pendency of the Action, it will provide the same information to NCSPs within ten (10) Days thereof. For the avoidance of doubt, OPIS will provide NCSPs and the NCSP Class with no less cooperation than it provides any other plaintiff or government entity including, without limitation, witnesses, declarations, affidavits, proffers, witness interviews, or documents and data regarding the PVC Pipe Market.

h. In the event that the Court does not grant either Preliminary or Final Approval, or the Settlement is terminated, including without limitation for any reason set forth in the Termination Events defined in Paragraph 19, all documents produced pursuant to this Settlement Agreement shall be returned to OPIS within fourteen (14) Days and all documents and information provided by OPIS deemed inadmissible, unless otherwise made available through discovery in the Action.

11. Compliance with Antitrust Laws. OPIS has neither conceded nor admitted liability in the Action. OPIS agrees that OPIS will not, for a period of two years from the date of the entry of the Final Approval Order and Final Judgment, engage in conduct that is determined in a final non-appealable judgment to constitute a per se violation of Section 1 of the Sherman Act in the PVC Pipe Market (as defined herein). The Parties agree that any claim asserted by plaintiffs of non-compliance with this provision shall not alter or affect the Release in Paragraph 15 and/or the Waiver in Paragraph 16.

12. Qualified Settlement Fund. The Parties agree to treat the Settlement Fund as being at all times a "Qualified Settlement Fund" within the meaning of Treas. Reg. § 1.468B-1, and to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Interim Co-Lead Counsel shall

timely make such elections as necessary or advisable to carry out the provisions of this Paragraph, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Interim Co-Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a Qualified Settlement Fund within the meaning of Treas. Reg. § 1.4688-1. Interim Co-Lead Counsel shall timely and properly file all information and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k), (1)). Such returns shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund. OPIS shall not be responsible for the filing of any tax returns or payment of any taxes of any kind or expenses connected to the Qualified Settlement Fund. The members of the NCSP Settlement Class shall be responsible for paying any and all federal, state, or local taxes due on any distribution made to them pursuant to the Settlement provided herein.

13. Distribution of Settlement Fund to Settlement Class. After Final Approval, the Settlement Fund shall be distributed in accordance with a plan of distribution and plan of allocation to be approved by the Court at a future date; the timing of the motion to approve a plan of distribution and plan of allocation shall be in the discretion of Co-Lead Settlement Counsel. After paying the Settlement Sum, OPIS shall have no responsibility or liability whatsoever for the allocation or distribution of the Settlement Fund or the determination, administration, or calculation of claims, and OPIS shall not be responsible for any disputes relating to the allocation or distribution of any amounts, fees, or expenses, including attorneys' fees. Any issues or

proceedings related to the distribution plan shall not impact this Settlement Agreement or the finality of the Final Approval or Final Judgment entered pursuant to this Agreement. Members of the NCSP Class shall be entitled to look solely to the Settlement Fund for settlement and satisfaction of the Settlement Agreement or in connection with any of the Released Claims against the OPIS Released Parties and shall not be entitled to any other payment or relief from the OPIS Released Parties. Except as provided by order of the Court, no NCSP Class member shall have any interest in the Settlement Fund or any portion thereof. NCSPs, members of the NCSP Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses and the costs of notice of the Settlement Agreement to potential members of the NCSP Class. OPIS and the other OPIS Released Parties shall not be liable for any costs, fees, or expenses of any of NCSPs' and Interim Co-Lead Counsels' attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

14. Fee Awards, Costs and Expenses, and Service Awards to NCSPs. Subject to Interim Co-Lead Counsel's sole discretion as to timing, Interim Co-Lead Counsel will apply for a fee award from the Settlement Fund and payment of litigation expenses and costs (plus any interest on such amounts awarded at the same rate as earned on the Settlement Fund until paid), and service awards to the NCSPs to be paid from the Settlement Fund. OPIS shall have no responsibility, financial obligation, or liability for any such fees, costs, expenses, or awards, which shall be paid exclusively from the Settlement Sum.

15. Settlement Release.

a. Upon Final Judgment, the Releasing Parties shall be deemed to have fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the OPIS Released Parties from any and all claims, demands, actions,

injuries, losses, damages, suits, and causes of action relating to the PVC Pipe Market, including but not limited to all claims that have been asserted, or could have been asserted, in the Action, whether class, individual, or otherwise in nature that the Releasing Parties ever had, now have, or hereafter can, shall, or may ever have, known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, through the Execution Date of this Settlement Agreement (the "Released Claims"), except for claims to enforce any of the terms of this Settlement Agreement. This release of the Released Claims is binding on the Releasing Parties regardless of whether or not any member of the NCSP Class has objected to the Settlement or makes a claim in the Settlement, whether directly, representatively, derivatively or in any other capacity.

16. Further Release. In addition to the provisions of Paragraph 15, the Releasing Parties hereby expressly waive and release, solely with respect to the Released Claims, upon Final Judgment, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which states:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code, including without limitation 20-7-11 of the South Dakota Codified Laws (providing:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR").

Each Releasing Party 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 released pursuant to the provisions of Paragraphs 15 and 16, but each Releasing Party hereby expressly waives and fully, finally, and forever settles and releases, upon Final Judgment, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that the Releasing Parties have agreed to release pursuant to Paragraphs 15 and 16 whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual and not a mere recital.

17. Covenant Not to Sue. NCSPs and each member of the NCSP Class covenant not to sue any of the OPIS Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of the Released Claims, including, without limitation, seeking to recover damages relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

18. No Admission.

a. This Settlement Agreement shall not be construed as an admission of liability, or used as evidence of liability or any violation of any statute, law, rule, or regulation, or of any liability or wrongdoing, by OPIS, or of the truth of the allegations against it, for any purpose in any legal proceeding, claim, regulatory proceeding, or government investigation.

b. In the event this Agreement is terminated for any reason set forth in the Termination Events defined in Paragraph 19, then the pre-Settlement status of this Action shall be restored, and the Agreement shall have no effect on the rights of NCSPs and the NCSP Class or OPIS to prosecute or defend the pending Action in any respect, including the right to litigate fully the issues related to class certification, raise personal jurisdictional defenses, or any other defenses,

which rights OPIS specifically and expressly retains, and there shall be no admission of any kind as to the certifiability of a litigation class or any other legal issue. For avoidance of doubt, by stipulating for purposes of only this Settlement to the proposed NCSP Settlement Class, OPIS does not admit that the Rule 23 requirements are met for purposes of certifying a litigation class, or that antitrust injury or damages are provable on a classwide basis, or that the NCSP Settlement Class, as they are defined herein, would be appropriate for a litigation class.

19. Termination Events and Rights. The Settlement is conditioned upon Preliminary and Final Approval of the Parties' Settlement Agreement, and all terms and conditions thereof, without material changes, material amendments, or material modifications (except to the extent such changes, amendments, or modifications are agreed to in writing by the Parties).

a. Termination Based on Lack of Preliminary or Final Approval. Either Party may elect to terminate the Settlement upon written notice to the other Party, within twenty-one (21) Days of any of the following "Termination Events": (i) if the Court refuses to grant Preliminary Approval or Final Approval of the Settlement Agreement; (ii) if the Court's order(s) granting Preliminary Approval or Final Approval of the Settlement Agreement include(s) substantial or material changes, amendments, or modifications of the terms and conditions of the Settlement Agreement; (iii) if the Court's order(s) granting Preliminary Approval or Final Approval of the Settlement Agreement is (are) substantially or materially modified, reversed or vacated on appeal; or (iv) if the Court refuses to enter a Final Judgment as to OPIS in any substantial or material respect.

b. No Termination Due to Attorneys' Fees or Award. Notwithstanding the preceding subsection, and for the avoidance of doubt, the Parties may not terminate this Settlement because of the amount of any attorneys' fees or costs awards authorized by the Court; and any modification, reduction or rejection of the attorneys' fees or costs awarded by the Court, or any appellate court, shall not be a Termination Event, or in any way a basis for termination or rescission of

this Agreement.

c. Termination Based on Exclusion Limit. Further, as an additional Termination Event to those defined in Paragraph 19(a), OPIS may in its sole discretion terminate this Settlement if the number of individual members of the NCSP Class exceeds a numeric threshold provided for in the Parties' Confidential Letter Agreement (available to the Court under seal upon request).

d. Termination Based on DPP Settlement Termination. The Parties acknowledge that, as of the Execution Date of this Settlement Agreement, OPIS also has reached a settlement with the DPP Class, as defined by the DPP Amended Class Action Complaint filed on October 30, 2024 (ECF No. 183) and led by Interim Lead Counsel from Kaplan Fox & Kilsheimer LLP, pursuant to the Court's October 17, 2024 Order (ECF No. 163). The Parties to this Settlement Agreement agree that full and final approval of OPIS's settlement agreement with the DPP Class is a material term and condition of this Settlement Agreement, and the Court's entry of Final Approval and Final Judgment concerning this Settlement Agreement is a material term and condition of OPIS's settlement agreement with the DPP Class. As additional Termination Events to those defined in Paragraphs 19(a) and (c), if OPIS's separate DPP Settlement Agreement with the DPP Class is terminated for any reason and/or any of the following events occur, then OPIS may in its sole discretion terminate this Settlement with the NCSPs and NCSP Class: (i) if Preliminary Approval or Final Approval of OPIS's separate DPP Settlement Agreement with the DPP Class is not granted by the Court, or (ii) if the Court's order(s) granting Preliminary Approval or Final Approval of the DPP Settlement Agreement include substantial or material changes, substantial or material amendments, or substantial or material modifications of the terms and conditions of the DPP Settlement Agreement; or (iii) if the Court's order(s) granting Preliminary Approval or Final Approval of the DPP Settlement Agreement are substantially or materially modified, reversed or vacated on appeal; or (iv) if the Court refuses to enter a Final Judgment as to OPIS in

connection with the DPP Settlement in any substantial or material respect, or (v) if the trigger for termination based on opt-out claims provided in the DPP Settlement Agreement is met and OPIS terminates the DPP Settlement Agreement.

20. Effect of Disapproval or Termination. In the event that the Settlement is terminated by either Party in accordance with any of the Termination Events set forth in Paragraph 19, the Settlement Agreement shall become null and void, any Preliminary Approval entered by the Court and all of its provisions shall be vacated by its own terms, any certification of a NCSP Settlement Class for settlement purposes will be vacated, and the Parties will be restored to their respective positions as if no Settlement had occurred, unless the Parties mutually agree in writing to proceed with the Settlement Agreement or to modify the Settlement Agreement to cure the reason for any rejection, denial, modification, non-affirmance, or alteration by the Court or any appellate court. Further, in the event of termination by either Party under the terms of Paragraph 19 of this Agreement, no term of the Settlement Agreement or any draft thereof, or any aspect of the negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose in any proceeding, and all funds in the Escrow Account shall be returned to OPIS within ten (10) Days of written notice of termination, except any Settlement Funds used for Notice and Administration purposes that are nonrefundable pursuant to Paragraph 6(h), and the Parties' positions shall be returned to the status quo ante.

21. Choice of Law and Dispute Resolution.

a. Any disputes relating to this Settlement Agreement shall be governed by Illinois law without regard to conflicts of law provisions. Any and all disputes regarding this Settlement Agreement, including any aspect of its breadth, scope or interpretation and applicability, or the finalization of settlement documentation, will be mediated in good faith before a mutually

agreed-upon mediator before any suit, action, proceeding, or dispute, may be filed in the Court pursuant to Paragraphs 17 and 22.

b. To the extent that the Court does not grant Preliminary Approval, the Parties will negotiate in good faith to modify the Settlement Agreement directly or with the assistance of a mutually agreed settlement mediator, and will endeavor in good faith to resolve any issues to the satisfaction of the Court.

22. Consent to Jurisdiction. The Parties and any Releasing Parties hereby irrevocably submit to the exclusive jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement, or the applicability of this Settlement Agreement. Without limiting the generality of the foregoing, it is hereby agreed that any dispute concerning the provisions of Paragraphs 15–17, including but not limited to, any suit, action, or proceeding in which the provisions of Paragraphs 15–17 are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, constitutes a suit, action, or proceeding arising out of or relating to this Settlement Agreement. In the event that the provisions of Paragraphs 15–17 are asserted by any OPIS Released Party as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection in any suit, action or proceeding, it is hereby agreed that such OPIS Released Party shall be entitled to a stay of that suit, action, or proceeding until the mediation required by Paragraph 21 is complete. Solely for purposes of such suit, action, or proceeding, to the fullest extent that they may effectively do so under applicable law, the Parties and any Releasing Parties irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the in personam jurisdiction of the Court. Nothing shall be construed as a submission to jurisdiction for any purpose other than enforcement of this Settlement Agreement.

23. Costs Relating to Administration. The OPIS Released Parties shall have no responsibility or liability relating to the administration, investment, or distribution of the Settlement Fund.

24. Binding Effect. This Settlement Agreement constitutes a binding, enforceable agreement as to the terms contained herein. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors, assigns, and heirs of the Parties, NCSP Class members, the Releasing Parties, and the OPIS Released Parties. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the NCSPs shall be binding upon all members and potential members of the NCSP Class, and Releasing Parties who have not validly excluded themselves from the NCSP Class.

25. Sole Remedy. This Settlement Agreement shall provide the sole and exclusive remedy for any and all Released Claims against any OPIS Released Party, and upon entry of Final Judgment, the Releasing Parties shall be forever barred from initiating, asserting, maintaining, or prosecuting any and all Released Claims against any OPIS Released Party.

26. Counsel's Express Authority. Each counsel signing this Settlement Agreement on behalf of a Party or Parties has full and express authority to enter into all of the terms reflected herein on behalf of each and every one of the clients for which counsel is signing.

27. Admissibility to Enforce Agreement. It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement.

28. Notices. All notices under this Settlement Agreement shall be in writing. Each such notice shall be given either by: (a) hand delivery; (b) registered or certified mail, return receipt requested, postage pre-paid; or (c) Federal Express or similar overnight courier, and, in the case of either (a), (b) or (c) shall be addressed:

If directed to NCSPs or the NCSP Settlement Class, or any of their members, to:

Brian D. Clark
LOCKRIDGE GRINDAL NAUEN PLLP
100 Washington Avenue South, Suite 2200
Minneapolis, Minnesota 55401
T: (612) 339-6900
Email: bdclark@locklaw.com

Karin E. Garvey
Scott+Scott Attorneys at Law LLP
The Helmsley Building, 230 Park Ave., 24th Floor
New York, New York 10168
T: (212) 223-6444
Email: kgarvey@scott-scott.com

If directed to OPIS, to:

Brian O'Bleness
DENTONS US LLP
1900 K. St. NW
Washington, D.C. 20006
T: (202) 408-3255
Email: brian.obleness@dentons.com

AND

Natalie J. Spears
DENTONS US LLP
233 South Wacker Drive, Suite 5900
Chicago, Illinois 60606
T: (312) 876-8000
Email: natalie.spears@dentons.com

or such other address as the Parties may designate, from time to time, by giving notice to all Parties hereto in the manner described in this Paragraph. The Parties shall also provide courtesy copies of all notices by electronic mail.

29. No Admission. Whether or not Preliminary Approval is granted, Final Judgment is entered, or this Settlement Agreement is terminated, the Parties expressly agree that this Settlement Agreement and its contents, and any and all statements, negotiations, documents, and

discussions associated with it, are not and shall not be deemed or construed to be an admission of liability or wrongdoing by any Party or OPIS Released Party.

30. No Unstated Third-Party Beneficiaries. Except as expressly stated in this Settlement Agreement, no provision of this Settlement Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a OPIS Released Party, NCSP, NCSP Class member, or Interim Co-Lead Counsel.

31. 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.

32. Amendment and Waiver. This Settlement Agreement shall not be modified in any respect except by a writing executed by the Parties, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Settlement Agreement. This Settlement Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Settlement Agreement.

33. Execution in Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement. DocuSign, Facsimile, or Electronic Mail signatures 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.

34. Integrated Agreement. This Settlement Agreement comprises the entire, complete, and integrated agreement between the Parties, and supersedes all prior and contemporaneous

undertakings, communications, representations, understandings, negotiations, drafts, term sheets, and discussions, either oral or written, between the Parties, and reflects the final and binding agreement between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no Party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

35. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties and reflects a settlement that was reached voluntarily, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

36. Confidentiality of Agreement. The Parties agree to keep the terms of the Settlement Agreement confidential until such time as NCSPs seek Preliminary Approval of the Settlement in the Action. The Parties further agree to continue to maintain the confidentiality of all settlement discussions and communications exchanged in the course of reaching and entering into this Settlement.

* * * * *

IN WITNESS WHEREOF, the Parties, individually or through their duly authorized representatives, enter into this Settlement Agreement on the Execution Date.

[SIGNATURES ON NEXT PAGE]

DocuSigned by:
Brian D. Clark
5CFC50B0DD2348D...

Brian D. Clark
LOCKRIDGE GRINDAL NAUEN PLLP
100 Washington Avenue South
Suite 2200
Minneapolis, Minnesota 55401-2179
Email: bdclark@locklaw.com

Interim Co-Lead Counsel for the Non-Converter Seller Purchaser Class

Dated: 5/16/25

Signed by:
Karin E. Garvey
1FDA596865214A0...

Karin E. Garvey
Scott+Scott Attorneys at Law LLP
The Helmsley Building, 230 Park Ave., 24th Floor
New York, New York 10168
T: (212) 223-6444
Email: Kgarvey@scott-scott.com

Interim Co-Lead Counsel for the Non-Converter Seller Purchaser Class

Dated: 5/16/25

DocuSigned by:
Brian Crotty
1A4112ED83D24F7...

Defendant Oil Price Information Service, LLC

By: Brian Crotty

Its: General Manager

Dated: 5/16/25

130357209

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation This Document Relates to: Non-Converter Seller Purchaser Class	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

DECLARATION OF AUSTIN CAMERON

I, Austin Cameron, declare:

1. I am the President of TC Construction Inc., ("TC Construction") a Named Plaintiff in the Non-Converter Seller Purchaser Class. TC Construction is a contractor that provides residential and commercial construction services and purchases PVC pipes as part of its ordinary course of business. TC Construction uses PVC Pipe for Sewer, Water, and Reclamation Water projects. We purchase from distributors such as Core & Main; Ferguson Waterworks; and Western Waterworks. With my years of experience, I have firsthand knowledge of the PVC pipe market in the United States and full knowledge of the matters stated herein. I could and would testify thereto.

2. Prior to the settlement with the Oil Price Information Service, Inc. ("OPIS") being signed, I was given the opportunity to, and did review the terms of the proposed settlement, which I believed to be fair and reasonable to the class,

3. I believe that the cooperation that OPIS was agreeing to provide, in addition to the monetary relief of $3 million, will be extremely supportive to assist in advancing this case, which is significant because TC Construction still continues to pay high prices for PVC it purchases.

4. The information that OPIS can provide, will help this case to proceed more effectively and efficiently.

5. I believe it is important for my counsel to have a cooperating defendant to provide a clear understanding of how OPIS fit into the alleged conspiracy and provide information to advance the case against the other defendants that remain in the case. This cooperation is important because the information provided by OPIS will assist in the litigation proceeding more effectively and efficiently, and the prices paid for PVC are still high for TC Construction.

6. I believe the terms of the settlement are fair, reasonable, and in the best interest of the class for which I am a proposed named representative.

****

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

Executed on June 3, 2025.

/s/
Austin Cameron

EXHIBIT 3

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation This Document Relates to: Non-Converter Seller Purchaser Class	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

DECLARATION OF JEREMY BRIDGES

I, Jeremy Bridges, declare:

1. I am City Maintenance Superintendent for the City of Omaha's Sewer Maintenance division. The City of Omaha regularly purchases PVC pipe, both in bulk on an annual basis for routine maintenance, as well as in smaller quantities on a spot basis for emergency repairs. As such, due to my position overseeing the division's PVC purchasing, I have firsthand knowledge of the PVC pipe market and full knowledge of the matters stated herein. I could and would testify thereto.

2. Prior to it being signed, I reviewed the terms of the proposed settlement with Oil Price Information Service, Inc. ("OPIS").

3. In addition to the $3 million OPIS is paying, I believe that OPIS's cooperation will allow the City of Omaha and the rest of the class to maximize recovery against the remaining Defendants and litigate the case more effectively moving forward.

4. This cooperation is important because the City continues to buy PVC pipe regularly.

5. In sum, I believe the terms of the settlement are fair, reasonable, and in the best interest of the class for which the City of Omaha is a proposed representative.

****

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

Executed on June 4th, 2025.

Jeremy Bridges

EXHIBIT 4

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation This Document Relates to: Non-Converter Seller Purchaser Class	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

DECLARATION OF JAMES CORSEY

I, James Corsey, declare:

1. I am one of the named Plaintiffs and class representatives on behalf of the Non-Converter Seller Purchaser Class. Since 2021 I have purchased numerous PVC pipe products including sewage pipes, electrical conduit pipe, and indoor plumbing pipes, for use in my home as well as in my rental property. These PVC pipe products were purchased from retailers including Home Depot, True Value and Do it Best hardware. As such, I have first firsthand knowledge of the PVC pipe market in the United States and full knowledge of the matters stated herein. I could and would testify thereto.

2. I reviewed the terms of the proposed settlement with Oil Price Information Service, Inc. ("OPIS") before it was signed.

3. In addition to the monetary relief of $3 million, I believe that the cooperation that OPIS is providing pursuant to the settlement will be very helpful to moving this case forward.

4. This cooperation is important because I have and continue to pay a high prices for PVC products, that have increased substantially in recent years. The information provided by OPIS will enable the litigation to proceed more effectively and efficiently.

5. I believe the terms of the settlement are fair, reasonable, and in the best interest of the Non-Converter Seller Purchaser Class for which I am a proposed named representative.

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

Executed on 5/30, 2025 By: _____
James Corsey

EXHIBIT 5

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
This Document Relates to:	Hon. LaShonda A. Hunt
Non-Converter Seller Purchaser Class	

DECLARATION OF ERIC R. ARNER IN SUPPORT OF SETTLEMENT BETWEEN NON-CONVERTER SELLER PURCHASER CLASS PLAINTIFFS AND DEFENDANT OIL PRICE INFORMATION SERVICE, LLC

I, Eric R. Arner, declare:

1. I am General Counsel to Water District No. 1 of Johnson County, Kansas ("WaterOne"). WaterOne is a named plaintiff in the above-captioned Non-Converter Seller Purchaser case.

2. Since 1957, WaterOne has been an independent public water utility serving customers in Johnson County, Kansas. Today, WaterOne has the capacity to serve up to 200 million gallons of water per day to a population of nearly half a million customers, both suburban and rural, in Johnson County, covering 17 cities and over 272 square miles. WaterOne uses blue potable water PVC pipe to construct service lines from the public water main to customers. WaterOne purchases PVC pipe manufactured by Defendants JM Eagle, Inc. and Diamond Plastics Corporation from distributors, including Olathe Winwater, Ferguson, Core & Main, and Fortiline. As such, I have first firsthand knowledge of the PVC pipe market in the United States and full knowledge of the matters stated herein. I could and would testify thereto.

3. Counsel provided me with the terms of the proposed settlement with Oil Price Information Service, Inc. ("OPIS"), which I reviewed before it was executed.

4. In addition to the monetary relief of $3 million, I understand that the information provided by OPIS pursuant to the settlement will help move this case forward.

5. OPIS's cooperation is important because WaterOne continues to pay a high price for PVC, and the information provided by OPIS will enable the litigation to move toward resolution more effectively and efficiently.

6. I believe the terms of the settlement are fair, reasonable, and in the best interest of the class for which I am a proposed named representative.

* * *

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

Executed on 6/4, 2025.
Lenexa, Kansas

Eric R. Arner

EXHIBIT 6

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
This Document Relates to:	Hon. LaShonda A. Hunt
Non-Converter Seller Purchaser Class	

DECLARATION OF BLAKE WROBBEL

I, Blake Wrobbel, declare:

1. I have purchased PVC pipe for personal use on my family's farm in Tennessee. I have first firsthand knowledge of my purchases and could and would testify thereto.

2. Prior to the proposed settlement agreement with Oil Price Information Service, Inc. ("OPIS") being signed, I reviewed the terms of the proposed settlement.

3. I believe that the monetary relief of $3 million and the cooperation that OPIS is providing pursuant to the settlement are valuable and will be very helpful in moving this case forward.

4. The cooperation that OPIS is providing is important because the prices of PVC pipe are still high.

5. I believe the terms of the settlement are fair, reasonable, and in the best interest of the class for which I am a proposed named representative.

****

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

Executed on 6/4, 2025.

/s/ [signature]

EXHIBIT 7

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation This Document Relates to: Non-Converter Seller Purchaser Class	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

DECLARATION OF SUSAN HOUDE, DELTA LINE CONSTRUCTION COMPANY

I, Susan Houde, declare:

1. I am the Secretary and Treasurer of Delta Line Construction Company ("Delta Line"), a commercial electrical construction contractor with operations in New Jersey, Pennsylvania, Delaware, Massachusetts, Michigan, and New York. Delta Line routinely purchases significant quantities of electrical conduit PVC pipe to install for its customers in the course of performing a range of services, including traffic signalization, power distribution, highway lighting, and constructing utility power lines. Delta Line purchases its PVC pipe from distributors including Turtle & Hughes, Warshauer Electrical Supply, Colonial Electric Supply, and Cooper Electric. As such, I have first firsthand knowledge of the PVC pipe market in the United States and full knowledge of the matters stated herein. I could and would testify thereto.

2. I reviewed the terms of the proposed settlement with Oil Price Information Service, Inc. ("OPIS") before it was signed.

3. In addition to the monetary relief of $3 million, I believe that the cooperation that OPIS is providing pursuant to the settlement will be very useful to the progress of this case.

4. This cooperation is important because my business continues to pay a high price for PVC pipe, and the information provided by OPIS will enable the litigation to proceed more effectively and efficiently.

5. I believe the terms of the settlement are fair, reasonable, and in the best interest of the class, for which I am a proposed named representative.

****

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

Executed on June 2, 2025.

Sec. - Treas

Susan Houde
Secretary and Treasurer
Delta Line Construction

EXHIBIT 8

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation	Case No. 1:24-cv-07639
This Document Relates to:	Hon. LaShonda A. Hunt
Non-Converter Seller Purchaser Class	

DECLARATION OF GEORGE BAVOLAK

I, George Bavolak, declare:

1. I am one of the Named Plaintiffs and a proposed representative of the Non-Converter Seller Purchaser Class in this action. I was the owner of Metropolitan Energy Services, Inc., a Minnesota company that provides residential and commercial electrical services, until July 1, 2024. Since at least January 1, 2021, my company purchased PVC Pipes including PVC electrical conduit pipe in the regular course of its business. My company purchased PVC electrical conduit pipe from numerous distributors and suppliers including Dakota Supply Group, Van Meter, Crescent Electric, Viking Electric, Graybar, and Home Depot. I have first firsthand knowledge of the PVC Pipe market in the United States and full knowledge of the matters stated herein. I could and would testify thereto.

2. I reviewed the terms of the proposed settlement with Oil Price Information Service, Inc. ("OPIS") before it was signed.

3. In addition to the monetary relief of $3 million, I believe that the cooperation OPIS is providing pursuant to the settlement will be very helpful to moving this case forward effectively and efficiently.

4. This cooperation is important because my business and members of the proposed class paid more for PVC Pipes than they would have done in a properly functioning market.

5. I believe the terms of the settlement are fair, reasonable, and in the best interest of the Non-Converter Seller Purchaser Class for which I am a proposed class representative.

****

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

Executed on June 3, 2025.

/s/

EXHIBIT 9

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE BROILER CHICKEN ANTITRUST LITIGATION	Case No. 1:16-cv-08637
This Document Relates To: Commercial and Institutional Indirect Purchaser Actions	Hon. Thomas M. Durkin Magistrate Judge Jeffrey T. Gilbert

ORDER GRANTING COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS' MOTION FOR DISTRIBUTION OF NET SETTLEMENT PROCEEDS

The Court, having reviewed Commercial and Institutional Indirect Purchaser Plaintiffs' ("CIIPPs") Motion for Approval of Distribution of Net Settlement Funds to qualified claimants, the concurrently filed accompanying memorandum and supporting documents, the Declarations of Eric Nordskog and Daniel C. Hedlund, and the proposed order attached thereto, and good cause appearing therefore, finds that the motion should be **GRANTED.**

IT IS HEREBY ORDERED as follows:

1. The Court has jurisdiction over the subject matter of this litigation, including the actions within this litigation, and over the parties to the Settlement Agreements, including all members of the Settlement Class (also referred to herein as the "Class") and the Settled Defendants.

2. The Court previously granted final approval of all the Settlement Agreements and found that due and adequate notice of the Settlements was provided to the Class. This Court granted final approval to the CIIPPs' settlements with Amick, Fieldale, George's, Mar-Jac, Peco,

Pilgrim's Pride, and Tyson on April 18, 2022. (ECF No. 5536). The Settled Defendants have paid a total of $104,890,000.00 into the Settlement Fund.

3. On December 2, 2021, this Court approved the claims process and appointed A.B. Data as the Claims Administrator. (ECF No. 5234). The claims review process was fair, adequate, and reasonable, providing a full and fair opportunity for potential Class members to submit a valid claim. The Court finds that A.B. Data has carried out the claims administration process in a reasonable manner and consistent with orders of this Court. A.B. Data has offered claimants reasonable notice of claim deficiencies and an opportunity to cure them.

4. The Settlement Administrator incurred a total of $2,551,286.72 in costs and expenses in administering the Settlements, processing and auditing claims, and related expenses. In addition, plaintiffs' economic experts Cirque Analytics and Monument Economics Group performed certain tasks related to analysis and manipulation of data regarding claims administration and pre-population of claims. Payments to those entities amounted to $163,906.58 and $23,180.00, respectively. The Court holds that these costs and expenses were reasonably incurred in the ordinary course of administering the Settlements and were necessary given the nature and scope of the case. Based on A.B. Data's extensive experience, the estimate that the remaining work to the completion of final distribution will cost $85,000.00 is reasonable.

5. The Court holds that the amounts charged by the Escrow Agent were reasonable given the nature and scope of the case. The Escrow Agent shall be paid up to $2,500.00 per settlement through the end of the distribution to the extent necessary.

6. The Court finds that CIIPPs' Class Counsel are entitled to payment of 1/3 of the interest accrued on the Settlement Fund since its initial fee award in July 2022. The Court hereby approves of a payment to CIIPPs' Class Counsel of $1,191,544.16.

7. The Court finds that the Net Settlement Fund is properly accounted for as follows:

Description	**Amount**
Funding by Fieldale	+ $1,400,000.00
Funding by Amick	+ $2,950,000.00
Funding by Peco	+ $3,525,000.00
Funding by George's	+ $3,525,000.00
Funding by Tyson	+ $42,500,000.00
Funding by Pilgrim's (incl. $1 m claims adm)	+ $45,000,000.00
Funding by Mar-Jac	+ $5,990,000.00
Settlement Fund	**= $104,890,000.00**
Earned Interest (through December 22, 2023)	+ $3,766,138.22
Escrow Fees (through December 22, 2023)	- $284,536.78
Claims Administration Costs (through December 22, 2023)	- $2,738,373.30
Additional Claims Administration Costs (Anticipated)	- $85,000.00
Taxes Paid (through December 22, 2023)	- $677,591.04
Attorneys' Fees (Paid)	- $31,064,541.15
Litigation Expenses (Paid)	-$10,407,499.62
Class Representative Awards (Paid)	-$480,000.00
Attorney Fees Based on Accrued Interest from Aug. 1, 2022 through Dec. 22, 2023 (to be paid)	-$1,191,544.16
Additional Bank Fees Through End of Distribution (if necessary)	-$17,500.00
Net Settlement Fund	**= $61,709,552.57**

8. The Court hereby authorizes distribution of the Net Settlement Funds to all qualified claimants, including late claims as set forth in the Motion. All ineligible claims are hereby denied.

9. This Court retains continuing jurisdiction over the administration and distribution of the settlement proceeds.

IT IS SO ORDERED.

DATED: January 10, 2024

Thomas M Durkin

HON. THOMAS M. DURKIN
UNITED STATES DISTRICT JUDGE

EXHIBIT 10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SANDEE'S BAKERY d/b/a SANDEE'S CATERING BAKERY & DELI AND GNEMI, LLC d/b/a LOGAN FARMS, Plaintiffs, v. AGRI STATS, INC., ET AL., Defendants.	No. 20-cv-02295 Hon. Virginia M. Kendall Hon. Gabriel A. Fuentes

ORDER GRANTING MOTION FOR APPROVAL OF NOTICE PLAN

Now before the Court is Commercial and Institutional Indirect Purchaser Plaintiffs' ("CIIPPs") Motion for Approval of Notice Plan.

Upon consideration of the filings, record, and applicable legal authority and having carefully reviewed the CIIPPs' Motion for Approval of Notice Plan ("Motion"), it is hereby ORDERED as follows:

1. The Motion is hereby GRANTED.

2. Co-Lead Counsel for the CIIPPs are authorized to utilize Epiq Class Action & Claims Solutions, Inc. ("Epiq") and Hilsoft Notifications ("Hilsoft") as the notice administrator for the settlement with Defendants Tyson Foods, Inc., Tyson Fresh Meats, Inc., Tyson Prepared Foods, Inc., and the Hillshire Brands Company (collectively, "Tyson"). As described in the applicable settlement agreement, Co-Lead Counsel may use a portion of the settlement funds to pay for the implementation of the notice plan.

3. The proposed forms of notice, including the long and short form notices and digital media notices, comply with Rule 23 and due process requirements. Co-Lead Counsel and the notice administrator are authorized to disseminate these notices in forms substantially similar to those presented to the Court with this motion.

Dated: 10-4-, 2021

HON. VIRGINIA M. KENDALL
U.S. DISTRICT JUDGE

EXHIBIT 11

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE SURESCRIPTS ANTITRUST LITIGATION This Document Relates To: All Class Actions	Civil Action No. 1:19-cv-06627 Honorable John J. Tharp Jr. Magistrate Judge Susan E. Cox

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT WITH DEFENDANT RELAYHEALTH, FOR CERTIFICATION OF THE PROPOSED SETTLEMENT CLASS, FOR APPROVAL TO NOTIFY THE SETTLEMENT CLASS, AND FOR RELATED RELIEF

I. INTRODUCTION

Plaintiffs have reached a proposed settlement of their claims with Defendant NDCHealth Corporation d/b/a RelayHealth ("RelayHealth").[1] Pursuant to the Settlement Agreement, within 30 days of the Effective Date of the Settlement Agreement, RelayHealth will pay the sum of $10 million ($10,000,000.00) in United States dollars into escrow for the benefit of the Settlement Class, and prior to and thereafter will provide material cooperation to Plaintiffs in this litigation.

Plaintiffs now move the Court to preliminarily approve the Settlement Agreement, certify the proposed Settlement Class and appoint Interim Co-Lead Counsel as co-lead counsel for the Settlement Class, and approve a program to notify members of the Settlement Class of this settlement. Plaintiffs also ask the Court to appoint Angeion Group ("Angeion") as the notice and claims administrator for Plaintiffs in this case, and to appoint The Huntington National Bank ("Huntington") as the escrow agent and provide escrow services in this litigation. At the Final Fairness Hearing, Interim Co-Lead Counsel will request entry of a final order and judgment ("Final Order") consistent with the Settlement Agreement, dismissing with prejudice all claims against RelayHealth and retaining jurisdiction for the implementation and enforcement of the Settlement Agreement.

II. BACKGROUND

Plaintiffs are pharmacies and bring this action under Sections 1 and 2 of the Sherman Act to restrain anticompetitive conduct by Surescripts, the nation's largest provider of e-prescribing services, and to remedy the harms of its decade-long anticompetitive scheme. Plaintiffs contend that Surescripts maintained its dominant status and high pricing in the e-prescription routing and

[1] The Settlement Agreement is attached hereto as Exhibit A to Declaration of W. Joseph Bruckner (hereinafter, "Settlement" or "Settlement Agreement").

eligibility markets through an anticompetitive scheme aided by Defendants RelayHealth and Allscripts, which effectively foreclosed more than 70% of the markets.

Plaintiffs filed a Consolidated Class Action Complaint on December 5, 2019. (ECF No. 52.) On January 31, 2020, all Defendants moved to dismiss Plaintiffs' complaint. (ECF Nos. 76-77, 78-79, 80-81.) Plaintiffs opposed these motions on February 28, 2020 (ECF No. 90), and Defendants replied on June 12, 2020. (ECF Nos. 109, 110, 111.) RelayHealth's motion has been held in abeyance pending approval of the Settlement Agreement. The motions of the remaining Defendants have been argued and are *sub judice*.

Since filing their initial complaint, Plaintiffs have continued their investigation into the conspiracy they allege. In addition to the payment of money, under the Settlement Agreement RelayHealth will cooperate with Plaintiffs in their continued prosecution of the Action against Defendants Surescripts and Allscripts.

III. SUMMARY OF THE SETTLEMENT AGREEMENT

After extensive arm's length negotiations, Plaintiffs agreed to settle with RelayHealth in return for its agreement to pay $10 million ($10,000,000.00) in United States dollars into escrow for the benefit of the Settlement Class, and to cooperate with Plaintiffs in their ongoing prosecution of the case. In consideration, Plaintiffs and the proposed Settlement Class agree, among other things, to release claims against RelayHealth and its affiliates, which were or could have been brought in this litigation relating to the conduct alleged in the Complaint. The release does not extend to any other Defendants or co-conspirators.

RelayHealth's cooperation includes providing Plaintiffs with documents concerning e-prescription services it produced to the Federal Trade Commission (FTC) or any other antitrust or competition authorities, meeting with Interim Co-Lead Counsel to describe in detail the principal

facts known to RelayHealth, and providing interviews, depositions, and other testimony. (*See* Settlement Agreement, § II.A.)

IV. STANDARDS APPLICABLE TO PRELIMINARY APPROVAL OF THE PROPOSED SETTLEMENT

There is an overriding public interest in settling litigation, and this is particularly true in class actions. *See Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996) ("Federal courts naturally favor the settlement of class action litigation."); *E.E.O.C. v. Hiram Walker & Sons, Inc.*, 768 F.2d 884, 888-89 (7th Cir. 1985), *cert. denied*, 478 U.S. 1004 (1986) (noting that there is a general policy favoring voluntary settlements of class action disputes); *Armstrong v. Bd. of Sch. Dirs.*, 616 F.2d 305, 312 (7th Cir. 1980) ("It is axiomatic that the federal courts look with great favor upon the voluntary resolution of litigation through settlement."), *overruled on other grounds*, *Felzen v. Andreas*, 134 F.3d 873 (7th Cir. 1998). Class action settlements minimize the litigation expenses of the parties and reduce the strain such litigation imposes upon already scarce judicial resources. *Armstrong*, 616 F.2d at 313 (*citing Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977)). However, a class action may be settled only with court approval. Before the court may give its final approval, all class members must be given notice of the proposed settlement in the manner the court directs. Fed. R. Civ. P. 23(e).

Generally, before directing that notice be given to the class members, the court makes a preliminary evaluation of the proposed class action settlement. The Manual For Complex Litigation (Fourth) § 21.632 (2004) explains:

> Review of a proposed class action settlement generally involves two hearings. First counsel submit the proposed terms of settlement and the judge makes a preliminary fairness evaluation . . . . The Judge must make a preliminary determination on the fairness, reasonableness and adequacy of the settlement terms and must direct the preparation of notice of the . . . proposed settlement, and the date of the [formal Rule 23(e)] fairness hearing.

See also 2 NEWBERG ON CLASS ACTIONS, §11.24 (3d ed. 1992); *see also Armstrong*, 616 F.2d at 314.

The standard for final approval of a class action settlement is whether the proposed settlement is fair, reasonable, and adequate. Fed. R. Civ. P. 23(e)(2). In weighing a grant of preliminary approval, courts must determine whether "giving notice is justified by the parties' showing that the court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal." Fed. R. Civ. P. 23(e)(1)(B)(i–ii).

V. THE COURT IS LIKELY TO APPROVE THE SETTLEMENT UNDER 23(e)(2)

To determine whether to approve a proposed settlement under Rule 23(e)(2), courts look to the factors in the text of Rule 23(e)(2), which a court must consider when weighing final approval. *See* Fed. R. Civ. P. 23(e)(2) ("If the proposal would bind class members, the court may approve it only after a hearing and only on finding that it is fair, reasonable, and adequate after considering" the factors set forth in Rule 23(e)(2).); *see, e.g.*, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, 330 F.R.D. 11, 28 (E.D.N.Y. 2019). Rule 23(e)(2) requires courts to consider 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, if required;
> >
> > (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.

Fed. R. Civ. P. 23(e)(2). Factors (A) and (B) under Rule 23(e)(2) constitute the "procedural" analysis factors, and examine "the conduct of the litigation and of the negotiations leading up to the proposed settlement." Fed. R. Civ. P. 23 advisory committee's note to 2018 amendment. Factors (C) and (D) under Rule 23(e)(2) constitute the "substantive" analysis factors, and examine "[t]he relief that the settlement is expected to provide to class members...." *Id.*

Because the proposed settlement meets all factors under Rule 23(e)(2), the Court will likely grant final approval of the proposed settlement, and thus the proposed settlement should be preliminarily approved.

1. The Class Representatives and Class Counsel Have Adequately Represented the Class

Fed. R. Civ. P. 23(e)(2)(A) requires that "the class representatives and class counsel have adequately represented the class." Adequacy is measured by a two-part test: (i) the named plaintiffs cannot have claims in conflict with other class members, and (ii) the named plaintiffs and proposed class counsel must demonstrate their ability to litigate the case vigorously and competently on behalf of named and absent class members alike. *See Kohen v. Pacific Inv. Mgmt.*, 571 F.3d 672, 679 (7th Cir. 2009).

Both requirements are satisfied here. The interests of the Settlement Class members are aligned with those of the representative Plaintiffs. Plaintiffs, like all Settlement Class members, share an overriding interest in obtaining the largest possible monetary recovery and as fulsome cooperation as possible. *See, e.g., In re Community Bank of N. Virginia Mortg. Lending Practices Litig.*, 795 F.3d 380, 394 (3d Cir. 2015) (no fundamental intra-class conflict to prevent class certification where all class members pursuing damages under the same statutes and the same theories of liability); *In re Corrugated Container Antitrust Lit.*, 643 F.2d 195, 222 (5th Cir. 1981),

cert. denied, 456 U.S. 998 (1982) (certifying settlement class and holding that "so long as all class members are united in asserting a common right, such as achieving the maximum possible recovery for the class, the class interests are not antagonistic for representation purposes"). Representative Plaintiffs are not afforded any special compensation by this proposed Settlement and all Settlement Class members similarly share a common interest in obtaining RelayHealth's early and substantial cooperation to prosecute this case.

Moreover, Plaintiffs and their counsel will continue to litigate this case vigorously and competently. As they demonstrated when they sought appointment, Interim Co-Lead Counsel are qualified, experienced, and thoroughly familiar with antitrust class action litigation.[2] As they respectfully submit has been demonstrated by their conduct to date, Interim Co-Lead Counsel have diligently represented the interests of the class in this litigation and will continue to do so. Accordingly, the Representative Plaintiffs and Interim Co-Lead Counsel have adequately represented the class.

2. The Settlement is Fair and Resulted from Arm's-Length Negotiations

Fed. R. Civ. P. 23(e)(2)(B) requires that "the proposal was negotiated at arm's length." There is usually an initial presumption that a proposed settlement is fair and reasonable when it was the result of arm's-length negotiations. *See* 2 NEWBERG ON CLASS ACTIONS, § 11.40 at 451 (2d ed. 1985); *Goldsmith v. Tech. Solutions Co.*, No. 92-C-4374, 1995 WL 17009594, at *3 n.2 (N.D. Ill. Oct. 10, 1995) ("[I]t may be presumed that the agreement is fair and adequate where, as here, a proposed settlement is the product of arm's-length negotiations."). Settlements proposed by experienced counsel and which result from arm's-length negotiations are entitled to deference

[2] *See* ECF No. 47 (Plaintiffs' Unopposed Motion for CMC Reassigning & Consolidating & Appointing Interim Lead Counsel); ECF No. 51 (Court's Order of December 3, 2019 appointing same).

from the Court. *See, e.g.*, *In re Linerboard Antitrust Litig.*, 292 F. Supp. 2d 631, 640 (E.D. Pa. 2003) ("A presumption of correctness is said to attach to a class settlement reached in arms-length negotiations between experienced, capable counsel after meaningful discovery.") (quoting *Hanrahan v. Britt*, 174 F.R.D. 356, 366 (E.D. Pa. 1997)). The initial presumption in favor of such settlements reflects courts' understanding that vigorous negotiations between seasoned counsel protect against collusion and advance the fairness concerns of Rule 23(e). In making the determination as to whether the proposed settlement is fair, reasonable, and adequate, the Court necessarily will evaluate the judgment of the attorneys for the parties regarding the "strength of plaintiffs' case compared to the terms of the proposed settlement." *In re AT&T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 346 (N.D. Ill. 2010).

The proposed Settlement plainly meets the standards for preliminary approval. The Settlement reached here is the product of intensive arm's-length settlement negotiations, which included several rounds of give-and-take between Interim Co-Lead Counsel and RelayHealth's counsel. (Bruckner Decl. ¶ 6.) Based on Plaintiffs' extensive factual investigation to date, the cooperation provisions negotiated as part of the settlement enable Plaintiffs to obtain critical additional information regarding the allegations in the Complaint. (*Id.* ¶¶ 4-6.) The parties also extensively negotiated the role of potential class opt-outs and signed a separate and confidential agreement ("Confidential Supplemental Agreement") to address the consequences to the Settlement from potential opt-outs.[3] In the event that the number of opt-outs exceed the percentage specified in the Confidential Supplemental Agreement, RelayHealth shall have the right, but not the obligation, to withdraw from the settlement. Based on both the monetary and cooperation

[3] A copy of the Confidential Supplemental Agreement is attached as Exhibit C to the Bruckner Declaration for review and consideration *in camera*.

elements of the Settlement Agreement, Interim Co-Lead Counsel believe this is a fair settlement for the Settlement Class. (*Id.* ¶ 10.)

Moreover, this Settlement does not affect the potential for full recovery of damages for the Class under the antitrust laws in light of the fact that the remaining Defendants will be jointly and severally liable for all injuries incurred as a result of the conspiracy Plaintiffs allege; RelayHealth's sales remain in the case for purposes of assessing injury and damages to the Class. *See* Settlement Agreement, at 2; *see also Paper Sys. Inc. v. Nippon Paper Indus.*, 281 F.3d 629, 632 (7th Cir. 2002) ("[E]ach member of a conspiracy is liable for all damages caused by the conspiracy's entire output."). In addition to not affecting the overall damages, the Settlement should hasten and improve the Class' recovery by providing Plaintiffs access to information that likely would otherwise only be obtainable through protracted discovery. *See In re Ampicillin Antitrust Litig.*, 82 F.R.D. 652, 654 (D.D.C. 1979) (approving settlement where class will "relinquish no part of its potential recovery" due to joint and several liability and where settling defendant's "assistance in the case again [a non-settling defendant] will prove invaluable to plaintiffs").

In addition to a monetary payment, RelayHealth will provide material cooperation to the Class as provided in the Settlement Agreement. (*See* Bruckner Decl. ¶ 8.) Courts have recognized the value of such cooperation:

> [F]rom a pragmatic standpoint, the value of . . . [cooperating defendants] in litigation, as opposed to the specter of hundreds of uncooperative opponents, is significant. The [settling defendants] know far better than the plaintiff classes precisely what occurred in the [relevant] period . . . and their willingness to open their files . . . may ease the plaintiffs' discovery burden enormously.

In re IPO Sec. Litig., 226 F.R.D. 186, 198-99 (S.D.N.Y. 2005) (footnote omitted). This cooperation here is even more valuable in light of the applicability of joint and several liability to

Plaintiffs' claims. While Plaintiffs believe that their case is strong, any complex antitrust litigation is inherently costly and risky, and this Settlement mitigates that risk and protects the Class.

Conversely, RelayHealth believes its defenses are strong and that if it continued to litigate, it would succeed on the merits. RelayHealth denies that it conspired with Surescripts to allocate the alleged routing market, and RelayHealth maintains that it did nothing wrong. (*See* Settlement Agreement, Recital E, p. 2) But in the interests of avoiding the risk and uncertainty of trial, RelayHealth has agreed to settle; Plaintiffs believe that its contracts and dealings with Surescripts gives it valuable and unique insight into Surescripts' monopoly over e-prescription routing services alleged by Plaintiffs.

In sum, the Settlement Agreement: (1) provides substantial benefits to the class; (2) is the result of extensive good faith negotiations between knowledgeable and skilled counsel; (3) was entered into after extensive factual investigation and legal analysis; and (4) in the opinion of experienced Class Counsel, is fair, reasonable, and adequate to the Class. Accordingly, Interim Co-Lead Counsel believe that the Settlement Agreement is in the best interests of the Class Members and should be preliminarily approved by the Court.

3. The Relief Provided For the Class Is Substantial and Tangible

In assessing whether the settlement provides adequate relief for the putative class under Rule 23(e)(2)(C), the Court should consider: (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, if required; (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). Fed. R. Civ. P. 23(e)(2)(C)(i–iv).

"Settlement is favored if settlement results in substantial and tangible present recovery, without the attendant risk and delay of trial." *See, e.g.*, *In re Payment Card Interchange Fee and*

Merchant Discount Antitrust Litig., 330 F.R.D. 11, 36 (E.D.N.Y. 2019) (citations omitted). Here, for the reasons described above in Section V(2), the settlement is fair and resulted from arm's-length negotiations. Counsel thoroughly evaluated the relative strengths and weaknesses of the respective litigation positions, and determined that the settlement brings substantial benefits to the proposed class at an early stage in the litigation, and avoids the delay and uncertainty of continuing protracted litigation with RelayHealth. (*See* Bruckner Decl. ¶¶ 5-10.) Plaintiffs have proposed an effective method of notice to the proposed Settlement Class used previously by experienced counsel (see Section VII below). In addition, during negotiations there was no discussion, let alone agreement, regarding the amount of attorneys' fees Plaintiffs' counsel ultimately may ask the Court to award in this case, and Plaintiffs' counsel are not seeking fees at this time. (Bruckner Decl. ¶ 7). The benefits of settlement outweigh the costs and risks associated with continued litigation with RelayHealth, and weigh in favor of granting final approval.

4. The Proposal Treats Class Members Equitably Relative to Each Other

Consideration under this Rule 23(e)(2) factor "could include whether the apportionment of relief among class members takes appropriate account of differences among their claims, and whether the scope of the release may affect class members in different ways that bear on the apportionment of relief." Fed. R. Civ. P. 23 advisory committee's note to 2018 amendment.

Here, representative Plaintiffs are treated the same as all other Class members in this proposed Settlement, and all Class members similarly share a common interest in obtaining RelayHealth's early and substantial cooperation to prosecute this case. The release applies uniformly to putative class members, and does not affect the apportionment of the relief to class members. Accordingly, this factor will likely weigh in favor of granting final approval. *See, e.g.*, *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, 330 F.R.D. 11, 47 (E.D.N.Y. 2019).

VI. THE COURT SHOULD CERTIFY THE PROPOSED SETTLEMENT CLASS

In order to preliminary approve the settlement proposals, the Court must also find that it will likely be able to certify the class for purposes of judgment on the proposal. Fed. R. Civ. P. 23(e)(1)(B)(i–ii).

Under Rule 23, class actions may be certified for settlement purposes only. *See, e.g.*, *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Certification of a settlement class must satisfy each requirement set forth in Rule 23(a), as well as at least one of the separate provisions of Rule 23(b). *Id.* at 613-14; *see also In re Cmty. Bank of N. Va.*, 418 F.3d 277, 299 (3d Cir. 2005) ("[C]ertification of classes for settlement purposes only [is] consistent with Fed. R. Civ. P. 23, provided that the district court engages in a Rule 23(a) and (b) inquiry[.]").

Plaintiffs seek certification of a Settlement Class consisting of:

> All pharmacies in the United States and its territories who paid for e-prescriptions routed through the Surescripts network during the period September 21, 2010 through the date of Preliminary Approval. Excluded from the Settlement Class are Defendants and their officers, directors, management, employees, parents, owners, subsidiaries, or affiliates, and all governmental entities.

(Settlement Agreement, § II.E.2; Addendum to Settlement Agreement.) As detailed below, this proposed Settlement Class meets the requirements of Rule 23(a) as well as the requirements of Rule 23(b)(3).

A. <u>The Requirements of Rule 23(a) are Satisfied</u>

1. Numerosity

Fed. R. Civ. P. 23(a)(1) requires that the class be so numerous as to make joinder of its members "impracticable." No magic number satisfies the numerosity requirement, however, "a class of more than 40 members is generally believed to be sufficiently numerous for Rule 23 purposes." *Schmidt v. Smith & Wollensky LLC*, 268 F.R.D. 323, 326 (N.D. Ill. 2010) (citations

omitted). The proposed Settlement Class consists of pharmacies throughout the United States and its territories who paid for e-prescriptions routed through the Surescripts network during the period September 21, 2010 to the Date of Preliminary Approval. Based on their investigation, Interim Co-Lead Counsel believe there are thousands of entities that fall within the Settlement Class definition. Thus, joinder would be impracticable and Rule 23(a)(1) is satisfied.

2. Common Questions of Law and Fact

Fed. R. Civ. P. 23(a)(2) requires that there be "questions of law or fact common to the class." Plaintiffs must show that resolution of an issue of fact or law "is central to the validity of each" class member's claim and "[e]ven a single [common] question will" satisfy the commonality requirement. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011).

A central allegation in the Complaint is that Defendants illegally conspired to monopolize and conspired to eliminate competition in the routing market, thereby increasing prices to Plaintiffs and the Proposed Class. Proof of this conspiracy will be common to all Class members. *See, e.g.*, *Thillens, Inc. v. Cmty. Currency Exch. Ass'n*, 97 F.R.D. 668, 677 (N.D. Ill. 1983) ("The overriding common issue of law is to determine the existence of a conspiracy."). In addition to that overarching question, this case is replete with other questions of law and fact common to the Settlement Class including: (1) Whether Surescripts willfully obtained and maintained market power over e-prescription routing; (2) Whether Surescripts unlawfully excluded competitors and potential competitors from the markets for routing and eligibility; (3) Whether Surescripts has any legally cognizable procompetitive benefit that could not have been achieved using a means with less restrictions on competition, and if so, whether the anticompetitive effect of Surescripts' misconduct nonetheless outweighs the procompetitive benefit; (4) Whether Surescripts entered into an illegal agreement with other Defendants not to compete and to allocate the routing market to Surescripts; (5) Whether the unlawful scheme alleged herein has substantially affected interstate

commerce; (6) Whether Defendants' anticompetitive conduct caused antitrust impact to Plaintiffs and members of the class; and (7) The quantum of aggregate overcharge damages to the class. Accordingly, the Settlement Class satisfies Rule 23(a)(2).

3. Typicality

Fed. R. Civ. P. 23(a)(3) requires that the class representatives' claims be "typical" of class members' claims. "[T]ypicality is closely related to commonality and should be liberally construed." *Saltzman v. Pella Corp.*, 257 F.R.D. 471, 479 (N.D. Ill. 2009) (citations omitted). Typicality is a "low hurdle," requiring "neither complete coextensivity nor even substantial identity of claims." *Owner-Operator Indep. Drivers' Ass'n v. Allied Van Lines, Inc.*, 231 F.R.D. 280, 282 (N.D. Ill. 2005). When "the representative party's claim arises from the same course of conduct that gives rise to the claims of other class members and all of the claims are based on the same legal theory," factual differences among class members do not defeat typicality. *Id.*

Plaintiffs here allege Defendants illegally conspired to monopolize and eliminate competition in the routing market thereby increasing prices to Plaintiffs and the Proposed Class. The named class representative Plaintiffs will have to prove the same elements that absent Settlement Class members would have to prove, *i.e.*, the existence and impact of such conspiracy. Because the representative Plaintiffs' claims arise out of the same alleged illegal anticompetitive conduct and are based on the same alleged theories and will require the same types of evidence to prove those theories, the typicality requirement of Rule 23(a)(3) is satisfied.

4. Adequacy

For the reasons mentioned above in Section V(1), the class representatives and class counsel have adequately represented the class.

B. The Proposed Settlement Class Satisfies Rule 23(b)(3)

Once Rule 23(a)'s four prerequisites are met, Plaintiffs must show the proposed Settlement Class satisfies one of the provisions of Rule 23(b). The proposed Settlement satisfies Rule 23(b)(3) by showing that "questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." As to predominance, "[c]onsiderable overlap exists between the court's determination of commonality and a finding of predominance. A finding of commonality will likely satisfy a finding of predominance because, like commonality, predominance is found where there exists a common nucleus of operative facts." *Saltzman*, 257 F.R.D. at 484.

In antitrust conspiracy cases such as this one, courts consistently find that common issues of the existence and scope of the conspiracy predominate over individual issues, which follows from the central nature of a conspiracy in such cases. *Hughes v. Baird & Warner, Inc.*, No. 76 C 3929, 1980 WL 1894, at *3 (N.D. Ill. Aug. 20, 1980) ("Clearly, the existence of a conspiracy is the common issue in this case. That issue predominates over issues affecting only individual sellers."); *see also Amchem*, 521 U.S. at 625 ("Predominance is a test readily met in certain cases alleging consumer or securities fraud or violations of the antitrust laws.").

Plaintiffs must also show that a class action is superior to individual actions, which is evaluated by four considerations:

> (A) the interest of the members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of the class action.

Fed. R. Civ. P. 23(b)(3).

Here, any Class member's interest in individually controlling the prosecution of separate claims is outweighed by the efficiency of the class mechanism. Thousands of entities paid for routing services during the class period; settling these claims in the context of a class action conserves both judicial and private resources and hastens Class members' recovery. Finally, while Plaintiffs see no management difficulties in this case, Plaintiffs do not believe that this final consideration is pertinent to approving the proposed settlement class. *See Amchem*, 521 U.S. at 620 ("Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.").

Accordingly, the proposed class action is superior to other available methods (if any) for the fair and efficient adjudication of the controversy relating to RelayHealth.

VII. APPOINTMENT OF THE NOTICE ADMINISTRATOR AND APPROVAL OF THE PROPOSED NOTICE TO THE CLASS

Rule 23(e) requires that prior to final approval, notice of a proposed settlement be given in a reasonable manner to all class members who would be bound by such a settlement. For a class proposed under Rule 23(b)(3), whether litigated or by virtue of a settlement, Rule 23(c)(2)(B) states: The notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). The form of notice is "adequate if it may be understood by the average class member." 4 Newberg on Class Actions § 11.53 (4th ed. 2002) ("Newberg"). Notice to class members must be "the best notice that is practicable under the circumstances, including

individual notice to all members who can be identified through reasonable effort." *Amchem Prods.*, 521 U.S. at 617 (quoting Fed. R. Civ. P. 23(c)(2)).

Plaintiffs propose that Angeion Group ("Angeion") be appointed by the Court to serve as the Settlement Administrator in this case. Angeion was selected by Co-Lead Counsel after a competitive bidding process. A comprehensive summary of judicial recognition Angeion has received is attached to the Declaration of Steven Weisbrot submitted in support of this motion, as Exhibit A, and Angeion's diversity and inclusion statement is attached to the Declaration as Exhibit B.

Plaintiffs further propose a plan of notice that comports with due process and provides reasonable notice to all known and reasonably identifiable customers of Defendants—settling and non-settling Defendants alike. The class notice documents—consisting of long form notice, email notice**,** publication notice, postcard notice, and a press release—comply with the requirements of Rule 23(c)(2)(B). (These proposed notices are attached to the Bruckner Declaration as Exhibit D (long form notice), Exhibit E **(**email notice), Exhibit F (publication notice), Exhibit G **(**postcard notice), and Exhibit H (press release).) The notice documents define the settlement class, describe the nature of the action, summarize the class claims, and explain the procedure for requesting exclusion from the settlement class and objecting to the proposed settlement. The notice documents describe the terms of the settlement with Defendant RelayHealth and inform the Settlement Class Members that there is no plan of distribution at this time to qualifying Class Members. The notice documents provide that there will be a final approval hearing, and informs class members that they need not enter an appearance through counsel, but may do so if they choose. The notice documents also inform Settlement Class members how to exercise their rights to participate in, opt out of, or object to the proposed settlement, how to make informed decisions

regarding the proposed settlement, and tell class members that the settlement will be binding upon them if they do not opt out.

Plaintiffs will rely predominantly on direct mail and email "to all members who can be identified through reasonable effort." *Amchem* Prods., 521 U.S. at 617 (quoting Fed. R. Civ. P. 23(c)(2)). Since the class members in this case are pharmacies, the names and addresses of class members can likely be readily obtained. In addition, pursuant to the Settlement Agreement, Plaintiffs will receive documents sufficient to show the identity of pharmacies in the United States and its territories that contracted with settling defendant RelayHealth for Surescripts e-prescription routing access during the class period. This information will be supplemented by the names and addresses of class members that can be readily obtained by Angeion, which, together with the documents provided by RelayHealth, will likely be sufficient to identify all Settlement Class Members. This will enable Plaintiffs to send notice to Settlement Class members.

Once Plaintiffs receive adequate customer contact data, Angeion will analyze the data and conduct address research to verify the Settlement Class Members' mailing addresses, updating as necessary. (Weisbrot Decl. ¶¶ 14-18.) Angeion will mail the notice via first-class U.S. mail to those Settlement Class Members. (*Id.* ¶ 14.) Angeion will employ best practices to increase the deliverability rate of the mailed Notices, including utilizing the National Change of Address database, re-mailing notices returned with forwarding addresses, and utilizing "skip tracing" to re-mail notices returned without forwarding addresses. (*Id.* ¶¶ 15-18.) Angeion will also send the email notice to all Settlement Class Members for whom email addresses are provided in the class list data. (*Id.* ¶ 19.) The email notice will provide Class Members with an electronic link to the settlement website, where they can obtain more information including the Settlement Agreement. (*Id.*)

Plaintiffs further plan to supplement the direct mail and email notice via digital publication notice, as well a custom social media campaign, print publication, and a press release. (*Id.* ¶¶ 23, 31, 35, 37.) Plaintiffs will also host an informational website with a memorable domain name, providing additional information and documents, and a toll-free number for frequently asked questions and requests for mailing of further information. (*Id.* ¶¶ 38-39.)

This proposed notice will provide full and proper notice to Class Members before the opt-out and objection deadlines, and is the best notice that is practicable under the circumstances. (*Id.* ¶ 41.) Interim Co-Lead Counsel submits that this proposed Notice goes above and beyond the requirements imposed by Fed. R. Civ. P. 23(c)(2) and 23(e), and thus should be approved.

VIII. APPOINTMENT OF AN ESCROW AGENT TO MAINTAIN SETTLEMENT FUNDS

Finally, Plaintiffs propose that The Huntington National Bank ("Huntington") be appointed by the Court to serve as the escrow agent, maintain the Qualified Settlement Fund as called for by the parties' Settlement Agreement (*see* Settlement Agreement, § II.C), and provide escrow services in this litigation. Huntington was selected by Co-Lead Counsel after a competitive bidding process. Huntington's qualifications are attached to the Declaration of Robyn Griffin submitted in support of this motion, as Exhibit A, and Huntington's diversity and inclusion statement is attached to the Declaration as Exhibit B.

IX. CONCLUSION

For these reasons, Interim Co-Lead Counsel respectfully request that the Court:

(1) Preliminarily approve the Settlement Agreement;

(2) Certify the proposed Settlement Class;

(3) Appoint Interim Co-Lead Counsel as co-lead counsel for the Settlement Class;

(4) Appoint Angeion as the notice and claims administrator;

(5) Approve the program to notify members of the Settlement Class of this settlement; and

(6) Appoint Huntington National Bank as the escrow agent to provide escrow services in this case.

Dated: July 29, 2020

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Interim Co-Lead Counsel

EXHIBIT 12

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE SURESCRIPTS ANTITRUST LITIGATION This Document Relates To: All Class Actions	Civil Action No. 1:19-cv-06627 Judge John J. Tharp Jr. Magistrate Judge Susan E. Cox

ORDER PRELIMINARILY APPROVING SETTLEMENT WITH DEFENDANT RELAYHEALTH, CERTIFYING THE PROPOSED SETTLEMENT CLASS, APPROVING NOTIFICATION TO THE SETTLEMENT CLASS, AND RELATED RELIEF

THIS CAUSE came before the Court on Plaintiffs' Motion for Preliminary Approval of Settlement with Defendant RelayHealth and for Certification of the Proposed Settlement Class, for Approval to Notify the Settlement Class, and for Related Relief. Plaintiffs have reached a proposed settlement of their claims with Defendant NDCHealth Corporation d/b/a RelayHealth ("RelayHealth"). The Court, having reviewed the Motion, its accompanying memorandum, and the exhibits thereto, the Settlement Agreement, and the file, hereby:

ORDERS AND ADJUDGES:

Preliminary Approval of Settlement Agreement

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreement. Upon review of the record, the Court finds preliminarily that the proposed Settlement Agreement, which was arrived at by arm's-length negotiations by highly experienced counsel, meets all factors under Rule 23(e)(2) and will therefore likely be granted final approval by the Court, subject to further consideration at the Court's Fairness Hearing. The Court finds that the Settlement encompassed by the Settlement Agreement is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class, raises no obvious reasons to doubt its

fairness, and raises a reasonable basis for presuming that the Settlement and its terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that Notice of the Settlement should be given.

Class Certification

2. The Court finds, preliminarily, that the Settlement Class meets the requirements of Rule 23(a) as well as the requirements of Rule 23(b)(3). As to the requirements of Rule 23(a), the Court preliminarily finds that (1) the Settlement Class certified herein numbers thousands of entities, and joinder of all such entities would be impracticable, (2) there are questions of law and fact common to the Settlement Class; (3) Plaintiffs' claims are typical of the claims of the Settlement Class they seek to represent for purposes of settlement; and (4) Plaintiffs are adequate representatives of the Settlement Class. As to the requirements of Rule 23(b)(3), the Court preliminarily finds that the questions of law and fact common to the Settlement Class predominate over any questions affecting any individual Class Member, and that a class action on behalf of the Settlement Class is superior to other available means of adjudicating this dispute.

3. This Court preliminarily certifies a Settlement Class defined as:

> All pharmacies in the United States and its territories who paid for e-prescriptions routed through the Surescripts network during the period September 21, 2010 through the date of Preliminary Approval. Excluded from the Settlement Class are Defendants and their officers, directors, management, employees, parents, owners, subsidiaries, or affiliates, and all governmental entities.

4. The Court appoints the following law firms as Co-Lead Counsel for the Settlement Class:

> Kenneth A. Wexler (Committee Chair)
> Justin N. Boley
> Wexler Wallace LLP
>
> W. Joseph Bruckner
> Brian D. Clark

Lockridge Grindal Nauen P.L.L.P.

Tyler W. Hudson
Eric D. Barton
Wagstaff & Cartmell, LLP

Daniel E. Gustafson
Michelle J. Looby
Gustafson Gluek PLLC

Robert N. Kaplan
Elana Katcher
Kaplan Fox & Kilsheimer LLP

Jeffrey L. Kodroff
Spector, Roseman & Kodroff P.C.

Karin E. Garvey
Gregory S. Asciolla
Labaton Sucharow LLP

5. The Court appoints Angeion Group ("Angeion") to serve as the notice and claims administrator for Plaintiffs in this case.

6. The Court appoints The Huntington National Bank ("Huntington") to serve as the escrow agent and provide escrow services in this case.

Class Notice

7. The proposed notice plan set forth in Plaintiffs' Motion and the supporting declarations comply with Rule 23(c)(2)(B) and due process as it constitutes the best notice that is practicable under the circumstances, including individual notice via mail as well as email to all members who can be identified through reasonable effort. The notice will be supported by reasonable publication and other notice to reach class members who could not be individually identified through reasonable effort.

8. The Court approves Plaintiffs' program to notify members of the Settlement Class of this settlement.

9. The proposed notice documents and their manner of transmission comply with Rule 23(c)(2)(B) and due process because the notices and forms are reasonably calculated to adequately apprise class members of: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Non-substantive changes, such as the correction of typographical errors, can be made to the notice documents by agreement of the parties without leave of the Court. The schedule for submitting claims, requesting exclusion, opting out of the Settlement Class, objecting to the Settlement Agreement, and conducting a Fairness Hearing must be submitted to and approved by the Court before notice is issued.

10. Pursuant to the Settlement Agreement, Plaintiffs will receive from RelayHealth documents sufficient to show the identity of pharmacies in the United States and its territories that contracted with settling defendant RelayHealth for Surescripts e-prescription routing access during the class period. This information will be supplemented by the names and addresses of class members that can be readily obtained by Angeion, which, together with the documents provided by RelayHealth, will likely be sufficient to identify all Settlement Class Members.

Other Provisions

11. Terms used in this Order that are defined in the Settlement Agreement are, unless otherwise defined herein, used as defined in the Settlement Agreement.

12. In aid of the Court's jurisdiction to implement and enforce the proposed Settlement, as of the date of entry of this Order, Plaintiffs and all members of the Class shall be preliminarily enjoined from commencing or prosecuting any action or other proceeding against the Settling Defendant asserting any of the Claims released in Section II(B) of the Settlement Agreement pending final approval of the Settlement Agreement or until such time as this Court lifts such injunction by subsequent order.

13. The Court's preliminary certification of the Settlement Class as provided herein is without prejudice to the right of any Defendant to contest certification of any other class proposed in these consolidated actions, and the Court's findings in this Order do not bind the Court in ruling on any motion to certify other classes in these actions. No party may cite or refer to the Court's preliminary approval of this Settlement Class (or subsequent final approval of the Settlement Class) as persuasive or binding authority with respect to the certification of any other class.

14. If the Settlement Agreement is terminated or is ultimately not approved, the Court will modify any existing scheduling orders as necessary to ensure that the Plaintiffs and Settling Defendant will have sufficient time to prepare for the resumption of litigation.

IT IS SO ORDERED.

DATED: April 19, 2021

JOHN J. THARP, JR.
United States District Judge

EXHIBIT 13

EXHIBIT A

Class Action Administration

ab DATA

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CAPABILITIES

About A.B. Data

Founded in 1981, **A.B. Data has earned a reputation** for expertly managing the complexities of class action administration in consumer, antitrust, securities, Securities and Exchange Commission (SEC) enforcement actions, and ERISA, Attorneys General, employment, civil rights, insurance, environmental, wage and hour, and other class action cases. **A.B. Data's work in all aspects of class action administration** has been perfected by decades of experience in hundreds of class action cases involving billions of dollars in total settlements. Dedicated professionals deliver **A.B. Data's all-inclusive services,** working in partnership with its clients to administer their class action cases effectively, efficiently, and affordably, regardless of size or scope.

A.B. Data offers unmatched resources and capacity and is capable of expertly administering any class action notice, settlement, and/or fund administration. Whether notifying millions of class members in the United States or throughout the world, processing millions of claims, distributing payments digitally via A.B. Data's Digital PayPortal℠, or printing and distributing millions of checks, **A.B. Data matches its talent and technology** to the specific needs of its clients, delivering unparalleled service on time and on budget without ever compromising quality.

Location, Ownership Structure

A.B. Data is an independently owned, more than 40-year-old, Milwaukee, Wisconsin-based company that prides itself on its vast expertise and industry-leading innovations. We like to remind our clients and partners that we're not just a class action administration company, but a group of experienced, dedicated professionals who believe that relationships are just as important as the accurate and timely management of class action administrations. In other words, we are people who do business with people.

Services

Every A.B. Data client is deserving of the best job we can put forward. A.B. Data makes class action administration easy for our clients with clarity, convenience, and efficiency. Our priority is to navigate the intricacies of our clients' matters and deliver successful results by using our solid expertise, advanced technology, and top-quality products and services. We pay attention to the details and get it right the first time.

We aim to provide our clients the full experience of a truly collaborative working relationship. It is why we believe much of our success originates from our philosophy of "people doing business with people."

Services

All Digital — From Notice to Distribution

A.B. Data is uniquely positioned to design, implement, and maintain notice and settlement administration programs using an innovative, "all-digital" approach that replaces the more traditional and less efficient methods of administration, such as newspaper ads, mailed notices, and paper checks. Many of our recent proposed notice plans and claim programs utilize the latest technologies such as microtargeted digital ads for notice, streamlined online claims, and distributing settlement funds electronically using a digital paywall. These methods provide significant cost savings, are consistent with the amendments to Rule 23 that are now in effect, and importantly provide much-needed alignment of class action notice and administration with current consumer behaviors.

Pre-Settlement Consultation

The pre-settlement consultation is a collaborative session designed to help A.B. Data clients prepare a stronger case. Our support teams simplify the task of sorting through a maze of documents during investigation and discovery, streamlining the process and preserving fund assets. From there, we assist with fully interactive media packages for court presentations and settlement negotiations. A.B. Data works closely with our clients, offering expert testimony on documents, processing, class and notice manageability, and proposed plans of allocation.

Media Services

A.B. Data continues to earn our reputation as the early innovator in integrating advanced micro-targeting techniques, including contextual targeting, behavioral targeting, and predictive modeling. Coupled with inventive digital media strategies to drive claims, case-specific banner ad development, class member research, and comScore analysis services, our multi-tiered media programs are designed to cost-effectively deliver notice to potential class members and increase claims rates.

Notice Administration

In A.B. Data, clients have a comprehensive resource with a depth of experience in direct notice. Our compliance and understanding of Rule 23 of the Federal Rules of Civil Procedure are crucial in meeting the "plain language" legal requirements for any campaign. From our sophisticated digital media capabilities and extensive global experience with class member research, our experts create notice documents that are easily understandable and cost-efficient to produce. We consult with our clients to deliver notice documents from multi-page, mailed, or emailed notice packets to concise postcards that establish the most influential and cost-effective means of communicating with potential claimants.

Claims Processing

A.B. Data continues to bring game-changing technologies to improve the speed and precision in claims processing. Our robust system for online claims submissions allows us to meticulously verify data and documentation, preserve and authenticate claims, and calculate and verify settlement amounts. In addition, our data network infrastructure includes on-site data storage, backup, contingency plans, and security for electronic and hard copy claim filings. It is all part of a total commitment to be the most innovative and comprehensive resource in the industry. At A.B. Data, we take pride in having the in-house capacity to process millions of pages, as well as the organizational integrity to treat every claim as if it were the only one.

Contact Center

A.B. Data's Contact Center is comprised of a full staff that is trained on and equipped with online and telecommunication systems to monitor and connect with class members. Associates routinely monitor class member communication for all class action administrations, including antitrust, consumer, and securities.

Utilizing monitoring software, associates watch multiple social media channels simultaneously, allowing for instantaneous routing of inquiries and interaction with claimants. Detailed and concise analytical reports outlining Contact Center activities are always provided.

Our Contact Center and case websites are capable of handling millions of class member engagements, as recently displayed in a campaign which garnered over 1.2 million website visits in two months and had more than 72,500 Facebook engagements. Facebook comments and threads are monitored and claimants are guided to the website for more information. Google AdWords and display advertising have also brought hundreds of thousands of visitors to various case websites.

A.B. Data's Contact Center also has Spanish language associates in-house and we can accommodate any language, given proper lead time. Traditional call center facilities are also available, if needed.

Case Websites

We offer a state-of-the-art technology platform that supports every step of our class action administration process. Our expert marketing professionals design customized case-specific websites that provide potential class members easy access to case information, critical documents, important deadlines, as well as the capability to file claim forms and register for future mailings about the case. Claimants can use the website to elect to receive their settlement payments by mail or by one of several digital payment options, all accessible by mobile devices.

Settlement Fund Distribution

From complete escrow services to establishment of qualified settlement funds, check printing and mailing, electronic cash or stock distribution and tax services, A.B. Data has always provided a full-service solution to Settlement Fund Distribution. Our IT team has decades of experience in developing and implementing fast, secure databases and claims administration systems that ensure class members receive the correct amount in their settlement disbursement. Today's digital capabilities allow even greater convenience for class members. In certain instances, claimants can now elect to

instantaneously receive settlement payments through popular digital-payment options, such as PayPal, Amazon, and virtual debit cards.

A.B. Data's Leadership

A.B. Data's administration team is composed of the following key executives, who collectively have decades of experience settling and administering class actions:

Bruce A. Arbit, Co-Managing Director and one of the founders of the A.B. Data Group, serves as Chairman of the Board and oversees the day-to-day operations of the A.B. Data Group of companies, employing almost 400 people in the United States and Israel. Mr. Arbit is also Chairman of the Board of Integrated Mail Industries, Ltd. and has served as a member of the Board of Directors of University National Bank and State Financial Bank. He is the past Chairman of Asset Development Group, Inc., Home Source One, and American Deposit Management and is a member of the National Direct Marketing Association, the Direct Marketing Fundraising Association, and the American Association of Political Consultants. He was named 1996 Direct Marketer of the Year by the Wisconsin Direct Marketing Association.

A.B. Data's work in class action litigation support began with the Court selecting A.B. Data to oversee the restitution effort in the now-famous Swiss Banks Class Action Case, the International Commission on Holocaust Era Insurance Claims, and every other Holocaust Era Asset Restitution program, in which it was the company's job to identify, contact, and inform survivors of the Holocaust. A.B. Data delivered by reaching out to millions of people in 109 countries who spoke more than 30 languages. Since those days, Mr. Arbit has guided the class action division through phenomenal growth and success. Today, A.B. Data manages hundreds of administrations annually that distributes billions of dollars to class members.

Thomas R. Glenn, President, Mr. Glenn's management of A.B. Data's Class Action Administration Company includes designing and implementing notice plans and settlement administration programs for antitrust, securities, and Securities and Exchange Commission settlements and SEC disgorgement fund distributions, as well as consumer, employment, insurance, and civil rights class actions. Mr. Glenn previously served as Executive Vice President at Rust Consulting and has more than 30 years of executive leadership experience.

Eric Miller, Senior Vice President, as a key member of A.B. Data's Class Action Administration Leadership Team, oversees the Case Management Department and supervises the operations and procedures of all of A.B. Data's class action administration cases. Mr. Miller is recognized in the class action administration industry as an expert on securities, SEC, consumer, product recall, product liability, general antitrust, pharmaceutical antitrust, and futures contract settlements, to name a few settlement types. Prior to joining A.B. Data, Mr. Miller served as the Client Service Director for Rust Consulting, responsible there for its securities practice area. He has more than 20 years of operations, project management, quality assurance, and training experience in the class action administration industry. In addition, Mr. Miller manages A.B. Data's office in Palm Beach Gardens, Florida.

Eric Schachter, Senior Vice President, is a member of A.B. Data's Class Action Administration Leadership Team. He has over 15 years of experience in the legal settlement administration services industry. Mr. Schachter's responsibilities include ensuring successful implementation of claims administration services for A.B. Data's clients in accordance with settlement agreements, court orders, and service agreements. He also works closely with Project Managers to develop plans of administration to provide the highest level of effective and efficient delivery of work product. A frequent speaker on claims administration innovation and best practices at industry events nationwide, Mr. Schachter has a bachelor's degree in sociology from Syracuse University, earned his law degree at Hofstra University School of Law, and was previously an associate at Labaton Sucharow LLP in New York City.

Elaine Pang, Vice President, Media, oversees the Media Department and is responsible for the direction, development, and implementation of media notice plans for A.B. Data's clients. Ms. Pang brings more than 15 years of experience in developing and implementing multifaceted digital and traditional media for high profile complex legal notice programs. She uses her experience in class actions and advertising to provide the best practicable notice plans for large scale campaigns across domestic and international regions, and she leverages her expertise to better understand the evolving media landscape and utilize cutting-edge technology and measurement tools. Prior to entering the class action industry, Ms. Pang worked with many leading reputable brands, including General Mills, Air Wick, Jet-Dry, Comedy Central, Madison Square Garden, Radio City Music Hall, and Geox. She earned her MBA from Strayer University and holds a BS in Marketing from Pennsylvania State University. Ms. Pang's credentials include Hootsuite Social Marketing Certification, Google Adwords and Analytics Certification, and IAB Digital Media Buying and Planning Certification.

Paul Sauberer, Vice President of Quality, is responsible for overseeing quality assurance and process management, working diligently to mitigate risk, ensure exceptional quality control, and develop seamless calculation programming. Mr. Sauberer brings more than 20 years of experience as a quality assurance specialist with a leading claims-processing company where he developed extensive knowledge in securities class action administration. He is recognized as the class action administration industry's leading expert on claims and settlement administrations of futures contracts class actions.

Justin Parks, Vice President, is a member of A.B. Data's Class Action Administration Leadership Team. Mr. Parks brings extensive experience in client relations to A.B. Data's business development team. Mr. Parks has over 15 years of experience in the legal settlement administration services industry and has successfully managed and consulted on notice plans and other administrative aspects in hundreds of cases. Mr. Parks is uniquely experienced in Data Privacy matters, having consulted with clients on numerous matters stemming from data breaches as well as violations of the Illinois Biometric Information Privacy Act (BIPA), including some of the first ever Biometric Privacy related settlements in history. Mr. Parks' knowledge and understanding of the class action industry, as well as his client relationship skills, expand A.B. Data's capacity to achieve its business development and marketing goals effectively.

Steve Straub, Senior Director of Operations, started with A.B. Data in 2012 as a Claims Administrator. He moved through the ranks within the company where he spent the past five years as Senior Project Manager managing many of the complex commodities cases such as *In re LIBOR-Based Financial Instruments Antitrust Litigation*, *In re London Silver Fixing, Ltd. Antitrust Litigation*, and *Laydon v. Mizuho Bank, Ltd., et al*. Mr. Straub's performance in these roles over the past ten years, along with his comprehensive knowledge of company and industry practices and first-person experience leading the project management team, has proven him an invaluable member of the A.B. Data team.

In his role as Claimant Operations Director, his responsibilities include developing efficiencies within the operations center, which includes mailroom, call center, and claims processing areas. His areas of expertise include business process development, strategic/tactical operations planning and implementation, risk analysis, budgeting, business expansion, growth planning and implementation, cost reduction, and profit, change, and project management. Mr. Straub is well-versed in the administration of securities, consumer, and antitrust class action settlements. He earned his Juris Doctor degree from Seton Hall University School of Law in Newark, New Jersey.

Jack Ewashko, Director of Client Services, brings twenty years of industry and brokerage experience to his role with A.B. Data. He is an accomplished client manager adept at facilitating proactive communications between internal and outside parties to ensure accurate and timely deliverables. Mr. Ewashko previously held positions at two claim administration firms where he oversaw the securities administration teams and actively managed numerous high-profile matters, including the $2.3 billion foreign exchange litigation. He notably served as Vice President, FX and Futures Operations at Millennium Management, a prominent global alternative investment management firm. As he progressed through trading, analytic, management, and consultancy roles at major banks and brokerage firms, Mr. Ewashko gained hands-on experience with vanilla and exotic securities products, including FX, commodities, mutual funds, derivatives, OTC, futures, options, credit, debt, and equities products. In the financial sector, he also worked closely with compliance and legal teams to ensure accuracy and conformity with all relevant rules and regulations regarding the marketing and sale of products, as well as the execution and processing of trades. He has held Series 4, Series 6, Series 7, and Series 63 licenses, and has been a member of the Futures Industry Association (FIA) and Financial Industry Regulatory Authority (FINRA). Mr. Ewashko earned his Bachelor of Business Administration from Long Island University, Brooklyn, New York.

Brian Devery, Director of Client Services, brings more than a decade of experience in class action administration and project management, as well as over two decades of experience as an attorney (ret.). Mr. Devery currently focuses on consumer, antitrust, employment, and other non-securities based administrations. In addition to driving project administration, he is focused on the implementation of process improvement, streamlining, and automation. Mr. Devery is admitted to practice law in State and Federal Courts of New York with his Juris Doctorate earned from the Maurice A. Deane School of Law at Hofstra University, Hempstead, New York.

Adam Walter, PMP, Director of Client Services, has nearly fifteen years of experience managing the administration of securities class action settlements and SEC disgorgements totaling more than $4 billion. He has managed settlement programs in engagements involving some of the largest securities class action settlements and is a key contributor to the development of administration strategies that meet the evolving needs of our clients. His responsibilities include developing case administration strategies to ensure that all client and court requirements and objectives are met, overseeing daily operations of case administrations, ensuring execution of client deliverables, providing case-related legal and administration support to class counsel, overseeing notice dissemination programs, implementing complex claims-processing and allocation methodologies, establishing quality assurance and quality control procedures, and managing distribution of settlement funds. Mr. Walter holds a bachelor's degree in business administration from Florida Atlantic University, Boca Raton, Florida. He also has been an active member of the Project Management Institute since 2010 and is PMP®-certified.

Eric Nordskog, Director of Client Services, started with A.B. Data in 2012 on the operations team, managing dozens of team leads and claims administrators in the administration of legal cases and actions. In 2017, Mr. Nordskog was promoted to Project Manager, due in part to his proven ability to add consistency and efficiency to the e-claim filing process with new streamlined processes and audit practices. Today, as Senior Project Manager, he directs many of A.B. Data's securities, insurance, and

consumer cases. He regularly oversees the administration of large insurance cases, such as two recent Cigna Insurance matters that involved complex calculations and over one million class members each. He is also the primary hiring and training manager for new project managers and coordinators. Mr. Nordskog earned his Juris Doctor degree from Marquette University Law School, Milwaukee, in 2001.

Eric Schultz, MCSE, Information Technology Manager and Security Team Chairperson, has been with A.B. Data for more than 19 years, and is currently responsible for overseeing all information technology areas for all A.B. Data divisions across the United States and abroad, including network infrastructure and architecture, IT operations, data security, disaster recovery, and all physical, logical, data, and information systems security reviews and audits required by our clients or otherwise. As a Microsoft Certified Systems Engineer (MCSE) with more than 25 years of experience in information technology systems and solutions, Mr. Schultz has developed specializations in network security, infrastructure, design/architecture, telephony, and high-availability network systems.

Secure Environment

A.B. Data's facilities provide the highest level of security and customization of security procedures, including:

- A Secure Sockets Layer server
- Video monitoring
- Limited physical access to production facilities
- Lockdown mode when checks are printed
- Background checks of key employees completed prior to hire
- Frequency of police patrol – every two hours, with response time of five or fewer minutes
- Disaster recovery plan available upon request

Data Security

A.B. Data is committed to protecting the confidentiality, integrity, and availability of personal identifying information and other information it collects from our clients, investors, and class members and requires that its employees, subcontractors, consultants, service providers, and other persons and entities it retains to assist in distributions do the same. A.B. Data has developed an Information Security Policy, a suite of policies and procedures intended to cover all information security issues and bases for A.B. Data, and all of its divisions, departments, employees, vendors, and clients. A.B. Data has also recently taken the necessary, affirmative steps toward compliance with the EU's General Data Protection Regulation and the California Consumer Privacy Act.

A.B. Data has a number of high-profile clients, including the Securities and Exchange Commission (SEC), the United States Department of Justice, the Attorneys General of nearly all 50 states, other agencies of the United States government, and the Government of Israel, as well as direct banking and payment services companies with some of the most recognized brands in United States financial services and some of the largest credit card issuers in the world.

We are therefore frequently subjected to physical, logical, data, and information systems security reviews and audits. We have been compliant with our clients' security standards and have also been determined to be compliant with ISO/IEC 27001/2 and Payment Card Industry (PCI) data-security standards, the Gramm-Leach-Bliley Act (GLB) of 1999, the National Association of Insurance Commissioners (NAIC) Regulations, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and the Health Information Technology for Economic and Clinical Health Act (HITECH).

The Government of Israel has determined that A.B. Data is compliant with its rigorous security standards in connection with its work on Project HEART (Holocaust Era Asset Restitution Taskforce).

A.B. Data's fund distribution team has been audited by EisnerAmper LLP and was found compliant with class action industry standards and within 99% accuracy. EisnerAmper LLP is a full-service advisory and accounting firm and is ranked the 15th-largest accounting firm in the United States.

In addition, as part of PCI compliance requirements, A.B. Data has multiple network scans and audits from third-party companies, such as SecurityMetrics and 403 Labs, and is determined to be compliant with each of them.

Fraud Prevention and Detection

A.B. Data is at the forefront of class action fraud prevention.

A.B. Data maintains and utilizes comprehensive proprietary databases and procedures to detect fraud and prevent payment of allegedly fraudulent claims.

We review and analyze various filing patterns across all existing cases and claims. Potential fraudulent filers are reported to our clients as well as to the appropriate governmental agencies where applicable.

Representative Class Action Engagements

A.B. Data and/or its team members have successfully administered hundreds of class actions, including many major cases. Listed below are just some of the most representative or recent engagements.

Consumer & Antitrust Cases

- *In re EpiPen Marketing, Sales Practices and Antitrust Litigation*
- *In re Broiler Chicken Antitrust Litigation - Commercial (Indirect)*
- *In re Broiler Chicken Antitrust Litigation – Indirect*
- *In re Broiler Chicken Antitrust Litigation – Direct*
- *In re Pork Antitrust Litigation – Directs*
- *In re Pork Antitrust Litigation – Indirects*

- *Peter Staley, et al. v. Gilead Sciences, Inc., et al.*
- *In re: Opana ER Antitrust Litigation*
- *In re Ranbaxy Generic Drug Application Antitrust Litigation*
- *In re Valeant Pharmaceuticals Int'l, Inc. Third-Party Payor Litigation*
- *Staley, et al., v. Gilead Sciences*
- *In Re: Generic Pharmaceuticals Pricing Antitrust Litigation – Direct Purchasers*
- *Beef Direct Purchaser Antitrust Litigation*
- *BCBSM, Inc. v. Vyera Pharmaceuticals, et al.* (Daraprim)
- *In re Automobile Antitrust Cases I and II*
- *Olean Wholesale Grocery Cooperative, Inc., et al. v. Agri Stats, Inc., et al.* (Turkey)
- *Integrated Orthopedics, Inc., et al. v. UnitedHealth Group, et al.*
- *In Re: Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation*
- *Vista Healthplan, Inc., et al. v. Cephalon, Inc., et al.* (Provigil)
- *Jeffrey Koenig, et al. v. Vizio, Inc.*
- *Wit, et al. v. United Behavioral Health*
- *Weiss, et al. v. SunPower Corporation*
- *Smith, et al. v. FirstEnergy Corp., et al.*
- *Resendez, et al. v. Precision Castparts Corp. and PCC Structurals, Inc.*
- *Julian, et al. v. TTE Technology, Inc., dba TCL North America*
- *Eugenio and Rosa Contreras v. Nationstar Mortgage LLC*
- *Phil Shin, et al. v. Plantronics, Inc.*
- *In re: Qualcomm Antitrust Litigation*
- *In re Resistors Antitrust Litigation*
- *The Hospital Authority of Metropolitan Government of Nashville and Davidson County, Tennessee v. Momenta Pharmaceuticals, Inc. and Sandoz Inc.* ("Lovenox Antitrust Matter")
- *William Kivett, et al. v. Flagstar Bank, FSB, and DOES 1-100, inclusive*
- *Adelphia, Inc. v. Heritage-Crystal Clean, Inc.*
- *LLE One, LLC, et al. v. Facebook, Inc.*
- *Bach Enterprises, Inc., et al. v. Advanced Disposal Services South, Inc., et al.*
- *JWG Inc., et al. v. Advanced Disposal Services Jacksonville, L.L.C., et al.*
- *State of Washington v. Motel 6 Operating L.P. and G6 Hospitality LLC*
- *In re GSE Bonds Antitrust Litigation*
- *Wave Lengths Hair Salons of Florida, Inc., et al. v. CBL & Associates Properties, Inc., et al.*
- *In re Loestrin 24 FE Antitrust Litigation*
- *Office of the Attorney General, Department of Legal Affairs, State of Florida v. Pultegroup, Inc. and Pulte Home Company, LLC*
- *In re Cigna-American Specialties Health Administration Fee Litigation*
- *In re: Intuniv Antitrust Litigation*
- *High Street, et al. v. Cigna Corporation, et al.*
- *Gordon Fair, et al. v. The Archdiocese of San Francisco, San Mateo, and Marin County*
- *Bizzarro, et al. v. Ocean County Department of Corrections, et al.*
- *Meeker, et al. v. Bullseye Glass Co.*
- *MSPA Claims 1, LLC v. Ocean Harbor Casualty Insurance Company*
- *Tennille v. Western Union Company - Arizona*
- *Garner, et al. v. Atherotech Holdings, Inc.* and *Garner, et al. v. Behrman Brothers IV, LLC, et al.*
- *Robinson, et al. v. Escallate, LLC*
- *Josefina Valle and Wilfredo Valle, et al. v. Popular Community Bank f/k/a Banco Popular North America*
- *Vision Construction Ent., Inc. v. Waste Pro USA, Inc. and Waste Pro USA, Inc. and Waste Pro of Florida, Inc.*

- *Plumley v. Erickson Retirement Communities, et al.*
- *In re London Silver Fixing, Ltd. Antitrust Litigation*
- *Ploss v. Kraft Foods Group, Inc. and Mondelēz Global LLC*
- *In re Mexican Government Bonds Antitrust Litigation*
- *In re Ready-Mixed Concrete Antitrust Litigation*
- *In re: Marine Hose Antitrust Litigation*
- *Iowa Ready Mixed Concrete Antitrust Litigation*
- *In re Potash Antitrust Litigation (II)*
- *In re Evanston Northwestern Healthcare Corp. Antitrust Litigation*
- *In re Polyurethane Foam Antitrust Litigation*
- *In re LIBOR-Based Financial Instruments Antitrust Litigation*
- *In re Lorazepam and Clorazepate Antitrust Litigation*
- *In re Cardizem CD Antitrust Litigation*
- *Vista Healthplan, Inc., and Ramona Sakiestewa v. Bristol-Myers Squibb Co., and American BioScience, Inc.*
- *In re Lupron Marketing and Sales Practices Litigation*
- *In re Terazosin Hydrochloride Antitrust Litigation*
- *In re Warfarin Sodium Antitrust Litigation*
- *Rosemarie Ryan House, et al. v. GlaxoSmithKline PLC and SmithKline Beecham Corporation*
- *Carpenters and Joiners Welfare Fund, et al. v. SmithKline Beecham*
- *New Mexico United Food and Commercial Workers Union's and Employers' Health and Welfare Trust Fund, et al. v. Purdue Pharma L.P.*
- *In Re Pharmaceutical Industry Average Wholesale Price Litigation*
- *Alma Simonet, et al. v. SmithKline Beecham Corporation, d/b/a GlaxoSmithKline*
- *In re Relafen Antitrust Litigation*
- *In Re Remeron Direct Purchaser Antitrust Litigation*
- *In re TriCor Indirect Purchasers Antitrust Litigation*
- *Nichols, et al., v. SmithKline Beecham Corporation*
- *In re: DDAVP Indirect Purchaser Antitrust Litigation*

Securities Cases

- *Plymouth County Retirement Association v. Spectrum Brands Holdings, Inc., et al.*
- *Tung, et al. v. Dycom Industries, Inc., et al.*
- *Boutchard., et al. v. Gandhi, et al.* ("Tower/e-Minis")
- *MAZ Partners LP v. First Choice Healthcare Solutions, Inc.*
- *SEB Investment Management AB, et al. v. Symantec Corporation, et al.*
- *In re Impinj, Inc. Securities Litigation*
- *In re Netshoes Securities Litigation*
- *Yellowdog Partners, LP, et al. v. Curo Group Holdings Corp., et al.*
- *In re Brightview Holdings, Inc. Securities Litigation*
- *In re Obalon Therapeutics, Inc. Securities Litigation*
- *In re Willis Towers Watson PLC Proxy Litigation*
- *In re Blue Apron Holdings, Inc. Securities Litigation*
- *In re: Qudian Inc. Securities Litigation*
- *Plymouth County Contributory Retirement System v. Adamas Pharmaceuticals, et al.*
- *In re Perrigo Company PLC Securities Litigation*
- *Enriquez, et al. v. Nabriva Therapeutics PLC, et al.*
- *Teamsters Local 456 Pension Fund, et al. v. Universal Health Services, Inc., et al.*
- *Olenik, et al. v. Earthstone Energy, Inc.*

- *Shenk v. Mallinckrodt plc, et al.*
- *In re The Allstate Corp. Securities Litigation*
- *Christopher Vataj v. William D. Johnson, et al.* (PG&E Securities II)
- *Kirkland v. WideOpenWest, Inc.*
- *Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc.*
- *In re Uxin Limited Securities Litigation*
- *City of Hallandale Beach Police Officers' & Firefighters' Personnel Retirement Trust v. Ergen, et al.* (Echostar)
- *Lewis v. YRC Worldwide Inc., et al.*
- *Tomaszewski v. Trevena, Inc., et al.*
- *In re Restoration Robotics, Inc. Securities Litigation*
- *Public Employees' Retirement Systems of Mississippi, et al. v. Treehouse Foods, Inc., et al.*
- *Ronald L. Jackson v. Microchip Technology, Inc., et al.*
- *In re Micro Focus International plc Securities Litigation*
- *In re Dynagas LNG Partners LP Securities Litigation*
- *Weiss, et al. v. Burke, et al.* (Nutraceutical)
- *Yaron v. Intersect ENT, Inc., et al.*
- *Utah Retirement Systems v. Healthcare Services Group, Inc., et al.*
- *In re PPDAI Group Inc. Securities Litigation*
- *In re: Evoqua Water Technologies Corp. Securities Litigation*
- *In re Aqua Metals, Inc. Securities Litigation*
- *St. Lucie County Fire District Firefighters' Pension Trust Fund v. Southwestern Energy Company*
- *In re CPI Card Group Inc. Securities Litigation*
- *Arkansas Teacher Retirement System, et al. v. Alon USA Energy, Inc., et al.*
- *In re TAL Education Group Securities Litigation*
- *GCI Liberty Stockholder Litigation*
- *In re SciPlay Corporation Securities Litigation*
- *In re Allergan Generic Drug Pricing Securities Litigation*
- *In re Vivint Solar, Inc. Securities Litigation*
- *In re YayYo Securities Litigation*
- *In re JPMorgan Treasury Futures Spoofing Litigation*
- *Searles, et al. v. Crestview Partners, LP, et al.* (Capital Bank)
- *In re Lyft, Inc. Securities Litigation*
- *In re Aegean Marine Petroleum Network, Inc. Securities Litigation*
- *In re JPMorgan Precious Metals Spoofing Litigation*
- *In re Pivotal Software, Inc. Securities Litigation*
- *Longo, et al. v. OSI Systems, Inc., et al.*
- *In re Homefed Corporation Stockholder Litigation*
- *Pierrelouis v. Gogo Inc., et al.*
- *Pope v. Navient Corporation, et al.*
- *In re Merit Medical Systems, Inc. Securities Litigation*
- *In re Frontier Communications Corporation Stockholder Litigation*
- *Holwill v. AbbVie Inc.*
- *Budicak, Inc., et al. v. Lansing Trade Group, LLC, et al.* (SRW Wheat Futures)
- *Yannes, et al. v. SCWorx Corporation*
- *In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations*
- *In re Myriad Genetics, Inc. Securities Litigation*
- *In re Chicago Bridge & Iron Co. N.V. Securities Litigation*
- *The Arbitrage Fund, et al. v. William Petty, et al.* (Exactech)
- *In re Columbia Pipeline Group, Inc. Merger Litigation*

- *Martinek v. AmTrust Financial Services, Inc.*
- *City of Pittsburgh Comprehensive Municipal Pension Trust Fund, et al. v. Benefitfocus, Inc., et al.*
- *In re: Evoqua Water Technologies Corp. Securities Litigation*
- *Laydon v. Mizuho Bank, Ltd., et al.*
- *Lomingkit, et al. v. Apollo Education Group, Inc., et al.*
- *In re Caraco Pharmaceutical Laboratories, Ltd. Shareholder Litigation*
- *Norfolk County Retirement System, et al. v. Community Health Systems, Inc., et al.*
- *Chester County Employees' Retirement Fund v. KCG Holdings, Inc., et al.*
- *Oklahoma Law Enforcement Retirement System, et al. v. Adeptus Health Inc., et al.*
- *Di Donato v. Insys Therapeutics, Inc., et al.*
- *Lundgren-Wiedinmyer, et al. v. LJM Partners, Ltd, et al.*
- *Martin, et al. v. Altisource Residential Corporation, et al.*
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For More Information

For more detailed information regarding A.B. Data's experience, services, or personnel, please see our website at **www.abdataclassaction.com**.

EXHIBIT 14

UNITED STATES DISTRICT COURT

DISTRICT OF KANSAS

In re EPIPEN (EPINEPHRINE INJECTION, USP) MARKETING, SALES PRACTICES AND ANTITRUST LITIGATION This Document Relates To: CONSUMER CLASS CASES.	Civil Action No. 2:17-md-02785-DDC-TJJ (MDL No. 2785)

MEMORANDUM OF LAW IN SUPPORT OF CLASS PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT WITH THE MYLAN DEFENDANTS

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I. INTRODUCTION

More than fifteen EpiPen-related lawsuits were filed in late 2016 and 2017 against Mylan;[1] these cases were then centralized or transferred into an MDL before this Court. After nearly five years of vigorous, often contentious litigation in this Action,[2] and shortly before trial was scheduled to commence on February 22, 2022, Class Plaintiffs[3] and the Mylan Defendants (together, the "Settling Parties") have reached a Settlement that resolves the Class Plaintiffs' claims in the Action and Other Actions[4] against the Mylan Defendants and creates an additional non-reversionary common fund of $264 million for the certified Class. Combined with the prior $345 million Pfizer Settlement, the Mylan Settlement brings the total recovery to $609 million—an extraordinary

[1] "Mylan" refers collectively to Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc., and Heather Bresch. "Mylan Defendants" refers collectively to Mylan and Viatris Inc.

[2] All capitalized terms not otherwise defined herein shall have the meaning given to them in the February 27, 2022, Stipulation of Class Action Settlement ("Settlement Agreement"), a copy of which is attached hereto as Exhibit 1. All emphasis is added, and citations are omitted, unless otherwise noted.

[3] "Class Plaintiffs" or "Plaintiffs" refers collectively to the appointed representatives of the certified Class: Shannon Clements; Lesley Huston; Rosetta Serrano; Kenneth Evans; Elizabeth Williamson; Vishal Aggarwal; Teia Amell; Todd Beaulieu; Carly Bowerstock; Raymond Butcha III; Laura Chapin; Heather Destefano; Donna Anne Dvorak; Michael Gill; Suzanne Harwood; Elizabeth Huelsman; Landon Ipson; Anastasia Johnston; Mark Kovarik; Meredith Krimmel; Nikitia Marshall; Angie Nordstrum; Sonya North; Christopher Rippy; Lee Seltzer; Joy Shepard; Kenneth Steinhauser; April Sumner; Annette Sutorik; Stacee Svites; Linda Wagner; Jennifer Walton; Donna Wemple; Lorraine Wright; and Local 282 Welfare Trust Fund.

[4] As defined in the Settlement Agreement, the "Other Actions" include additional actions pending before this Court, entitled *Ipson v. Viatris Inc.*, No. 2:21-cv-02556-DDC-TJJ (D. Kan.); *Gill v. Viatris Inc.*, No. 2:21-cv-02534-DDC-TJJ (D. Kan.); *Dvorak v. Viatris Inc.*, No. 2:21-cv-02561-DDC-TJJ (D. Kan.); and *Sumner v. Viatris Inc.*, No. 2:21-cv-02555-DDC-TJJ (D. Kan.). Although settlement of the Other Actions is not subject to court approval, the Settling Parties have agreed that Plaintiffs will dismiss the Other Actions with prejudice as a condition of the Settlement.

success for the Class. And, as the Court is aware, the work and persistence of Class Plaintiffs and their counsel achieved these results.

The Mylan Settlement is substantially similar to the court-approved Pfizer Settlement. In many respects, the arguments supporting preliminary approval here echo those in Plaintiffs' papers seeking approval of the Pfizer Settlement. The Mylan Settlement satisfies the standards for preliminary approval under Rule 23 for the same reasons as with the Pfizer Settlement.

The Mylan Settlement is the result of well-informed, arm's-length negotiations between highly-experienced counsel possessing a thorough understanding of the strengths and weaknesses of the claims at issue due to extensive investigation, significant discovery, numerous rulings from the Court, and expert analysis. Considering the value of the proposed Settlement, in light of the costs and risks of further litigation, trial, and appeal, the Settlement provides an immediate and equitable result for the certified Class. The Settlement is fair, reasonable, and adequate under Rule 23(e)(2) and Tenth Circuit precedent. Class Counsel's proposed form and method of providing notice of the Settlement to certified Class Members builds on the success of the notice program the Court approved in the Pfizer Settlement, with additional information clarifying that any Class Member who already submitted a claim pursuant to the Pfizer Settlement will automatically be eligible to receive a payment from the Mylan Settlement without the need to file an additional claim form. Here, too, the notice program satisfies the requirements of due process, as well as the conditions set forth in Rules 23(c) and (e). And just as in the Pfizer Settlement, because Class Counsel's initial class certification notice program surpassed the requirements of due process and Rule 23(c) in adequacy of class notice, sufficiency and clarity of exclusion language and opportunity, and overall reasonableness (ECF No. 2240), no additional exclusion opportunity is required by due process, nor warranted under Rule 23(e).

Accordingly, Plaintiffs respectfully request that the Court enter the Settling Parties' agreed-upon Preliminary Approval Order, submitted to chambers in Word format pursuant to the Local Rules and attached as Exhibit A to the Settlement Agreement (Exhibit 1 hereto). That Order will:

1. Preliminarily approve the terms of the Settlement as set forth in the Settlement Agreement;
2. Approve the form and content of the Notice of Proposed Settlement of Class Action ("Notice"), Proof of Claim Forms, and Summary Notice (also known as Short-Form Notice) attached as Exhibits B-D to the Settlement Agreement, as well as the appointment of A.B. Data Ltd. as Settlement Administrator;
3. Find that the procedures for distribution and publication of the Notice and Summary Notice in the manner and form set forth in the Declaration of Eric Schachter of A.B. Data, Ltd. in Support of Class Plaintiffs' Motion for Preliminary Approval of Settlement with the Mylan Defendants ("Schachter Decl."), attached as Exhibit 2 hereto, constitute the best practicable notice under the circumstances and comply with the notice requirements of due process and Rule 23;
4. Set a Hearing on Final Approval of Settlement, Plan of Allocation, Attorneys' Fees, Expenses, and Service Awards ("Final Fairness Hearing") and associated deadlines in anticipation of that hearing; and
5. Provide such other related relief as is necessary to carry out the Settlement, as set forth in the Preliminary Approval Order, including a stay of proceedings pending a final determination as to whether the Settlement should be approved.

II. SUMMARY OF THE ACTION

In 2016, various putative class action lawsuits were filed against both Mylan and Pfizer[5] "involv[ing] allegations of anticompetitive conduct or unfair methods of competition" with respect to the EpiPen, an epinephrine auto-injector used in the emergency treatment of anaphylaxis. ECF No. 1 at 1. These cases were transferred and/or centralized by the Judicial Panel on Multidistrict Litigation into MDL No. 2785, *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, No. 17-md-2785, and transferred to the United States District Court in the District of Kansas before the Honorable Daniel D. Crabtree (referred to herein as the "Litigation") on August 4, 2017. ECF No. 1.

On September 12, 2017, the Court appointed Co-Lead Counsel and approved Plaintiffs' proposed organizational structure, including Liaison Counsel and a Steering Committee. ECF No. 40. The Court has since substituted a member of the Steering Committee (ECF No. 2111) and added an additional Co-Lead Counsel (ECF No. 2018).

On October 17, 2017, Plaintiffs filed a Consolidated Class Action Complaint ("Complaint") stating claims for violations of the federal Racketeer Influenced and Corrupt Organizations ("RICO") Act, certain federal and state antitrust laws, and other causes of action. Complaint (ECF No. 60) & Pretrial Order (ECF No. 2169). These claims arose from allegedly supracompetitive pricing of the EpiPen and related conduct. *See In re (Epinephrine Injection, USP) EpiPen Mktg., Sales Pracs. & Antitrust Litig.*, 336 F. Supp. 3d 1256, 1282 (D. Kan. 2018) (explaining that the Complaint alleged "a pricing scheme" that centered on EpiPen price increases).

[5] Pfizer, Inc., Meridian Medical Technologies, Inc., and King Pharmaceuticals, Inc. (n/k/a King Pharmaceuticals LLC) (collectively, "Pfizer"or the "Pfizer Defendants" and together with Mylan, the "Defendants").

Subsequently, Defendants filed Motions to Dismiss the Complaint, which the Court granted in part and denied in part on August 20, 2018. ECF No. 896. Defendants answered the Complaint, denying all remaining allegations. Plaintiffs then moved for class certification under Rule 23(b)(3). On February 27, 2020, the Court granted in part and denied in part Plaintiffs' motion for class certification and certified a nationwide RICO Class and a State Antitrust Class under Rule 23(b)(3). ECF No. 2018. The Court also appointed Warren T. Burns, Paul J. Geller, Elizabeth Pritzker, Lynn Lincoln Sarko, and Rex A. Sharp as Co-Lead Counsel for the certified Class. Defendants then filed a Rule 23(f) petition for review of that decision with the Tenth Circuit on March 12, 2020, and the Tenth Circuit denied Rule 23(f) review on May 26, 2020. ECF Nos. 2035, 2071. On October 13, 2020, the Court approved the appointment of A.B. Data, Ltd. to provide notice to the certified Class and approved the form and manner of that notice, which commenced on November 1, 2020, and ended on January 15, 2021.

During the pendency of the Action, Plaintiffs engaged in substantial discovery that involved the Defendants, Plaintiffs, and numerous third parties. This discovery resulted in the production of over 1.75 million documents (totaling over 11 million pages) and 158 depositions, including those of Defendants, Plaintiffs, third parties, and experts. Plaintiffs also engaged in substantial expert discovery, including consulting with and preparing expert witnesses, preparing class certification and merits expert reports, and vigorously defending many *Daubert* motions that challenged their experts at both the class certification and merits stages. From October 2019 to February 2020, the parties served over one dozen expert reports on the merits of their respective claims and defenses in the Action.

On July 15, 2020, Defendants moved for summary judgment and filed *Daubert* motions to strike Plaintiffs' experts in whole or in part. ECF Nos. 2133, 2134, 2135, 2136, 2141, 2148, 2151, 2156. On June 10, 2021, while Defendants' motions for summary judgment were pending, Plaintiffs

and the Pfizer Defendants agreed to settle the claims against Pfizer in the Action (the "Pfizer Settlement"). On November 17, 2021, the Court granted final approval of the Pfizer Settlement and entered a Final Judgment and Order of Dismissal with Prejudice Under Fed. R. Civ. P. 54(b) for the Pfizer Defendants Only (ECF No. 2507).

On June 23, 2021, the Court entered Memoranda and Orders resolving the motions for summary judgment and *Daubert* motions as to Mylan. The Court denied Mylan's motion for summary judgment as to the Plaintiffs' generic delay state antitrust claims, but granted Mylan's motion for summary judgment as to Plaintiffs' branded exclusion antitrust claims and RICO claims. The Court also granted in part and denied in part Mylan's *Daubert* motions. ECF Nos. 2380, 2381. The summary judgment order dismissed the claims of plaintiffs Landon Ipson, Michael Gill, Donna Dvorak, and April Sumner, who then subsequently sued the Mylan Defendants in the Other Actions for violations of certain state antitrust laws and other federal and state laws, as delineated in their respective complaints, which were centralized into *In re EpiPen* MDL. *See* ECF Nos. 2504, 2505.

Trial in this Action was rescheduled multiple times due to COVID-19-related and other concerns. Most recently, trial was set to commence on February 22, 2022, based on the Pretrial Order dated July 17, 2020 (ECF No. 2169), later modified with a Trial Order entered on January 12, 2022 (ECF No. 2562).

As the trial date approached, Plaintiffs and the Mylan Defendants engaged in settlement negotiations. Plaintiffs subsequently agreed to settle all claims brought in or related to the Action and Other Actions against the Mylan Defendants under the terms memorialized in the Settlement Agreement.

III. TERMS OF THE SETTLEMENT

The Settlement Agreement, attached as Exhibit 1 hereto, provides that the Mylan Defendants will deposit $5 million of the Settlement Amount into an Escrow Account within five

business days from the District Court's order granting preliminary approval. Settlement Agreement, ¶ 2.1. The remainder of the Settlement Amount will be deposited by the later of July 1, 2022 or five calendar days before the date of the Fairness Hearing. *Id.* The cost of settlement administration, including the costs of notice to the Class, taxes, and tax expenses, will be funded by the Settlement Fund (*id*., ¶¶ 2.7, 2.8), which consists of the Settlement Amount, plus all interest and accretions thereto. *Id*., ¶ 1.38. The Settlement Agreement also provides for a Settlement Administrator. *Id*., ¶ 1.36. Class Counsel propose that the Court appoint A.B. Data, Ltd. to serve as the Settlement Administrator. The Court previously approved A.B. Data to provide notice to the Class following class certification and appointed it as the settlement administrator for the Pfizer Settlement. A.B. Data has fulfilled its responsibilities to date, has the requisite expertise, experience and capabilities, and is fully familiar with the facts of this case and the notice program that will be required here to comport with Rule 23 and due process. The proposed notice plan is discussed below and in the accompanying Schachter Declaration. *See* Exhibit 2.

In summary, Plaintiffs and A.B. Data propose a notice program that is substantially similar to the Court-approved notice programs used successfully to provide notice of pendency of the Action and the Pfizer Settlement to the certified Class. Consistent with the Court's previous findings (ECF Nos. 2240, 2401, 2506), the proposed notice program also satisfies the requirements of Rule 23 and due process. It includes: (i) individual notice by email or mail to all Class Members who can reasonably be located; (ii) publication notice in a national publication likely to be read by Class Members; (iii) digital media advertisements posted on websites likely to be viewed by Class Members; (iv) a press release to be widely disseminated; (v) a settlement website that will contain information about the Litigation and the Settlement, as well as all important Settlement documents; and (vi) a toll-free phone number and call center to field inquiries. The Settlement website will allow Class Members to file their claims electronically. *See* Schachter Declaration, *passim*.

The Notice (Settlement Agreement, Exhibit B) explains the terms of the Settlement, including that the Net Settlement Fund will be distributed to eligible Class Members who submit valid and timely Proofs of Claim and pursuant to the proposed Plan of Allocation. The Notice explains that any Class Member who already submitted a claim pursuant to the Pfizer Settlement will automatically be eligible to receive a payment from the Mylan Settlement without the need to file an additional claim form. The Notice also advises Class Members of: (i) Class Counsel's application for an award of attorneys' fees and expenses, as well as Plaintiffs' application for a service award in connection with their representation of the certified Class; (ii) the procedures for objecting to the Settlement, the Plan of Allocation, Class Counsel's request for attorneys' fees and expenses, and/or Plaintiffs' application for a service award; and (iii) the date and time for the Fairness Hearing. Notice (Settlement Agreement, Exhibit B) at 4, 5, 12-13, 15-16.

The Plan of Allocation, attached as Exhibit 3 hereto, and that is substantially similar to the Plan of Allocation the Court approved in the Pfizer Settlement, will create two pools of funds from the Net Settlement Fund, one for individual consumers and one for third-party payors. The allocation of funds as between the two pools is based on the work done by Plaintiffs' experts and tracks, as a percentage, the relative damages allegedly suffered by individual consumers and third-party payors as calculated in the Rebuttal Merits Expert Report of Professor Meredith Rosenthal (ECF No. 2216-2). Within each pool, funds will be distributed on a *pro rata* basis to all eligible Class Members who file a timely and valid Proof of Claim. Funds remaining in one pool will spill-over to the other pool in certain circumstances. Plaintiffs anticipate that all funds will be distributed to Class Members pursuant to the Plan of Allocation.[6] There is no right of reversion under the

[6] Class Counsel anticipate that, under the Plan of Allocation's distribution terms, there will be no remaining funds for *cy pres* distribution. If there is any remaining balance in the Net Settlement Fund after the initial distribution—*e.g.* due to uncashed checks—the Settlement

Settlement and under no circumstances will any portion of the Settlement Amount be returned to the Mylan Defendants once the Settlement becomes final.

Under the terms of the Settlement, the Mylan Defendants expressly disclaim and deny any wrongdoing or liability whatsoever. In exchange for the benefits provided under the Settlement Agreement, Class Members will release the Mylan Defendants as provided for in Paragraphs 1.28, 4.1 & 4.2 of the Settlement Agreement. The Settling Parties have also agreed that, in the event that the Court permits a second opportunity to opt out of the Class, the Parties will meet and confer to determine mutually-agreeable terms to govern the second opt out. Settlement Agreement ¶ 8.1; *see also id.* ¶ 2.10(c).

IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

A. The Court Should Grant Preliminary Approval of the Proposed Settlement.

Settlement is strongly favored as a method for resolving disputes. *See Sears v. Atchison, Topeka & Santa Fe Ry., Co.*, 749 F.2d 1451, 1455 (10th Cir. 1984); *see also Trujillo v. State of Colo.*, 649 F.2d 823, 826 (10th Cir. 1981) (citing "important public policy concerns that support voluntary settlements"); *Amoco Prod. Co. v. Fed. Power Comm'n*, 465 F.2d 1350, 1354 (10th Cir. 1972). This is particularly true in large, complex class actions such as the current case. *See Big O Tires, Inc. v. Bigfoot 4x4, Inc.*, 167 F. Supp. 2d 1216, 1229 (D. Colo. 2001).

Under Rule 23(e), the trial court must approve a class action settlement. Fed. R. Civ. P. 23(e) ("The claims . . . of a certified class – or a class proposed to be certified for purposes of settlement – may be settled . . . only with the court's approval."). The procedure for review of a

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Administrator will reallocate such balance among Class Members pursuant to the terms of the Plan of Allocation. Any funds remaining for *cy pres* distribution should therefore be *de minimis*, existing only if a Class Member does not cash their check or otherwise deposit or accept their distribution after submitting a claim, *and* after additional distributions to qualifying claimants.

proposed class action settlement is a well-established two-step process. *In re Motor Fuel Temperature Sales Pracs. Litig*., 258 F.R.D. 671, 675 (D. Kan. 2009); *see Manual for Complex Litigation* ("*Manual*"), §13.14 (4th ed. 2004). First, the court conducts a preliminary approval analysis to determine if there is any reason not to notify the class or proceed with the proposed settlement. *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 693 (D. Colo. 2006). Second, after the court preliminarily approves the settlement, the class is notified and provided an opportunity to be heard at a final fairness hearing where the court considers the merits of the settlement to determine if it should be finally approved. *See In re Motor Fuel*, 258 F.R.D. at 675; *accord*, 4 William B. Rubenstein, *Newberg on Class Actions* ("*Newberg*"), §13.10 (5th ed. 2021).

Through this Preliminary Approval Motion, Plaintiffs request the Court take the first step in this two-step process: granting preliminary approval. Preliminary approval should be granted if "the proposed settlement was 'neither illegal nor collusive and is within the range of possible approval.'" *Newberg*, §13.10; *In re Syngenta AG MIR 162 Corn Litig*., No. 14-md-2591-JWL, 2018 WL 1726345, at *2 (D. Kan. Apr. 10, 2018) (Lungstrum, J.) (same). Although "[t]he standards for preliminary approval are not as stringent as those applied for final approval," courts frequently refer to the final approval factors to determine whether a proposed settlement should be *preliminarily* approved. *In re Motor Fuel*, 258 F.R.D. at 675-76, 680 ("While the Court will consider these factors in depth at the final approval hearing, they are a useful guide at the preliminary approval stage as well.").

B. Standards for Preliminary Approval of a Proposed Settlement.

Under Rule 23(e)(1) of the Federal Rules of Civil Procedure the inquiry at preliminary approval is whether the Court "will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal." Fed. R. Civ. P. 23(e)(2)(B). Rule 23(e)(2) provides that a class action settlement may be approved by the court "only after a

hearing and only on finding that it is fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). In deciding whether to approve a class action settlement, courts should consider 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.

Fed. R. Civ. P. 23(e)(2).

Also, in deciding whether a settlement is "fair, reasonable, and adequate," courts in the Tenth Circuit traditionally consider whether:

> (1) the settlement was fairly and honestly negotiated, (2) serious legal and factual questions placed the litigation's outcome in doubt, (3) the immediate recovery was more valuable than the mere possibility of a more favorable outcome after further litigation, and (4) the parties believed the settlement was fair and reasonable.

In re (Epinephrine Injection, USP) EpiPen Mktg., Sales Pracs. & Antitrust Litig., No. 17-MD-2785-DDC, 2021 WL 5369798, at *1 (D. Kan. Nov. 17, 2021); *Syngenta*, 2018 WL 1726345, at *2 (citing *Tennille v. W. Union Co.*, 785 F.3d 422, 434 (10th Cir. 2015)). Because the Tenth Circuit's additional factors "largely overlap" with the Rule 23(e)(2) factors, "with only the fourth factor not being subsumed" into it, courts in this District now "consider[] the Rule 23(e)(2) factors as the main tool in evaluating the propriety of [a] settlement," while still addressing the Tenth Circuit's factors.

Chavez Rodriguez v. Hermes Landscaping, Inc., No. 17-2142-JWB-KGG, 2020 WL 3288059, at *2 (D. Kan. June 18, 2020).

As discussed below, the proposed Settlement for $264 million in cash easily satisfies each of the Rule 23(e)(2) and Tenth Circuit factors. Accordingly, Plaintiffs request that the Court grant preliminary approval of the Settlement.

C. The Settlement Satisfies the Rule 23(e)(2) Factors.

1. Plaintiffs and Co-Lead Counsel Have Adequately Represented the Class.

The adequacy of representation requirement is met when the representative plaintiffs' "interests do not conflict with those of the class members" and the representatives and their counsel "prosecute the action vigorously." *In re Motor Fuel Temperature Sales Pracs. Litig.*, 271 F.R.D. 221, 231 (D. Kan. 2010) (citations omitted). As the Court found in its order granting final approval of the Pfizer Settlement, Class Plaintiffs share the same interests and types of alleged injuries as the absent Class Members. *In re EpiPen*, 2021 WL 5369798 at *2. Class Plaintiffs have participated in extensive discovery and adequately represented and protected the interests of the Class. *Id.*

Co-Lead Counsel also have adequately represented the certified Class as required by Rule 23(e)(2)(A). Prior to reaching the Settlement, Co-Lead Counsel conducted extensive investigation and research into the claims asserted, reviewed extensive data, and consulted with numerous experts. Co-Lead Counsel vigorously prosecuted the Action by, among other activities: (i) investigating the relevant factual events; (ii) drafting the detailed, 400-page Complaint; (iii) successfully in part opposing Defendants' motions to dismiss; (iv) engaging in extensive document and written discovery, through both coordinated and non-coordinated phases, including reviewing over 11 million pages of documents produced by Defendants and third parties; (v) successfully in part moving for class certification supported by four expert reports; (vi) successfully

opposing Defendants' petition to appeal the same pursuant to Rule 23(f); (vii) vigorously opposing summary judgment and *Daubert* motions, and achieving partial victories; (vii) preparing for a month-long trial; and (viii) at the same time, engaging in settlement negotiations with the Mylan Defendants' counsel. As a result of these extensive efforts, spanning thousands of hours of work and several years, Co-Lead Counsel have achieved a significant all-cash Settlement of $264 million with the Mylan Defendants, which will provide immediate relief to the certified Class.

Each of the Co-Lead Counsel (Elizabeth C. Pritzker of Pritzker Levine LLP, Paul J. Geller of Robbins Geller Rudman & Dowd LLP, Rex A. Sharp of Sharp Law LLP, Warren T. Burns of Burns Charest LLP, and Lynn Lincoln Sarko of Keller Rohrback L.L.P.) has significant experience prosecuting complex antitrust and RICO class actions. This Court, *see In re EpiPen*, 2021 WL 5369798 at *5, and courts around the country have recognized the expertise and ability of Co-Lead Counsel to litigate effectively complex class actions.[7]

[7] *See, e.g.*, *Harris v. Chevron U.S.A., Inc.*, No. 6:19-cv-00355-SPS, 2020 WL 8187464, at *4 (E.D. Okla. Feb. 27, 2020) (noting that Sharp Law LLP is among the "[f]ew law firms [who] are willing to litigate cases requiring review of tens of thousands of pages of detailed contracts and accounting records, advance payment of hundreds of thousands of dollars in consultants and expert witness fees, and investment of substantial time, effort, and other expenses throughout an unknown number of years to prosecute a case with high risk, both at the trial and appellate levels"); *In re SandRidge Energy, Inc. Sec. Litig.*, No. CIV-12-1341-G, 2019 WL 4752268, at *9 (W.D. Okla. Sept. 30, 2019) ("the attorneys of Robbins Geller are experienced class-action litigators and are sufficiently committed to this litigation"); *In re WorldCom, Inc. ERISA Litig.*, No. Civ. 02-4816 (DLC), 2004 WL 2338151 at *10 (S.D.N.Y. 2004) (regarding Lynn Sarko's work as lead counsel, Judge Cote stated, "Lead Counsel has performed an important public service in this action and has done so efficiently and with integrity . . . . [Keller Rohrback] has also worked creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions"); The Hon. H. Russel Holland, D. Alaska, Presentation to Alaska Chapter of the Federal Bar Association, Nov. 12, 2015 (regarding Lynn Sarko's administration of two court-supervised $1.128 billion *Exxon* settlement funds, Judge Holland observed: "[T]he money . . . . went into the Exxon Qualified Settlement Fund that was administered by Lynn Sarko and his law firm in Seattle. Those guys did a superb job. And it was a huge effort to notify all potential claimants, to get the claims documented, to evaluate the documentation, and then to apply the sharing concepts to the individual losses. . . . I can't imagine that they could possibly have done a better job."); *In re Nat'l Collegiate Athletic Ass'n Athletic Grant-in-Aid Cap Antitrust Litig.*, No. 4:14-md-2541-CW, 2017

To support a finding of adequate representation, the parties must "[b]alanc[e] the entirety of the case with the ultimate resolution." *Chavez Rodriguez v. Hermes Landscaping, Inc*., 2020 WL 3288059, at *3 (D. Kan. June 18, 2020). Here, the collective tenacity and sophistication of Plaintiffs and Class Counsel were instrumental in achieving the substantial $264 million Settlement, which will provide significant and immediate relief to the certified Class.

2. The Proposed Settlement Was Negotiated at Arm's Length.

The second factor under Rule 23(e)(2)(B) overlaps with the first factor considered by courts in the Tenth Circuit and assesses whether "'the settlement was fairly and honestly negotiated.'" *Syngenta*, 2018 WL 1726345, at *2. A settlement is considered to be fairly and honestly negotiated when reached after arm's-length negotiations by experienced counsel. *See In re Urethane Antitrust Litig.*, No. 04-1616-JWL, ECF No. 3274, at 2 (D. Kan. July 29, 2016) (settlement is "fairly and honestly negotiated" when it results from "negotiations which were undertaken in good faith by counsel with significant experience litigating antitrust class actions"); *Marcus v. Kansas Dep't of Revenue*, 209 F. Supp. 2d 1179, 1182 (D. Kan. 2002) (finding this factor satisfied where the settlement was reached "by experienced counsel for the class").

Here, the Settlement is the product of vigorous negotiations between the Settling Parties, advised by their sophisticated counsel, who possessed more than sufficient evidence and knowledge to allow them to make informed decisions about the strengths and weaknesses of their respective

WL 6040065, at *10 (N.D. Cal. Dec. 6, 2017), *aff'd*, 768 F. App'x 651 (9th Cir. 2019) (noting that Pritzker Levine, as one of three firms representing the certified student-athlete class, is "among the most well-respected class action litigation firms in the country, as this Court has witnessed in numerous cases. And the efficiency with which plaintiffs' counsel achieved such exceptional results is laudable because it benefits the classes.") (footnote omitted); *Kjessler v. Zaappaaz, Inc.*, No. 4:18-cv-430, 2018 WL 8755737, at *5–6 (S.D. Tex. Aug. 31, 2018) (appointing Burns Charest as sole interim lead class counsel based on the firm's "significant experience" in class action litigation).

cases. Counsel participated in numerous meetings and phone calls where they exchanged their respective, opposing views regarding the merits of Plaintiffs' claims, issues for appeal, and the terms of the Settlement. The relevant legal and factual issues were fully developed and ready for trial. Additionally, Plaintiffs had previously worked with a mediator to settle similar claims with the Pfizer Defendants, which provided valuable insight into the value of the claims as well as the strengths and weaknesses of their case. As a result, the Settling Parties were well prepared for the serious negotiations that led to the Settlement and were well-informed of the respective parties' arguments. *See In re Motor Fuel*, 258 F.R.D. at 675-76. And the $264 million settlement amount ($609 million total when combined with the $345 million Pfizer Settlement), by any measure, is an outstanding result. Antitrust class action settlements reached prior to trial typically settle for a fraction of the alleged damages. *See, e.g.*, *In re Linerboard Antitrust Litig.*, No. CIV. 98-5055, 2004 WL 1221350, at *4 (E.D. Pa. June 2, 2004) (collecting cases in which courts have approved settlements of 5.35% to 28% of potential damages).

In sum, the parties' negotiations and the Settlement's terms demonstrate that the Settlement was fairly and honestly negotiated.

3. The Proposed Settlement Is Adequate in Light of the Costs, Risks, and Delay of Trial and Appeal.

In assessing the Settlement, the Court should also balance the benefits afforded to the certified Class, including the immediacy and certainty of a recovery, against the significant costs, risks, and delay of proceeding with the Action. *See* Rule 23(e)(2)(C)(i). This third factor is based on the premise that the Class "is better off receiving compensation now as opposed to being compensated, if at all, several years down the line, after the matter is certified, tried, and all appeals are exhausted." *See McNeely v. Nat'l Mobile Health Care, LLC*, No. CIV-07-933-M, 2008 WL 4816510, at *13 (W.D. Okla. Oct. 27, 2008). This consideration largely overlaps with the second

("'whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt'") and third factors ("'whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation'") traditionally considered by courts in the Tenth Circuit. *Chavez Rodriguez*, 2020 WL 3288059, at *2-*3. Thus, courts consider these factors to be "subsumed under Rule 23's requirement." *Id*.

4. Serious Legal and Factual Questions Placed the Litigation's Outcome in Doubt.

The presence of serious legal and factual questions concerning the outcome of the Litigation weighs heavily in favor of settlement, "because settlement creates a certainty of some recovery, and eliminates doubt, meaning the possibility of no recovery after long and expensive litigation." *In re Qwest Commc'ns Int'l, Inc. Sec. Litig.*, 625 F. Supp. 2d 1133, 1138 (D. Colo. 2009). "Although it is not the role of the Court at this stage of the litigation to evaluate the merits, it is clear that the parties could reasonably conclude that there are serious questions of law and fact that exist such that they could significantly impact the case if it were litigated." *Lucas*, 234 F.R.D. at 693-94. The presence of questions of law and fact "tips the balance in favor of settlement because settlement creates a certainty of some recovery, and eliminates doubt, meaning the possibility of no recovery after long and expensive litigation." *McNeely, LLC*, 2008 WL 4816510, at *13; *see also Tennille*, 785 F.3d at 435 (affirming final approval of settlement where "serious disputed legal issues" rendered "the outcome of th[e] litigation . . . uncertain and further litigation would have been costly").

The current proposed Settlement notwithstanding, there remain numerous factual and legal issues on which the Settling Parties still intensely disagree. The Mylan Defendants deny that they have engaged in any wrongdoing as alleged by Plaintiffs, deny any liability whatsoever for any of the claims alleged by Plaintiffs, and deny that Plaintiffs have suffered any injuries or damages.

Conversely, Plaintiffs have advanced numerous complex legal and factual issues under federal and state antitrust laws, federal RICO statutes, and other causes of action, with certain state antirust claims proceeding to trial and the other claims preserved for appeal. The issues on which the Settling Parties disagree are many, but include: (1) whether any of the Mylan Defendants engaged in conduct that would give rise to any liability to Plaintiffs under the RICO statute or certain state antitrust laws; (2) whether the Mylan Defendants have valid defenses to any such claims of liability; (3) whether any conduct by the Mylan Defendants caused Plaintiffs any injuries; (4) the amount of damages, if any, that Plaintiffs suffered by reason of the Mylan Defendants' alleged wrongdoing, as well as the methodology for estimating any such damages; and (5) whether the Court properly certified the Class. Had the parties not settled this Action and the Other Actions, the Court and/or a jury would ultimately be required to decide these issues, placing the ultimate outcome in doubt. While Plaintiffs believe their claims would be borne out by the evidence presented at trial, they recognize that there are significant hurdles to proving liability and damages in trial and prevailing in any appeals.

5. Immediate Recovery Is More Valuable than the Mere Possibility of a More Favorable Outcome After Further Litigation.

Considering the risks associated with continued litigation, as discussed above, the immediate, substantial relief offered by the Settlement outweighs the "mere possibility of a more favorable outcome after protracted and expensive litigation over many years in the future." *Syngenta*, 2018 WL 1726345, at *2; *In re Thornburg Mortg., Inc. Sec. Litig.*, 912 F. Supp. 2d 1178, 1244 (D.N.M. 2012) ("'[t]o most people, a dollar today is worth a great deal more than a dollar ten years from now'") (quoting *Reynolds v. Beneficial Nat'l Bank*, 288 F.3d 277, 284 (7th Cir. 2002)).

Further, this Action has already been pending for nearly five years in this Court, and the Settling Parties and the Court would expend significant additional time, resources, and costs to

proceed to trial, and the inevitable appeals likely extending years into the future. *Chavez Rodriguez*, 2020 WL 3288059, at *3 (observing that "the costs and time of moving forward in litigation would be substantial"); *Lucas*, 234 F.R.D. at 694 ("If this case were to be litigated, in all probability it would be many years before it was resolved."). Considering the complex legal and factual issues associated with continued litigation, there is an undeniable and substantial risk that, after years of continued litigation, Plaintiffs could receive an amount significantly less than the Settlement Amount, or nothing at all, for their claims against Mylan.

"By contrast, the proposed settlement agreement provides the class with substantial, guaranteed relief" now. *Lucas*, 234 F.R.D. at 694; *see also McNeely*, 2008 WL 4816510, at *13 ("The class . . . is better off receiving compensation now as opposed to being compensated, if at all, several years down the line, after the matter is certified, tried, and all appeals are exhausted."). "[The] immediate recovery in this case outweighs the time and costs inherent in complex securities litigation, especially when the prospect is some recovery versus no recovery." *In re Crocs, Inc. Sec. Litig.*, 306 F.R.D. 672, 691 (D. Colo. 2014); *In re King Res. Co. Sec. Litig.*, 420 F. Supp. 610, 625 (D. Colo. Aug. 10, 1976) ("In this respect, '[i]t has been held proper to take the bird in the hand instead of a prospective flock in the bush.'"); *accord Tennille v. W. Union Co.*, No. 09-cv-00938-JLK-KMT, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014), *appeal dismissed*, 809 F.3d 555 (10th Cir. 2015). Thus, the $264 million immediate recovery, particularly when viewed in the context of the risks, costs, delay, and the uncertainties of further proceedings, weighs in favor of preliminary approval of the Settlement.

6. The Proposed Method for Distributing Relief Is Effective.

As demonstrated below, the proposed notice program and claims administration process are effective and were previously approved by the Court for the Pfizer Settlement. The settlement notice plan involves individual notice by email or First-Class Mail to all Class Members who can be

identified with reasonable effort, supplemented by various forms of internet and publication notice, targeted to reach likely EpiPen purchasers. *See* Schachter Declaration, ¶¶ 7-18 & Exhibit B thereto (Notice Plan). In addition, a case-designated website has been created where settlement-related and other key documents will be posted, including the Settlement Agreement, Notices, Proofs of Claim (Claim Forms), and Preliminary Approval Order. *Id.* ¶¶ 7, 19. The Settlement website will allow for Proof of Claim forms to be filed electronically. The claims process will be streamlined even further because Class Members who already submitted claims pursuant to the Pfizer Settlement will automatically be eligible to receive payments from the Mylan Settlement without the need to file an additional claim form.

Plaintiffs propose a fair and orderly claims administration process in which Class Members who wish to participate in the Settlement will complete and submit Proofs of Claim in accordance with the instructions contained therein. *See id.* ¶¶ 20-21; Plan of Allocation (Exhibit 3). The Settlement Administrator will distribute the Net Settlement Fund to Authorized Claimants on a *pro rata* basis under a Court-approved Plan of Allocation. *See* Plan of Allocation (Exhibit 3). The Plan of Allocation proposed here was prepared with information provided by Plaintiffs' experts and in consultation with A.B. Data.

7. Attorneys' Fees and Expenses.

Rule 23(e)(2)(C)(iii) addresses "the terms of any proposed award of attorney's fees, including timing of payment." Fed. R. Civ. P. 23(e)(2)(C)(iii). The Notice provides that Class Counsel will apply to the Court for an award of attorneys' fees in an amount up to one-third of the Settlement Amount, plus payment of Plaintiffs' counsel's expenses incurred in connection with this Litigation, plus interest earned on these amounts at the same rate as earned by the Settlement Fund.

Class Counsel's anticipated fee request is the same percentage as the fee the Court approved in the Pfizer Settlement and well within the range that other courts in this District have approved in

complex class actions. *See In re EpiPen,* 2021 WL 5369798, at *4; ECF No. 2435-6, Table 1 (listing nine fee awards of one third or greater within the District of Kansas for class recoveries ranging from $16.9 million to $1.51 billion).

With respect to the timing of payment, the Settlement Agreement provides that any Plaintiffs' attorneys' fees and expenses, as awarded by the Court, shall be paid to Class Counsel within ten (10) days of the Court executing the Judgment and an order awarding such fees and expenses, subject to Class Counsel's several obligations to make appropriate refunds or repayments to the Settlement Fund plus interest thereon if, and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or expense award is lowered or the Settlement is disapproved by a final order not subject to final review. Settlement Agreement, ¶¶ 6.1-6.3; *see Syngenta*, 2021 WL 102819, at *4 (D. Kan. Jan. 12, 2021) (approving immediate payment of plaintiff counsel attorneys' fees and costs) (citing *In re Lumber Liquidators Chinese-Manufactured Flooring Prods. Mktg., Sales Practices and Prods. Liab. Litig.*, 952 F.3d 471, 487 (4th Cir. 2020)) (finding immediate payment provisions have generally been approved by federal courts); *see also In re NASDAQ Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 479-80 (S.D.N.Y. 1998); *Pelzer v. Vassalle*, 655 F. App'x 352, 365 (6th Cir. 2016) ("The quick-pay provision does not harm the class members in any discernible way, as the size of the settlement fund available to the class will be the same regardless of when the attorneys get paid."); *In re Whirlpool Corp. Front-loading Washer Prods. Liab. Litig.*, No. 1:08-WP-6500, 2016 WL 5338012, at *21 (N.D. Ohio Sept. 23, 2016) ("[q]uick-pay clauses substantially reduce the leverage a professional objector can wield"); Bolch Jud. Inst., Guidelines and Best Practices: Implementing 2018 Amendments to Rule

23 Class Action Settlement Provisions 21 (2018), (suggesting that the parties' efforts to discourage bad-faith objectors "include a 'quick-pay clause'").[8]

8. The Settling Parties Have No Additional Agreement.

Rule 23(e)(2)(C)(iv) requires the disclosure of any other agreements. The Settling Parties have no additional agreements.

9. Class Members Are Treated Equitably.

The final factor, Rule 23(e)(2)(D), looks at whether certified Class Members are treated equitably. The proposed Plan of Allocation (Exhibit 3) is substantively the same as the one approved by the Court in the Pfizer Settlement. As the Court found, this Plan of Allocation treats Class Members equitably. *In re EpiPen*, 2021 WL 5369798, at *10-11. The Net Settlement Fund will be allocated based on estimated damages as alleged and calculated in the Rebuttal Merits Expert Report of Professor Meredith Rosenthal (ECF No. 2216-2) and then distributed on a *pro rata* basis to Class Members based on total amounts paid for EpiPens during the Class Period. Two separate pools are established for TPPs and individual consumers because of their differing claim rates. The Plan of Allocation provides for a spill-over from one pool to the other if one pool exhausts but the other does not. Therefore, all Class Members are treated alike in receiving their *pro rata* share of the Settlement.

D. The Settlement Satisfies the Remaining Factor Considered by Courts in the Tenth Circuit.

The final, additional factor courts in the Tenth Circuit consider is "'the judgment of the parties that the settlement is fair and reasonable.'" *Chavez Rodriguez*, 2020 WL 3288059, at *2. In analyzing this factor, courts recognize that "'the recommendation of a settlement by experienced plaintiff[s'] counsel is entitled to great weight.'" *O'Dowd v. Anthem, Inc.*, No. 14-cv-02787-KLM-

[8] *Available at:* https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1003&context=bolch.

NYW, 2019 WL 4279123, at *14 (D. Colo. Sept. 9, 2019); *Hapka v. CareCentrix, Inc*., No. 2:16-cv-02372-KGG, 2018 WL 1871449, at *5 (D. Kan. Feb. 15, 2018); *Marcus v. Kansas Dep't of Revenue*, 209 F. Supp. 2d 1179, 1183 (D. Kan. 2002) ("Counsels' judgment as to the fairness of the agreement is entitled to considerable weight."); *see also Crocs*, 306 F.R.D. at 690 (finding that, even without formal discovery, the parties were able to give adequate consideration to the strengths and weaknesses of their respective claims).

Class Counsel—all senior attorneys at law firms with considerable experience in complex antitrust and civil RICO class actions—only agreed to settle this Litigation after extensive investigation, written discovery, motion practice, deposition testimony, data analyses, substantial trial preparation, and rigorous arm's-length negotiations. Additionally, as noted above, Plaintiffs and their Counsel have compared the recovery the certified Class will receive from the Settlement against the risks, delays, and uncertainties of continued litigation and appeals. Plaintiffs and their Counsel believe the Settlement is fair, adequate, and reasonable and should be approved. The Mylan Defendants likewise believe the Settlement should be approved. Because the above factors weigh in favor of the Settlement, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement.

V. THE PROPOSED FORM AND METHOD OF PROVIDING NOTICE TO THE CLASS ARE APPROPRIATE

A. The Court Should Preliminarily Approve the Proposed Notice of Settlement.

Rule 23(c)(2)(B) requires that notice in a Rule 23(b)(3) class action constitute "the best notice . . . practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). In terms of content, a settlement notice need only be "reasonably calculated, under all of the circumstances, to apprise [the] interested parties of the pendency of the [settlement proposed] and [to] afford them an

opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950); *see also, Fager*, 854 F.3d 1167, 1170 (10th Cir. 2016) (same); *Tennille*, 785 F.3d at 436 (same). "'The hallmark of the notice inquiry . . . is reasonableness.'" *Lucas*, 234 F.R.D. at 696.

Plaintiffs have submitted to the Court for approval the Notice and Summary Notice that will be provided to the certified Class and are substantially similar to those the Court approved in the Pfizer Settlement. In accordance with Rule 23(c)(2)(B), the proposed Notice will fully inform Class Members about the Action, the proposed Settlement, and the facts they need to make informed decisions about their rights and options in connection with the Settlement. Specifically, the Notice clearly describes: (i) the nature of the (proposed) Settlement and the (proposed) Plan of Allocation; (ii) the nature and extent of the release of claims; (iii) Class Counsel's intent to request attorneys' fees and expenses; (iv) the method for submitting a Proof of Claim; (v) the procedure and timing for objecting to the Settlement; (vi) the date, time, and place of the Final Fairness Hearing; and (vii) ways to receive additional information about this Litigation and the proposed Settlement. The Notices also provide Class Members with a toll-free telephone number, email address, and a Settlement website where Class Members may obtain additional information. Thus, the Notices are reasonably calculated to apprise the interested parties of the pendency of the Settlement and afford them a fair opportunity to object. As such, the form and manner of the proposed Notice meets the requirements of both Rule 23 and due process. As in the Pfizer Settlement, the Court should approve the Notices and the manner through which they will be delivered and communicated to the certified Class.

B. An Additional Settlement Opt-Out Is Neither Required By Due Process Nor Warranted Under Rule 23(e).

The initial class notice in this Litigation met and surpassed the constitutional standards for due process and all the requirements of Rule 23, and there has been no change in information

available to the certified Class since the first notice that warrants an additional, discretionary opt-out at settlement. *See* ECF No. 2240 (order approving notice). From start to finish of the class certification notice process, Class Counsel and A.B. Data administered a comprehensive notice program that included: acquiring expert input, using best practices recommended by the Federal Judicial Center, and, at every stage, coordinating the notice program with the United States District Court for the District of Kansas.

As required by due process and Rule 23(c)(2)(B), the initial class notice was "the best practicable [notice], 'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."' *See Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 812 (1985). Class Counsel made every reasonable effort to identify and deliver direct, individual notice to all Class Members. *See* Fed. R. Civ. P. 23(c)(2)(B). And to the greatest extent practicable under the circumstances, Class Counsel apprised all interested parties who could be contacted with reasonable effort of the impending Litigation, their rights to participate in or be excluded from the Action, and the legal effect(s) of either choice.

Not only did the exclusion language within the notice sufficiently inform Class Members of their right to be excluded from the Class (and the method and deadline for doing so in clear, concise, conspicuous, and plainly written language, so as to be easily understood by the average class member) – it did so repeatedly throughout the notice. *See Low v. Trump Univ., LLC*, 881 F.3d 1111, 1120 (9th Cir. 2018) (reviewing the sufficiency of previous class notice to satisfy due process related to class settlement); *see also Mullane*, 339 U.S. at 315 (holding that the measure for sufficiency of notice is reasonableness). The explicit exclusion language clearly informed Class Members of the legal consequences of either remaining in or opting out of the Action and expressly stated the possible outcomes of the Action included trial or settlement. *See* ECF No. 2209 (at 2209-

2 (Short Form Notice) & 2209-3 (Notice)) & ECF No. 2240 (order approving notices). Class Members were given reasonable opportunity to opt-out within seventy-five days of issuance of the notice, from November 1, 2020, until January 15, 2021. *Manual*, §21.321 ("Courts usually establish a period of thirty to sixty days (or longer if appropriate) following mailing or publication of the notice for class members to opt out."). Therefore, as part of the Settlement Agreement, the Settling Parties have expressly agreed not to provide a second opt-out opportunity.

Allowing an unnecessary second opt-out opportunity could disrupt the Settlement Agreement the parties have carefully negotiated, putting at risk the $264 million recovery for the Class. Courts consistently find that fair settlements do not require a second opt-out provision. *See Officers for Just. v. Civ. Serv. Comm'n of City & Cnty. of S.F.*, 688 F.2d 615, 634-35 (9th Cir. 1982); *Low*, 881 F.3d at 1121-22; *Low v. Trump Univ., LLC*, 246 F. Supp. 3d 1295, 1306 (S.D. Cal. 2017) (concluding that the initial notice and exclusion opportunity "undoubtedly" met the due process requirements); *Lowery v. City of Albuquerque*, No. CIV 09-0457 JB/WDS, 2013 WL 1010384, at *32 (D.N.M. February 27, 2013) (noting "the rule defers to the district court's discretion and does not proscribe that a fair settlement must allow class members the opportunity to opt out") (citing *Moulton v. U.S. Steel Corp.*, 581 F.3d 344, 354 (6th Cir. 2009)). "Requiring a second opt-out period as a blanket rule would disrupt settlement proceedings because no certification would be final until after the final settlement terms had been reached." *Denney v. Deutsche Bank AG,* 443 F.3d 253, 271 (2d Cir. 2006); *see also, e.g.*, *Low*, 881 F.3d at 1121 ("[There is] no authority of any kind suggesting that due process requires that members of a Rule 23(b)(3) class be given a second chance to opt out. . . . [Plaintiff's] rights are protected by the mechanism provided in the rule: approval by the district court after notice to the class and a fairness hearing at which dissenters can voice their objections, and the availability of review on appeal.").

Additionally, there are no factors warranting a discretionary opt-out at settlement under Rule 23(e)(4). The initial notice expressly conveyed to Class Members that possible outcomes of the Litigation included trial or settlement. The only relevant change in information available to Class Members since prior notice is that Plaintiffs and the Mylan Defendants have now agreed to a $264 million settlement, which, as noted, provides immediate and valuable relief to the Class. "Courts have rejected the suggestion that a second opt-out should be granted as a matter of course, even if the terms of the settlement change after the expiration of the initial opt-out period." 2 McLaughlin on Class Actions §6:21 (17th ed. 2020); *accord Lowery*, 2013 WL 1010384, at *42 (concluding that the change in circumstances of a more "significant recovery" at settlement than previously anticipated by the class weighed against providing an additional opt-out opportunity).

In rejecting the provision of a second opt-out period, multiple federal courts have noted that the Rule 23(c)(2) procedures for class certification provide absentee class members in a 23(b)(3) action with a choice: exclude themselves from the case or remain a party and be bound by the final judgment. This procedure "requires each absentee member to take affirmative action at the outset of the suit if he or she wishes to be excluded from the class." *In re Nissan Motor Corp. Antitrust Litig.*, 552 F.2d 1088, 1104 (5th Cir. 1977); *accord In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 325, 345-46 (E.D.N.Y. 2010) (concluding that "[i]f any class members wished to control the prosecution or settlement of their own claims, they could have opted out or sought to intervene after notice of pendency was given") (citing *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 114-115 (2d Cir. 2005)). These courts almost uniformly note the high cost to the settlement process at little benefit to objectors because the class members have had previous opportunities to opt-out. This was the court's reasoning in *In re MetLife Demutualization Litig.* when it declined to offer a second exclusion opportunity at settlement:

> Where, as here, a class action has been certified and class members have had a previous opportunity to request exclusion by opting out of the class, the court may afford individual class members a new opportunity to request exclusion, but it is not required to do so. In the present cases there shall not be provided a second opportunity for exclusion. The administration of any new exclusion procedures would be expensive. The number of policyholders who would opt out now, after failing to exclude themselves previously, is likely to be minimal to the vanishing point.

689 F. Supp. 2d at 325; *accord In re Washington Mutual, Inc.*, No. 2:08-md-1919 MJP, 2015 WL 12803633, at *1 (W.D. Wash. June 22, 2015) (concluding that a second opt-out opportunity need not be provided "in light of the extensive notice program undertaken in connection with the earlier settlements, the ample opportunity provided to Class Members to request exclusion from the Class at that time, and the fact that there would be no potential benefit to any Class Member who opts out"). As the Second Circuit noted, the costs are potentially high for allowing objectors to demand additional opt-out periods after settlement agreements whenever there is a change of information from the last notice and opportunity for exclusion: "Requiring a second opt-out period as a blanket rule [on any changed information] would disrupt settlement proceedings because no certification would be final until after the final settlement terms had been reached." *Denney*, 443 F.3d at 271.

Where, as here and in the Pfizer Settlement, the prior class notice was adequate, the explicit exclusion language therein was sufficient and reasonable, and the costs of providing an additional opt-out outweigh any potential benefits, courts have overwhelmingly approved settlement agreements that do not provide for an additional opt-out opportunity.[9] Plaintiffs and the Mylan

[9] *See, e.g.*, *Low*, 881 F.3d at 1120-22 (weighing the benefit and fairness of the settlement as a whole and determining district court acted well within its discretion by approving the settlement without a second opt-out period); *Denney*, 443 F.3d at 271 ("Neither due process nor Rule 23(e)[(4)] requires…a second opt-out period whenever the final terms [of a settlement] change after the initial opt-out period."); *Wal-Mart*, 396 F.3d at 114 (holding that a single opt-out at certification of a settlement class was sufficient to protect a party's interest in the proceedings and right to be excluded); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1289-90 (9th Cir. 1992) (holding that because class members were given an opportunity to opt out, notice of the proposed settlement, and

Defendants respectfully submit that no additional opt-out opportunity should be provided during notice to the Class for settlement purposes.

C. Appointment of A.B. Data to Serve as the Settlement Administrator Is Proper.

As with the Pfizer Settlement, Plaintiffs request that the Court appoint A.B. Data to serve as the Settlement Administrator with respect to the Settlement, which includes providing notice of the Settlement and administering the claims process and distribution of the Net Settlement Fund. A.B. Data is a highly experienced and well-qualified notice administrator (*see* Schachter Declaration at Exhibit A), and was appointed by the Court and successfully administered the class certification-stage notice, the Pfizer Settlement notice, and is currently administering the Pfizer Settlement. Class Counsel have worked favorably with A.B. Data and are confident in the firm's ability to continue the successful administration of notice and this Settlement, as well as the Pfizer Settlement.

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the opportunity to object, no additional opt-out would be provided); *Officers for Just.*, 688 F.2d at 635 (finding "no authority of any kind suggesting that due process requires members of a Rule 23(b)(3) be given a second chance to opt out"); *Davis v. Abercrombie*, No. 11-00144 LEK-BMK, 2017 WL 2234175, at *9 (D. Haw. May 22, 2017) (rejecting plaintiff's argument that a second opt-out period is necessary to protect class members' due process rights or warranted under its discretionary powers); *Low*, 246 F. Supp. 3d at 1306 (concluding that the initial notice and exclusion opportunity "undoubtedly" met the due process requirements); *Lowery*, 2013 WL 1010384, at *42 (concluding that the parties arriving at more favorable terms in the final settlement than previously known or anticipated by class members *weighed against* the need for a late opt-out); *Denney v. Jenkens & Gilchrist*, 230 F.R.D. 317, 344 (S.D.N.Y. 2005) *aff'd in part, vacated in part on other grounds, remanded to Denney*, 443 F.3d 253 (finding no further opt out opportunity was required when prior notice was "more than adequate, both procedurally and with respect to its content"). District courts have very rarely refused to approve a settlement agreement for lack of a second opt-out provision. Indeed, our research has only identified two such cases in the same federal district: the District of Maine. That court did so twice and for similar reasons of fairness, due process, and the efficient administration of justice within the context of conditions affecting class members at settlement that were significantly different than those anticipated at the initial opt-out opportunity. *See Dare v. Knox Cnty.*, 457 F. Supp. 2d 52 (D. Me. 2006); *see also Tardiff v. Knox Cnty.*, 567 F. Supp. 2d 201, 204, 206, 209-10 (D. Me. 2008) (applying the *Dare* Court's interpretation of liberal judicial discretion under Rule 23(e)(4)).

D. Appointment of Huntington Bank as Escrow Agent Is Proper.

Plaintiffs request the Court appoint Huntington Bank ("Huntington") as Escrow Agent. Huntington is a well-known and highly-respected global bank providing consumers, corporations, governments and institutions with a broad range of financial services. Class Counsel in this case have worked favorably with Huntington for the Pfizer Settlement and in the past. Based on Huntington's experience and familiarity with performing the services of an escrow agent, Class Counsel are confident Huntington will properly perform the duties of Escrow Agent as ordered by the Court.

E. Proposed Schedule of Settlement Events

If the Court grants preliminary approval of the proposed Settlement, the Settling Parties respectfully submit the following proposed procedural schedule:

DATE	EVENT
March 10, 2022	Mylan provides Class Action Fairness Act Notice
March 11, 2022 at 9:30 am	Hearing on Preliminary Approval of Settlement
Five business days after entry of Preliminary Approval Order	Settlement Notice Program Begins
May 20, 2022	Plaintiffs file Motion for Final Approval of Settlement, Attorneys' Fees, Expenses, and Service Awards
June 8, 2022	Deadline to file Comments/Objections
June 27, 2022	Plaintiffs file Response to Objections for Final Approval of Settlement, Attorneys' Fees, Expenses, and Service Awards
July 6, 2022 at 9:30 am	Hearing on Final Approval of Settlement, Attorneys' Fees, Expenses, and Service Awards

VI. THE COURT SHOULD STAY PROCEEDINGS IN THE ACTION

The Settling Parties further request that the Court stay all proceedings in the Action and Other Actions pending a final determination as to whether the Settlement should be approved, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement. Courts routinely stay proceedings pending final approval of settlement agreements in circumstances such as these. *See, e.g.*, Memorandum and Order at 19 (Lungstrum, J.), *Syngenta*,

No. 14-md-2591-JWL (D. Kan. April 10, 2018), ECF No. 3531; Order Preliminarily Approving Settlement at 6 (Lungstrum, J.), *In re Urethane Antitrust Litig.*, No. 04-md-1616-JWL (D. Kan. June 13, 2006), ECF No. 380; *Marcus v. Kansas Dep't of Revenue*, 206 F.R.D. 509, 514 (D. Kan. 2002) ("All further litigation of this proceeding is hereby stayed pending final determination of the acceptance of the settlement agreement at the fairness hearing."); *Albrecht v. Oasis Power, LLC*, No. 1:18-cv-1061, 2019 U.S. Dist. LEXIS 162876, at *19 (N.D. Ill. Sep. 24, 2019) ("Pending final determination of whether the Settlement should be approved, all discovery and all proceedings in the Litigation unrelated to the approval of the Settlement are stayed."); *In re Sony PS3 "Other OS" Litig.*, No. 10-cv-01811-YGR, 2017 WL 5598726, at *6 (N.D. Cal. Nov. 21, 2017) (same).

VII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request the Court grant Plaintiffs' motion for preliminary approval and enter the agreed proposed Preliminary Approval Order, attached as Exhibit A to the Settlement Agreement and submitted in Word format herewith.

Respectfully submitted,

DATED: February 28, 2022

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EXHIBIT 15

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

IN RE: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation	**MDL No: 2785**
	Case No. 17-md-2785-DDC-TJJ
(This Document Applies to Consumer Class Cases)	

ORDER (I) PRELIMINARILY APPROVING SETTLEMENT UNDER FED. R. CIV. P. 23(e)(1), (II) APPOINTING THE SETTLEMENT ADMINISTRATOR, (III) APPROVING FORM AND MANNER OF NOTICE TO CLASS MEMBERS, (IV) SCHEDULING A FINAL FAIRNESS HEARING TO CONSIDER FINAL APPROVAL OF THE SETTLEMENT, AND (V) GRANTING RELATED RELIEF

An MDL proceeding entitled *In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, Civil Action No. 2:17-md-02785-DDC-TJJ (D. Kan.) (the "Action") is pending before this court. Plaintiff Class Representatives, on behalf of the certified Class, have filed a motion under Federal Rule of Civil Procedure 23(e). Doc. 2590. The motion asks the court to enter an order preliminarily approving the Settlement of this Action against Defendants Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc., and Heather Bresch (collectively, "Mylan"), in accordance with a Stipulation of Class Action Settlement dated as of February 27, 2022 (the "Settlement Agreement"), which, together with the Exhibits attached to it, sets forth the terms and conditions for a proposed Settlement of the Action and Other Actions against Mylan and Viatris Inc. (collectively, the "Mylan Defendants") and for dismissal of the Action and Other Actions with prejudice against the Mylan Defendants upon the terms and conditions set forth therein. The court has read and considered the Settlement Agreement and the Exhibits attached to it. Also, the court held a hearing on the motion on

March 11, 2022. Now, the court considers whether it should grant preliminary approval of that Settlement Agreement under Rule 23(e).

Rule 23(e) permits the parties to settle the claims of a certified class action, but "only with the court's approval." And, the court may approve a settlement only upon finding that it is "fair, reasonable, and adequate[.]" Fed. R. Civ. P. 23(e)(2). The Tenth Circuit has identified four factors that a district court must consider when assessing whether a proposed settlement is "fair, reasonable, and adequate":

> (1) whether the proposed settlement was fairly and honestly negotiated;
> (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt;
> (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and
> (4) the judgment of the parties that the settlement is fair and reasonable.

Rutter & Willbanks Corp. v. Shell Oil Co., 314 F.3d 1180, 1188 (10th Cir. 2002).

The settlement approval process typically transpires in two phases. *First*, the court considers whether preliminary approval of the settlement is appropriate. William B. Rubenstein, *Newberg on Class Actions* § 13:10 (5th ed.); *Freebird, Inc. v. Merit Energy Co.*, No. 10-1154-KHV, 2012 WL 6085135, at *4 (D. Kan. Dec. 6, 2012). "If the Court grants preliminary approval, it directs notice to class members and sets a hearing at which it will make a final determination on the fairness of the class settlement." *In re Motor Fuel Temperature Sales Pracs. Litig.*, 286 F.R.D. 488, 492 (D. Kan. 2012); *see also Newberg on Class Actions* § 13:10 ("[T]he court's primary objective [at the preliminary approval stage] is to establish whether to direct notice of the proposed settlement to the class, invite the class's reaction, and schedule a final fairness hearing." *Second*, "taking account of all of the information learned during [the preliminary approval] process, the court decides whether or not to give 'final approval' to the settlement." *Newberg on Class Actions* § 13:10.

Because preliminary approval is just the first step of the approval process, courts apply a "less stringent" standard than they apply at the final approval stage. *Freebird*, 2012 WL 6085135, at *5. "[D]istrict courts have developed a jurisprudence whereby they undertake some review of the settlement at preliminary approval, but perhaps just enough to ensure that sending notice to the class is not a complete waste of time." *Newberg on Class Actions* § 13:10. "The general rule [is] that a court will grant preliminary approval where the proposed settlement [is] neither illegal nor collusive and is within the range of possible approval." *Id.* (internal citation omitted). "While the Court will consider [the Tenth Circuit's] factors in depth at the final approval hearing, they are a useful guide at the preliminary approval stage as well." *In re Motor Fuel Temperature Sales Pracs. Litig.*, 286 F.R.D. at 502–03.

Applying this governing legal standard, the court grants the Motion for Preliminary Approval of Settlement (Doc. 2590), as follows:

IT IS HEREBY ORDERED:

1. The court has reviewed the Settlement Agreement and preliminarily approves the Settlement between Plaintiffs and the Mylan Defendants set forth therein as fair, reasonable, and adequate, subject to further consideration at the Fairness Hearing described below.

2. As the court previously certified in its Memorandum and Order dated February 27, 2020 (ECF No. 2018-1), the classes are defined as follows, which are collectively referred to as the "Class":

> All persons and entities in the United States who paid or provided reimbursement for some or all of the purchase price of Branded or authorized generic EpiPens for the purpose of consumption, and not resale, by themselves, their family member(s), insureds, plan participants, employees, or beneficiaries, at any time between August 24, 2011, and November 1, 2020;
>
> All persons and entities in the Antitrust States who paid or provided reimbursement for some or all of the purchase price of Branded EpiPens at any

time between January 28, 2013, and November 1, 2020, for the purpose of consumption, and not resale, by themselves, their family member(s), insureds, plan participants, employees, or beneficiaries.

The "Antitrust States" are: Alabama, California, Florida, Hawaii, Illinois, Kansas, Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New York, North Carolina, Tennessee, and Utah.

The following groups are excluded from the Class:

a. Defendants and their officers, directors, management, employees, subsidiaries, and affiliates;

b. Government entities, other than government-funded employee benefit plans;

c. Fully insured health plans (i.e., plans that purchased insurance that covered 100% of the plan's reimbursement obligations to its members);

d. "Single flat co-pay" consumers who purchased EpiPens or generic EpiPens only via a fixed dollar co-payment that is the same for all covered devices, whether branded or generic (*e.g.*, $20 for all branded and generic devices);

e. Consumers who purchased or received EpiPens or authorized generic equivalents only through a Medicaid program;

f. All persons or entities who purchased branded or generic EpiPens directly from defendants;

g. The judges in this case and members of their immediate families;

h. All third-party payors who own or otherwise function as a Pharmacy Benefit Manager or control an entity who functions as a Pharmacy Benefit Manager; and

i. Individual consumers whose only purchases of an EpiPen occurred before March 13, 2014 (the Generic Start Date).

3. Also excluded from the Class are those persons and entities who timely and validly requested exclusion from the Class under the court's Memorandum and Order dated October 13, 2020 (Doc. 2240), and are listed on Exhibit F to Class Plaintiffs' Final Status Report

Re Implementation of Class Notice (Doc. 2323-1) as well as those persons excluded from the Class as set forth in the Pfizer Final Judgment (Doc. 2507 at 8).

4. The court preliminarily finds that the court should approve the proposed Settlement of the Action between Plaintiff Class Representatives and Mylan because: (i) it is the result of serious, extensive arm's-length and non-collusive negotiations; (ii) it falls within a range of reasonableness warranting final approval; (iii) it suffers no obvious deficiencies; and (iv) the proposed settlement deserves notice of the proposed Settlement to Class Members and further consideration at the Fairness Hearing described below.

5. The court will conduct a Fairness Hearing on July 6, 2022 at 9:30 a.m., Central Time, at the United States District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas 66101, Courtroom 643, (A) to determine (i) whether the proposed Settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Class and should be finally approved by the court; (ii) whether the proposed Final Judgment and Order of Dismissal with Prejudice as provided under the Settlement Agreement should be entered as to the Mylan Defendants; (iii) whether the proposed Plan of Allocation is fair, reasonable, and adequate and should be approved; (iv) the amount of attorneys' fees, costs, and expenses that the court should award to Class Counsel; and (v) any service award to Plaintiff Class Representatives; (B) to hear any objections by Class Members to (i) the Settlement or Plan of Allocation; (ii) the award of attorneys' fees and expenses to Class Counsel; and (iii) service awards to Plaintiff Class Representatives; and (C) to consider such other matters the court deems appropriate. The court may adjourn the Fairness Hearing without further notice to the Class Members.

6. The court approves the form and content of the Notice substantially in the form annexed as Exhibit B to the Settlement Agreement.

7. The court approves the form and content of the Summary Notice and Proof of Claim forms (together, the "Notice Package"), substantially in the forms annexed as Exhibits C and D to the Settlement Agreement, respectively.

8. The court finds that the distribution and publication of the Notice and Notice Package substantially in the manner and form set forth in ¶¶ 10, 11 of this Order: (a) constitute the best notice to Class Members practicable under the circumstances; (b) are reasonably calculated, under the circumstances, to describe the terms and effect of the Settlement Agreement and of the Settlement and to apprise Class Members of their right to object to the proposed Settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive such notice; and (d) satisfy all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c)–(e)), the United States Constitution (including the Due Process Clause), the Rules of this court, and other applicable law.

9. The firm of A.B. Data, Ltd. ("Settlement Administrator") is appointed to supervise and administer the notice procedure as well as the processing of claims as more fully set forth below.

10. Not later than five business days after entry of this order (the "Notice Date"), the Settlement Administrator shall commence distributing the Notice Package to all Class Members who it can identify with reasonable effort and post it on the case-designated website, www.EpiPenClassAction.com, according to the Notice Plan in the Declaration of Eric Schachter filed in support of Preliminary Approval.

11. Not later than the Notice Date, the Settlement Administrator shall publish the Summary Notice, according to the Notice Plan in the Declaration of Eric Schachter filed in support of Preliminary Approval.

12. At least seven (7) calendar days prior to the Fairness Hearing, Class Counsel shall serve on Mylan's counsel and file with the court proof, by affidavit or declaration, of such distribution and publishing.

13. The Settlement Fund shall pay all fees and expenses incurred in identifying and notifying Class Members and in no event shall any of the Mylan Defendants' Released Parties bear any responsibility or liability for such fees or expenses.

14. The Settlement Administrator shall submit a projected budget to Class Counsel for performing its duties and shall not make expenditures that exceed the projected budget by more than five percent without the prior approval of Class Counsel. Consistent with the requirements of Rules 1, 23, and due process, the Settlement Administrator shall coordinate to minimize costs in effectuating its duties.

15. All determinations and judgments in the Action concerning the Settlement, whether favorable or unfavorable to the Class, shall bind all Class Members regardless of whether such persons or entities seek or obtain by any means, including, without limitation, by submitting a Proof of Claim or any similar documentation, any distribution from the Settlement Fund or the Net Settlement Fund.

16. Class Members who wish to participate in the Settlement shall complete and submit Proofs of Claim in accordance with the instructions contained therein. Unless the court orders otherwise, Class Members must postmark or submit electronically all Proofs of Claim, no later than July 25, 2022. Any Class Member who submits a Proof of Claim shall reasonably

cooperate with the Settlement Administrator, including by promptly responding to any inquiry made by the Settlement Administrator. Any Class Member who does not timely submit a Proof of Claim within the time provided shall be barred from sharing in the distribution of the proceeds of the Settlement but shall nonetheless be bound by the Settlement Agreement, the Judgment, and the releases therein, unless otherwise ordered by the court. Notwithstanding the foregoing, the Settlement Administrator may, in its discretion, accept late-submitted claims for processing so long as distribution of the Net Settlement Fund to Class Members is not materially delayed thereby.

17. Each Class Member must submit the Proof of Claim that: (a) is properly completed, signed, and submitted in a timely manner in accordance with the preceding paragraph; (b) is deemed adequate by the Settlement Administrator or Class Counsel; (c) if the person executing the Proof of Claim is acting in a representative capacity, include a certification of his or her current authority to act on behalf of the claimant; (d) is complete and contains no deletions or modifications of any of the printed matter contained therein; and (e) is signed under penalty of perjury. As part of the Proof of Claim, each claimant shall submit to the jurisdiction of the court with respect to the claim submitted.

18. Class Members who previously submitted a claim in connection with the settlement with the Pfizer Defendants in this Action shall not be required to submit a new claim in this Settlement, and the Distribution Amount for any Class Member's share of the Net Settlement Fund from this Settlement shall be combined with the Distribution Amount from the settlement with the Pfizer Defendants, if any, such that the Settlement Administrator may make one payment to each Class Member who submitted a timely and valid claim. Class Members

who did not previously submit a claim in connection with the settlement with the Pfizer Defendants in this Action shall only receive a payment for this Settlement.

19. Any Class Member may enter an appearance in the Action, at the Class Member's own expense, individually or through counsel of the Class Member's own choice. If a Class Member does not enter an appearance, Class Counsel will continue to represent that Class Member.

20. Any Class Member may appear at the Fairness Hearing and show cause why the court should or should not approve the proposed Settlement of the Action as fair, reasonable, and adequate, why the court should or should not enter a judgment thereon, why the court should or should not approve the Plan of Allocation, why the court should or should not award attorneys' fees and expenses to Class Counsel, or why the court should or should not award an amount of Service Awards to Plaintiff Class Representatives; provided, however, that no Class Member or any other person or entity shall be heard or entitled to contest such matters, unless that person or entity has delivered by hand or sent by First-Class Mail written objections and copies of any papers and briefs such that they are received, not simply postmarked, on or before June 8, 2022, by Rex A. Sharp, SHARP LAW, LLP, 4820 West 75th Street, Prairie Village, KS 66208, and Adam K. Levin, HOGAN LOVELLS US LLP, 555 13th Street, NW, Washington, DC 20004, and filed said objections, papers, and briefs with the Clerk of the United States District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas 66101, on or before June 8, 2022, unless otherwise ordered by the court. Any objections must: (i) state the name, address, and telephone number of the objector and must be signed by the objector even if represented by counsel; (ii) state that the objector is objecting to the proposed Settlement, Plan of Allocation, application for Attorneys' Fees and Expenses, and/or application for Service Awards to

Plaintiffs; (iii) state the objection(s) and the specific reasons for each objection, including any legal and evidentiary support the objector wishes to bring to the court's attention; (iv) state whether the objection applies only to the objector, to a subset of the Class, or to the entire Class; (v) identify all class actions to which the objector and his, her, or its counsel has previously objected; (vi) include documents sufficient to prove the objector's membership in the Class, such as the number of EpiPens purchased, acquired, or paid for during the Class Period, as well as the dates and prices of each such purchase, acquisition, or payment; (vii) state whether the objector intends to appear at the Fairness Hearing; (viii) if the objector intends to appear at the Fairness Hearing through counsel, state the identity of all attorneys who will appear on the objector's behalf at the Fairness Hearing; and (ix) state that the objector submits to the jurisdiction of the court with respect to the objection or request to be heard and the subject matter of the Settlement of the Action, including, but not limited to, enforcement of the terms of the Settlement. Any Class Member who does not make his, her, or its objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Settlement Agreement, to the Plan of Allocation, or to the award of fees, charges, and expenses to Class Counsel or any incentive awards to Plaintiff Class Representatives, unless otherwise ordered by the court. Class Members submitting written objections are not required to attend the Fairness Hearing, but any Class Member wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and expenses must file a written objection and indicate in the written objection their intention to appear at the hearing and to include in their written objections the identity of any witnesses they may call to testify and copies of any exhibits they intend to introduce into evidence at the

Fairness Hearing. Class Members do not need to appear at the Fairness Hearing or take any other action to indicate their approval.

21. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the court, and shall remain subject to the jurisdiction of the court, until such time as such funds shall be distributed under the Settlement Agreement and/or further order(s) of the court.

22. All opening briefs and supporting documents in support of the Settlement, the Plan of Allocation, and any application by Class Counsel for attorneys' fees, charges, and expenses and Service Awards to Plaintiff Class Representatives shall be filed and served by no later than May 20, 2022, and any reply papers shall be filed and served no later than June 27, 2022. The Mylan Defendants' Released Parties shall have no responsibility for the Plan of Allocation or any application for attorneys' fees, charges, or expenses submitted by Class Counsel or any Service Award to Plaintiff Class Representatives, and such matters will be considered separately from the fairness, reasonableness, and adequacy of the Settlement.

23. At or after the Fairness Hearing, the court shall determine whether it should approve the Plan of Allocation proposed by Class Counsel, and any application for attorneys' fees, charges, expenses, or awards. The court reserves the right to enter the Final Judgment approving the Settlement regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and/or charges and expenses.

24. All reasonable expenses incurred in identifying and notifying Class Members, as well as administering the Settlement Fund, shall be paid as set forth in the Settlement Agreement. In the event the Settlement is not approved by the court, or otherwise fails to become effective, neither Plaintiff Class Representatives nor any of their counsel shall have any

obligation to repay any amounts incurred and properly disbursed, except as set forth in the Settlement Agreement.

25. Neither this Order, the Settlement Agreement, nor any of its terms or provisions, nor any act performed or document executed under or in furtherance of the Settlement Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Plaintiffs' Released Claim, or of any wrongdoing or liability of the Mylan Defendants or Mylan Defendants' Related Parties, or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Mylan Defendants or Mylan Defendants' Related Parties in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal.

26. The court reserves the right to adjourn the date of the Fairness Hearing without further notice to the members of the Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The court may approve the Settlement, with such modifications as the Settling Parties may agree to, if appropriate, without further notice to the Class.

27. If the Settlement Agreement and the Settlement set forth therein is not approved or consummated for any reason whatsoever, the Settlement Agreement and Settlement and all proceedings had in connection therewith shall be without prejudice to the rights of the Settling Parties *status quo ante* as set forth in ¶ 7.2 of the Settlement Agreement.

28. Pending a final determination about the approval of the settlement, the court shall stay all proceedings in the Action and Other Actions for the Mylan Defendants, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement. Pending final determination of whether the court should approve the proposed

Settlement, neither Plaintiff Class Representatives nor any Class Member, directly or indirectly, representatively, or in any other capacity, nor anyone claiming through or on behalf of any such Class Members, shall commence or prosecute against any of the Mylan Defendants, any action or proceeding in any court or tribunal asserting any of the Plaintiffs' Released Claims.

29. The court retains exclusive jurisdiction over the Action and Other Actions to consider all further matters arising out of or connected with the Settlement.

IT IS THEREFORE ORDERED BY THE COURT THAT the Class Plaintiffs' Motion for Preliminary Approval of Settlement With Mylan (Doc. 2590) is granted.

IT IS SO ORDERED.

Dated this 11th day of March, 2022, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge

APPROVED SCHEDULE FOR FINAL APPROVAL PROCESS

DATE	EVENT
March 10, 2022	Mylan provides Class Action Fairness Act Notice
March 11, 2022 at 9:30 am	Hearing on Preliminary Approval of Settlement
Five business days after the entry of this Order	Settlement Notice Program Begins
May 20, 2022	Plaintiffs file Motion for Final Approval of Settlement, Attorneys' Fees, Expenses, and Service Awards
June 8, 2022	Deadline to file Comments/Objections
June 27, 2022	Plaintiffs file Response to Objections for Final Approval of Settlement, Attorneys' Fees, Expenses, and Service Awards
July 6, 2022 at 9:30 am	Hearing on Final Approval of Settlement, Attorneys' Fees, Expenses, and Service Awards

EXHIBIT 16

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE SOLODYN (MINOCYCLINE HYDROCHLORIDE) ANTITRUST LITIGATION	MDL No. 2503 1:14-md-2503-DJC
THIS DOCUMENT RELATES TO: ALL END-PAYOR ACTIONS	

~~[PROPOSED]~~ ORDER PRELIMINARILY APPROVING END-PAYOR CLASS PLAINTIFFS' SETTLEMENTS WITH IMPAX LABORATORIES, INC.

WHEREAS, on March 28, 2018, Plaintiffs, United Food and Commercial Workers Local 1776 & Participating Employers Health and Welfare Fund; City of Providence, Rhode Island; Fraternal Order of Police, Fort Lauderdale Lodge 31 Insurance Trust Fund; International Union of Operating Engineers Local 132 Health and Welfare Fund; International Union of Operating Engineers Stationary Engineers Local 39 Health & Welfare Trust Fund; Painters District Council No. 30 Health and Welfare Fund; Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund; Heather Morgan; Man-U Service Contract Trust Fund; Sheet Metal Workers Local No. 25 Health & Welfare Fund; Local 274 Health & Welfare Fund; and Allied Services Welfare Fund (collectively, "End-Payor Class Plaintiffs"), on behalf of themselves and the certified End-Payor Class, entered into a settlement agreement ("Impax Settlement"), which sets forth the terms and conditions of the parties' proposed settlement and the release and dismissal with prejudice of the End-Payor Class' claims against Impax Laboratories, Inc. ("Impax");

WHEREAS, on April 4, 2014, End-Payor Class Plaintiffs filed a Motion for Preliminary Approval of Proposed Class Action Settlement with Impax ("End-Payor Class Plaintiffs' Motion"), requesting the entry of an Order: (i) preliminarily approving the Impax Settlement; (ii)

approving the plan of allocation; (iii) approving the proposed notice to the Class; (iv) appointing A.B. Data, Ltd. ("A.B. Data") to serve as claims administrator; (v) appointing The Huntington National Bank to serve as Escrow Agent; (vi) setting a schedule for final approval of the Impax Settlement; and (vii) staying End-Payor Class Plaintiffs' litigation against Impax;

WHEREAS, Impax does not oppose End-Payor Class Plaintiffs' Motion;

WHEREAS, the Court is familiar with and has reviewed the record in this case and has reviewed the Settlement Agreement, including the attached exhibits, and has found good cause for entering the following Order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

JURISDICTION

1. This Court has jurisdiction to enter this Order. The Court has jurisdiction over the subject matter of this action and over all parties to the action, including all members of the End-Payor Class.

PREVIOUSLY CERTIFIED CLASS

2. In light of this Court's previous order dated October 16, 2017 [ECF No. 682] certifying the End-Payor Class pursuant to Fed. R. Civ. P. 23(a) and (b)(3), and the now proposed settlement in the above-captioned action (the "Action") with Impax, for purposes of this Settlement the Class is defined as follows:

> All persons or entities in the United States and its territories and possessions, including the Commonwealth of Puerto Rico, who indirectly purchased, paid and/or provided reimbursement for some or all of the purchase price for Solodyn 45mg, 55mg, 65mg, 80mg, 90mg, 105mg, 115mg and/or 135mg tablets and/or generic versions of one or more of these dosages in Alabama, Alaska, Arizona, Arkansas, California, Florida,

Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia and Puerto Rico, for consumption by themselves, their families, or their members, employees, insureds, participants, or beneficiaries, other than for resale, at any time from July 23, 2009 to February 25, 2018.

The following persons or entities are excluded from the End-Payor Class:

Defendant and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;

All federal or state governmental entities, excluding cities, towns, or municipalities with self-funded prescription drug plans;

All persons or entities who purchased Solodyn or its generic equivalents for purposes of resale or directly from the Defendant or its affiliates;

Fully insured health plans (plans that purchased insurance from another third-party payor covering 100% of the plan's reimbursement obligations to its members);

Pharmacy Benefits Managers;

Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs); and

The judges in this case and any members of their immediate families.

PRELIMINARY APPROVAL OF SETTLEMENT

3. The terms of the Impax Settlement Agreement, dated March 28, 2018, including all exhibits thereto, are hereby preliminarily approved. This Order incorporates the Settlement

Agreement, and terms used in this Order that are defined in the Settlement Agreement have the same meanings. The Settlement Agreement was entered into after full fact and expert discovery, class certification and summary judgment/*Daubert* motions decided after extensive briefing and argument, and ten days of trial. The Settlement Agreement was concluded after arm's-length negotiations by experienced counsel on behalf of the certified End-Payor Class. Because the parties reached the settlement as a result of good-faith negotiations and after sufficient discovery, a presumption of fairness attaches to the settlement. *See In re Pharm. Indus. Avg. Wholesale Price Litig.*, 588 F.3d 24, 32-33 (1st Cir. 2009). Accordingly, the Court preliminarily finds that the Settlement is fair, reasonable and adequate, and in the best interests of the End-Payor Class, pursuant to Rule 23 of the Federal Rules of Civil Procedure, and that preliminary approval is warranted.

4. Huntington Bank is hereby appointed as Escrow Agent pursuant to the Settlement Agreement.

5. A.B. Data is hereby appointed as claims administrator.

6. Pending further Order of the Court, all litigation activity against Impax on behalf of End-Payor Class Plaintiffs is hereby stayed, and all hearings, deadlines, and other proceedings related to End-Payor Class Plaintiffs' claims against Impax, other than those incident to the settlement process, are hereby taken off calendar. The stay shall remain in effect until such time that: (i) the Impax or End-Payor Class Plaintiffs exercise their right to terminate the Impax Settlement Agreement pursuant to its terms; (ii) the Settlement Agreement is terminated pursuant to its terms; or (iii) the Court renders a final decision regarding approval of the Impax Settlement, and, if it approves the Impax Settlement, enters final judgment and dismisses End-Payor Class Plaintiffs' claims against Impax with prejudice. Impax shall not be a party to the

ongoing proceedings in this case, and Impax is neither bound nor estopped by any findings made hereafter.

7. In the event that the Impax Settlement Agreement fails to become effective in accordance with its terms, or if an Order granting final approval to the Impax Settlement Agreement and dismissing End-Payor Class Plaintiffs' claims against Impax with prejudice is not entered or is reversed, vacated, or materially modified on appeal, this Order shall be null and void.

8. In the event the Impax Settlement Agreement is terminated, not approved by the Court, or the Impax Settlement does not become final pursuant to the terms of the Impax Settlement Agreement, litigation against Impax shall resume in a reasonable manner as approved by the Court upon joint application of End-Payor Class Plaintiffs and Impax.

APPROVAL OF SCHEDULE

9. A.B. Data and End-Payor Class Plaintiffs shall adhere to the following schedule:

a. Within 5 days of the date of this Order, A.B. Data shall update the Class Website (www.solodyncase.com) to announce the Settlement.

b. Within 5 days of the date of this Order, A.B. Data shall begin the process of providing notice to the Class of this Settlement, in accordance with the Plan of Notice.

c. A.B. Data shall complete publication of Notice of the Settlement by June 11, 2018.

d. Members of the End-Payor Class may object to the Impax Settlement not later than June 18, 2018.

e. Class members who wish to object to the proposed Settlement and/or appear in person at the hearing on final approval of the settlement ("Fairness Hearing") must first

send 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 therefore, together with copies of any supporting papers or briefs, via first class mail, postage prepaid, to the Clerk of the U.S. District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, MA 02210, with copies to the following counsel:

Counsel for the End-Payor Class:

Steve D. Shadowen
Hilliard & Shadowen LLP
2407 S. Congress Ave., Ste. E 122
Austin, TX 78704
Tel: (855) 344-3298
Email: steve@hilliardshadowenlaw.com

Michael M. Buchman
Motley Rice LLC
600 Third Avenue, 21st Floor
New York, NY 10016
Tel: (212) 577-0040
Email: mbuchman@motleyrice.com

Counsel for Impax:

Lisa Jose Fales
J. Douglas Baldridge
Danielle R. Foley
Venable LLP
600 Massachusetts Ave NW
Washington, DC 20001
Tel: (202) 344-4000

The objection and/or notice of intention to appear shall state that they relate to *In re: Solodyn (Minocycline Hydrochloride) Antitrust Litigation*, MDL No. 2503 (D. Mass.). To be valid, any such objection to the Settlement and/or notice of intention to appear must be postmarked no later than June 18, 2018, and it must include the class member's name, address, telephone number, and signature. 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 a notice of intention to

appear or a letter stating reasons for objecting as provided above shall be deemed to have waived any objections by appeal, collateral attack, or otherwise and will not be heard at the Fairness Hearing.

f. All briefs and materials in support of final approval of the settlements and entry of the final judgment proposed by the parties to the Settlement Agreement shall be filed with the Court no later than 30 days before the date of the Fairness Hearing.

g. A hearing on final approval of the settlement or Fairness Hearing shall be held before this Court on July 18, 2018, at 3 p.m. Eastern Time, in Courtroom 11 of the United States District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, MA 02210.

10. Neither this Order nor the Settlement Agreement nor any other Settlement-related document or 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 Impax as to the validity of any claim that has been or could have been asserted against Impax or as to any liability of Impax or as to any matter set forth in this Order.

SO ORDERED:

Dated: April 5, 2018

Denise J. Casper
United States District Court Judge
U.S. District Court for the District of Massachusetts

EXHIBIT 17

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE BROILER CHICKEN ANTITRUST LITIGATION This Document Relates To: Direct Purchaser Actions	Case No. 1:16-cv-08637 Hon. Thomas M. Durkin Magistrate Judge Jeffrey T. Gilbert

ORDER GRANTING DIRECT PURCHASER PLAINTIFFS' MOTION TO APPROVE A PLAN OF NOTICE OF SETTLEMENT WITH DEFENDANT FIELDALE FARMS CORPORATION

This Court having reviewed and considered Direct Purchaser Plaintiffs' Motion to Approve a Plan of Notice of Settlement With Defendant Fieldale Farms Corporation ("Motion") and finding good cause hereby grants the motion as set forth below.

FINDINGS:

1. The Court having previously entered an Order Preliminarily Approving Proposed Settlement Between Direct Purchaser Plaintiff Class And Fieldale Farms Corporation And Conditionally Certifying The Proposed Settlement Class (ECF No. 462), hereby directs notice to be distributed to the Settlement Class Members pursuant to Federal Rule of Civil Procedure ("Rule") 23(c)(2).

2. The proposed notice plan set forth in the Motion and the supporting declarations comply with Rule 23(c)(2)(B) and due process as it constitutes the best notice that is practicable under the circumstances, including individual notice vial mail and email to all members who can be identified through reasonable effort. The direct mail and email notice will be supported by reasonable publication notice to reach class members who could not be individually identified.

3. The attached proposed notice documents: Summary Publication Notice (Exhibit A), Email Notice (Exhibit B), and Long Form Notice (Exhibit C), and their manner of transmission, comply with Rule 23(c)(2)(B) and due process because the notices and forms are reasonably calculated to adequately apprise class members of (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Non-substantive changes, such as typographical errors, can be made to the notice documents by agreement of the parties without leave of the Court.

4. The Court hereby sets the below schedule for the dissemination of notice to the class and for the Court's Fairness Hearing, at which time the Court will determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate. This Court

may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website but other than the website posting the Parties will not be required to provide any additional notice to Class Members.

DATE	EVENT
1. July 20, 2018	Each Defendant to produce customer names, addresses, phone numbers and email addresses, to the extent the Defendant has that information in its structured transactional data or other sources as agreed, to Direct Purchaser Plaintiffs and the Settlement Administrator.[1]
2. August 16, 2018	Settlement Administrator to provide direct mail and email notice, and commence the publication notice plan
3. October 15, 2018	Last day for Settlement Class Members to request exclusion from the Settlement Class and for Settlement Class Members to object to the settlement
4. October 25, 2018	Class Counsel shall file with the Court a list of all persons and entities who have timely requested exclusion from the Settlement Class
5 October 29, 2018	Class Counsel shall file motion for final approval of settlement and all supporting papers, and Class Counsel and settling defendant Fieldale Farms may respond to any objections to the proposed settlement.
6. November 13, 2018 at 9:00 a.m.	Final Settlement Fairness Hearing

IT IS SO ORDERED.

DATED: 6/22/2018

Thomas M Durkin

HON. THOMAS M. DURKIN

[1] To the extent that any Defendant relies on its transactional structured data to produce customer contact information, it must identify these documents by bates number to Direct Purchaser Plaintiffs and the Settlement Administrator by July 20, 2018 and ensure that the customer contact information is readily identifiable and accessible.

EXHIBIT 18

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE: BROILER CHICKEN ANTITRUST LITIGATION	Case No. 1:16-cv-08637
THIS DOCUMENT RELATES TO: DIRECT PURCHASER ACTION	

ORDER PRELIMINARILY APPROVING PROPOSED SETTLEMENT BETWEEN DIRECT PURCHASER PLAINTIFF CLASS AND FIELDALE FARMS CORPORATION AND CONDITIONALLY CERTIFYING THE PROPOSED SETTLEMENT CLASS

THIS CAUSE came before the Court on the Direct Purchaser Plaintiff Class's Motion For Preliminary Approval Of Settlement Between Direct Purchaser Plaintiff Class And Fieldale Farms Corporation And For Conditional Certification Of The Proposed Settlement Class. Direct Purchaser Plaintiffs ("Plaintiffs") have entered into a Settlement Agreement with Defendant Fieldale Farms Corporation ("Settling Defendant" or "Fieldale Farms"). The Court, having reviewed the Motion, its accompanying memorandum, and the exhibits thereto, the Settlement Agreement, and the file, hereby:

ORDERS AND ADJUDGES:

Preliminary Approval of Settlement Agreement

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreement. Upon review of the record, the Court finds that the proposed Settlement Agreement, which was arrived at by arm's-length negotiations by highly experienced counsel, falls within the range of possible approval and is hereby preliminarily approved, subject to further consideration at

the Court's Fairness Hearing. The Court preliminarily finds that the Settlement encompassed by the Settlement Agreement is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class, raises no obvious reasons to doubt its fairness, and raises a reasonable basis for presuming that the Settlement and its terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that Notice of the Settlement should be given.

Class Certification

2. This Court certifies a Settlement Class defined as:

> All persons who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates for use or delivery in the United States from at least as early as January 1, 2008 until the date of this Preliminary Approval Order. Specifically excluded from this Class are the Defendants, the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Class are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any co-conspirator identified in this action.

The Court appoints the law firms of Lockridge Grindal Nauen P.L.L.P., and Pearson, Simon & Warshaw, LLP as co-lead counsel for the Settlement Class.

Class Notice and Fairness Hearing

3. Co-Lead Counsel for Plaintiffs shall submit for the Court's approval a Motion to Approve a Plan of Notice of Settlement for this and any other settlements at an appropriate time prior to moving for final approval of the Fieldale Farms Settlement Agreement.

4. Co-Lead Counsel shall identify a date in consultation with the Court for the Final Approval Hearing concerning the Fieldale Farms Settlement Agreement and any other Settlement Agreements included in the Plan of Notice.

Other Provisions

6. Terms used in this Order that are defined in the Settlement Agreement are, unless otherwise defined herein, used as defined in the Settlement Agreement.

7. In aid of the Court's jurisdiction to implement and enforce the proposed Settlement, as of the date of entry of this Order, Plaintiffs and all members of the Class shall be preliminarily enjoined from commencing or prosecuting any action or other proceeding against the Settling Defendant asserting any of the Claims released in Section II(B) of the Settlement Agreement pending final approval of the Settlement Agreement or until such time as this Court lifts such injunction by subsequent order.

8. If the Settlement Agreement is terminated in accordance with its provisions, or is not approved by the Court or any appellate court, then the Settlement Agreement and all proceedings in connection therewith shall be vacated, and shall be null and void, except insofar as expressly provided otherwise in the Settlement Agreement, and without prejudice to the *status quo ante* rights of Plaintiffs, the Settling Defendant, and the members of the Class.

9. If the Settlement Agreement is terminated or is ultimately not approved, the Court will modify any existing scheduling orders as necessary to ensure that the Plaintiffs and Settling Defendant will have sufficient time to prepare for the resumption of litigation.

IT IS SO ORDERED.

Thomas M Durkin

DATED: August 18, 2017

HON. THOMAS M. DURKIN
United States District Judge

EXHIBIT 19

Clark, Brian D.

From: Clark, Brian D.
Sent: Wednesday, May 7, 2025 11:20 AM
To: Elizabeth Fegan; Karin E. Garvey
Cc: Fred Longer; Austin Cohen (Other); Keith Verrier (Other); Kyle Jacobsen; Tate Kunkle; mlondon@douglasandlondon.com
Subject: RE: PVC Pipe

Beth,

Thank you for your email. We will be filing a motion for preliminary approval of the settlement with OPIS in the near future, as we noted in Monday's notice of settlement (ECF No. 282). The motion for preliminary approval will include a copy of the settlement agreement. Let us know if there is anything you'd like to meet and confer regarding.

Thanks,
Brian

Brian D. Clark | Partner | He/Him
Lockridge Grindal Nauen PLLP
100 Washington Avenue S | Suite 2200 | Minneapolis MN 55401
P: 612-596-4089 | F: 612-339-0981 | www.locklaw.com

From: Elizabeth Fegan <beth@feganscott.com>
Sent: Tuesday, May 6, 2025 4:00 PM
To: Clark, Brian D. <bdclark@locklaw.com>; Karin E. Garvey <kgarvey@scott-scott.com>
Cc: Fred Longer <flonger@lfsblaw.com>; Austin Cohen (Other) <ACohen@lfsblaw.com>; Keith Verrier (Other) <KVerrier@lfsblaw.com>; Kyle Jacobsen <kyle@feganscott.com>; Tate Kunkle <tkunkle@douglasandlondon.com>; mlondon@douglasandlondon.com
Subject: PVC Pipe

Hi Brian and Karen,

Will you please share with us any term sheet, memorandum of understanding, settlement agreement or other writing reflecting the terms of the settlement, as well as any FRE 408 materials exchanged, by noon tomorrow? Of course, we will agree to any mediation agreement, confidentiality agreement, and/or FRE 408 protections.

Sincerely,
Beth

Elizabeth A. Fegan | Managing Member
Fegan Scott LLC
150 S. Wacker Dr., 24th Floor
Chicago, IL 60606
Direct: 312.741.1019 | Fax: 312.264.0100
www.feganscott.com

feganscott

America's Top 200 Lawyers, Forbes 2024
Consumer Protection Law Firm of the Year, National Law Journal's 2023 Elite Trial Lawyer Awards
Top 50 Women in Law, Chicago Daily Law Bulletin 2021-23
Illinois Super Lawyer 2016-2024

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation THIS DOCUMENT RELATES TO: ALL NON-CONVERTER SELLER PURCHASER CLASS PLAINTIFF ACTIONS	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

DECLARATION OF HUNTINGTON NATIONAL BANK IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT WITH DEFENDANT OIL PRICE INFORMATION SERVICE, LLC, FOR CONDITIONAL CERTIFICATION OF THE PROPOSED SETTLEMENT CLASS, FOR APPROVAL TO NOTIFY THE SETTLEMENT CLASS, AND FOR RELATED RELIEF

I, Robyn Griffin, declare and state as follows:

1. I am Robyn Griffin at The Huntington National Bank ("Huntington") the escrow agent retained in this matter. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of Settlement with Oil Price Information Service, LLC and Approval of Claims Process and Notice Plan. The following statements are based on my personal knowledge and information provided to me by Counsel and other Huntington employees working under my supervision and, if called upon to do so, I could and would testify competently thereto.

2. I have over 25 years' experience in the financial sector, holding officer positions at TD Bank, Citizens Bank, and Merrill Lynch. I have an M.B.A. from New York University's Stern School of Business, and hold a B.A. from Rutgers University in Economics. I have held Series 7 and Series 66 Insurance Licenses. I served as Executive Director of the National Association of

Shareholder and Consumer Attorneys (NASCAT), and an Associated Member of the American Bar Association. More information about the experience of our full team is attached hereto as Exhibit A: Our Dedicated Team.

3. Collectively, Huntington's National Settlement Team has over 20 years of experience acting as escrow agents on various cases. We have handled more than 2,500 settlements for law firms, claims administrators, and regulatory agencies. These cases represent over $50 billion with more than 135 million checks, including some of the largest settlements in U.S. history.

4. Huntington is committed to diversity and inclusion. At the leadership level, our Board of Directors Community Development Committee, Executive Leadership Team, and our Diversity and Inclusion Strategic Council holds us accountable to our goal of a culture of inclusion. Our policy of affirmative action facilitates the placement of qualified women, minorities, individuals with disabilities, and veterans at all levels of the organization. Huntington has various Business Resource Groups, which are colleague-driven groups organized around interests or specific diversity dimensions, which provide feedback to the organization with regard to initiatives and policies to foster inclusivity. Our Inclusion Councils are colleague-driven groups that seek to carry out our inclusion strategy by making a respectful and supportive environment a reality for all colleagues. We also support diversity in our vendor selection, as an inclusive supplier base has improved our understanding of the needs of the marketplace. Huntington's diversity and inclusion statement is attached hereto as Exhibit B.

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

Executed on this 2nd day of June, 2025 at New York, NY.

s/ 

EXHIBIT A

Exhibit A

OUR DEDICATED TEAM

Robyn Griffin
Robyn is a Senior Managing Director of Huntington Bank's National Settlements Team. She has over 25 years of experience in the financial industry holding officer positions at TD Bank, Citizens Bank, and Merrill Lynch. Robyn holds an M.B.A. from the Stern School of Business, New York University and B.A. in economics from Rutgers University. She also has held a Series 7 and Series 66 Insurance Licenses. She served as Executive Director of the National Association of Shareholder and Consumer Attorneys (NASCAT) and an Associate Member of the American Bar Association.

Chris Ritchie
Chris is an Executive Managing Director of Huntington Bank's National Settlement Team. He brings over 30 years of banking experience with past positions held at Chase Manhattan Bank and Citizens Bank. Chris has an M.B.A. from Fordham University and a B.A. from Fairfield University. He is a Vice President of the Institute for Law & Economic Policy (ILEP). He served on the boards of the Philadelphia Bar Foundation and the Special Olympics of Pennsylvania. He also served as Conference Co-Chair, Class Action Money & Ethics Conference in New York (May 2018 and May 2019), Distribution of Securities Litigation Settlements in San Francisco (February 2008) and in New York (September 2008 and March 2010).

Liz Lambert
Liz Lambert is a Senior Managing Director of Huntington Bank's National Settlement Team. She began her professional career in fixed income sales at Salomon Brothers Inc. in 1986, after graduating with a B.A. in Business Administration and French from the State University of New York at Albany. She has 37 years of banking experience with officer positions held at National Westminster Bank, Mellon Bank, Comerica Bank/Progress Bank and Citizens Bank. Liz is an Associate Member of the American Bar and Philadelphia Bar Associations, and a Member of the American Constitution Society

Rose Kohles
Rose is an Associate Director of Huntington Bank's National Settlement Team. Rose began her professional career at PNC Bank as a Treasury Management Sales Officer after receiving her B.A. in Finance from Temple University. Rose serves as the Communications Director for the Committee to Support Antitrust Laws, a lobbying organization that seeks to protect the rights of small businesses and consumers in the marketplace. Recently joined the Board of St. Augustine Academy, a non-profit after school program for young girls in the Philadelphia area as an Observing Board Member.

Melissa Villain
Melissa is a Managing Director of Huntington Bank's National Settlement Team. She is a graduate of the University of Central Florida with a B.A. in Advertising and Public Relations and previously held her Series 6 and Series 63 Florida Insurance Licenses. Melissa has more than 30 years of banking experience with past positions held at Wachovia Bank, The Bank Brevard, and Citizens Bank. Melissa is also a member of the Board of the Human Impacts Institute, a New York non-profit creating and sharing innovative approaches to tackling social and environmental issues.

EXHIBIT B

Exhibit B

Diversity and Inclusion at Huntington

A message to Huntington communities, colleagues, and customers:

The deaths of George Floyd, Ahmaud Arbery, and Breonna Taylor, among many others, are not only heartbreaking, but also fundamentally wrong. Racism and injustice are unacceptable and, while it will take time to address, the time to start is now. Inequality exists in many forms and across several areas including healthcare, education, housing, and wealth. As these gaps are addressed, only then can our communities thrive.

For more than a decade, Huntington's brand has been **Welcome**. Welcome to all. It is tangible, and yet aspirational, and something we continuously strive to live up to. Welcome is not just a word. It also represents a mindset and a desire to look out for people. While we endeavor to be a purpose-driven company—one that makes people's lives better, helps businesses thrive, and strengthens the communities we serve—we must do more.

We believe through listening and seeking to understand, we can drive action and collectively be a part of positive change. Our leadership has spent the last several days reaching out and identifying ways to provide support to our customers, communities and in particular, to our colleagues. We don't have all the answers, but we know that by joining together peacefully, we can begin to see the path forward. We will partner with organizations in our local communities that accelerate meaningful progress. We will attempt to be a catalyst for change. As a part of this process, we will come together with a united voice to make a difference.

Our Corporate Policy Statement

With the changing demographics in society and evolving customer needs, we must remain intentional in how we engage, develop, retain and attract talent; creating a more inclusive environment that leverages diversity effectively. At Huntington, we are committed to diversity and inclusion. Diversity in our workplace, community outreach, and in our suppliers/vendors is every colleague's responsibility. As colleagues, we must model inclusive behaviors, show respect and have an appreciation of differences.

Every colleague contributes to the organization with their own collection of talents and a multitude of experiences and dimensions of diversity. By embracing each colleague's uniqueness, our core value of inclusion comes to life; and our commitment to inclusion is our commitment to you. We want you to feel valued, respected and heard because we know that each of our differences adds value to the organization.

Appreciating these rich differences is how we cultivate the best ideas and develop the best innovations for making Huntington *the best performing regional bank in the nation*.

Steve Steinour
Chairman, President, and CEO

Donnell R. White
Senior Vice President, Chief Diversity and Inclusion Officer

A Culture of Inclusion

Through our Board of Directors Community Development Committee, our Executive Leadership Team, and our Diversity and Inclusion Strategic Council (DISC), we are holding ourselves accountable for creating and maintaining a culture of inclusion.

Our Diversity and Inclusion Strategic Council serves in an advisory role to ensure the alignment of diversity and inclusion initiatives with our business goals, our corporate values and the future of Huntington. The strategy, policy and direction of our work is set by our internal stakeholders and executed by the office of Diversity & Inclusion, and is supported at all levels of our organization.

Our Commitment to Affirmative Action

Our policy of affirmative action facilitates the placement of qualified women, minorities, individuals with disabilities and veterans at all levels of the organization. Through our affirmative action plans, we identify the good faith efforts the organization will take to achieve the appropriate representation of women and minorities in our workforce. All of our affirmative action plans include targeted research, recruitment, upward mobility initiatives, annual goals and timetables for women and minorities required by Executive Order 11246 and other federal, state and local affirmative action laws and regulations.

All managers are responsible for complying with federal affirmative action regulations. This includes complying with site-specific affirmative action plans and ensuring that there are no artificial barriers to the advancement of qualified women, minorities, veterans and people with disabilities anywhere in our company. These plans are monitored by senior management and developed annually.

Driving Diversity and Inclusion

When evaluating our strongest asset at Huntington, it always comes back to people. Our commitment to inclusion creates an open, high-energy and high-performing environment, where colleagues can be their authentic selves. We value and foster inclusion, all united toward our shared mission of doing the right thing for our customers, colleagues, shareholders and communities.

Driven by the work of our Inclusion Councils, the commitment of colleague engagement is evident throughout our organization.

Business Resource Groups (BRGs)

Through the work of our Business Resource Groups (BRGs), we are transforming the workplace at Huntington. Our BRGs are colleague driven groups organized around a shared interest or common diversity dimension and they support our commitment to fostering an inclusive and engaging work environment for all. Through innovative thinking on disability inclusion, military friendly practices, LGBT friendly policies and other initiatives that help support our inclusive culture and serve our diverse workforce. We currently have eight BRGs:

- AdaptAbility BRG (colleagues with disabilities)
- African American BRG
- Asian BRG
- Emerging Professionals BRG
- LGBTA Network BRG
- Women's Network BRG
- Hispanic BRG
- Military BRG

Inclusion Council (ICs)

Inclusion Councils are voluntary, colleague-driven groups designed to support our vision to be THE Bank of the Midwest, to implement our inclusion strategy, and to create an inclusive, respectful and supportive environment for all colleagues. The role of Inclusion Councils is to create an inclusive, respectful and supportive environment for all colleagues. They are a vital component of our inclusion strategy because they provide a forum for all colleagues to become actively engaged in the inclusion journey. We currently have six ICs:

- Akron IC
- Downtown Columbus IC
- Easton IC
- Gateway IC
- SOKY IC
- WPA_OV IC

Committed to change

At Huntington, we believe we have the power to change our communities for the better by contributing to the economic strength of our local communities, investing in business growth, and partnering and volunteering to make a difference where we live and work.

We are cultivating partnerships with diverse organizations that share our commitment to diversity and inclusion, such as: Women for Economic Leadership Development (WELD), Prospanica (formerly National Society for Hispanic MBA), Opportunities for Ohioans with Disabilities, and others, we are contributing to the development of our diverse communities and impacting them in a positive way.

At Huntington, we're committed to bringing innovation to our industry and doing the right thing for customers, colleagues, communities and shareholders. This is a place where every person is valued not for the title on his or her business card, but for the name that goes before it. Our culture of high performance is a direct byproduct of this commitment to inclusion.

While the foundation and business case for inclusion is solid at Huntington, we are always looking ahead to how we improve the mix, leverage for results and develop the ROI. It's a fluid model that requires honest introspection. It's getting to a place where the efforts of inclusion become innate. It's getting to a place where the actions of inclusion become instinctive. It's reaching a place where the results of inclusion at Huntington become a part of our DNA. It's a journey we look forward to continuing.

EEO/AA Employer/Minority/Female/Disability/Veteran/Sexual Orientation/Gender Identity

Supplier Diversity

Supporting diverse businesses supports the entire business community. We are committed to economic inclusion by expanding relationships with minority-, women-, LGBT-, disabled-, and veteran-owned business enterprises (diverse). With an inclusive supplier base, we have gained a better understanding to the needs of the marketplace. Working together, we are able to contribute toward economic development, job creation and stronger communities.

Awards and Recognition

2022 | Bank Insurance & Securities Association's (BISA) Diversity and Inclusion Award

2021 | Mortgage Bankers Association (MBA) Award for DEI Leadership

2020 | Forbes Best Employers for Diversity

2020 | Perfect Human Rights Campaign Rating

2019 | Forbes Best Employers for New Grads

2019 | Fortune 100 Best Workplaces for Diversity

2019 | Forbes Best Employers for Women

2019 | Disability Equality Index - 100%

2018 | Top 10 Regional Companies, Diversity Inc.

2018 | World's Best Employers 2000

2018 | Diversity Leader Award

2017 | Leading Disability Employer Seal™

2017 | Best in Class Award for Board Diversity

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re PVC Pipe Antitrust Litigation THIS DOCUMENT RELATES TO: Non-Converter Seller Purchaser Class Plaintiffs	Case No. 1:24-cv-07639 Hon. LaShonda A. Hunt

DECLARATION OF CHRISTIE K. REED OF KROLL SETTLEMENT ADMINISTRATION LLC IN SUPPORT OF NON-CONVERTER-SELLER PURCHASER CLASS PLAINTIFFS' MOTION—UNOPPOSED BY SETTLING DEFENDANT OIL PRICE INFORMATION SERVICE, LLC ("OPIS")—FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT WITH DEFENDANT OPIS AND RELATED RELIEF

I, Christie K. Reed, hereby declare:

INTRODUCTION

1. I am the Media Director of Kroll Notice Media Solutions ("Kroll Media"),[1] a business unit of Kroll Settlement Administration LLC ("Kroll"), the proposed Settlement Administrator relating to the Non-Converter Seller Purchasers' ("NCSPs") settlement with Defendant Oil Price Information Service, LLC ("OPIS" or "Settling Defendant"). Kroll's principal office is located at One World Trade Center, 285 Fulton Street, 31st Floor, New York, New York 10007. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working with me, including information reasonably relied upon in the fields of advertising media and communications. This declaration is being filed in connection with preliminary approval of the Settlement.

[1] Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Settlement Agreement (as defined below).

2. I have nearly fifteen years of legal notice experience, and I have been involved with some of the largest and most complex programs in the legal notice industry, including cases involving consumer and product liability class actions, pharmaceutical antitrust, data breaches and consumer privacy actions, and government restitution. My expertise includes media planning and research, media buying, creative design and notice drafting, and data analysis of hundreds of court-approved national, local and international notice programs.

3. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, privacy, securities, labor and employment, consumer and government enforcement matters. Kroll has provided class action services in over 3,000 settlements varying in size and complexity over the past 50 years. Attached as **Exhibit 1** are overviews of Kroll's settlement administration services and antitrust experience.

4. Interim Co-Lead Counsel have proposed Kroll as the Settlement Administrator to, among other tasks, develop and implement a notice plan (the "Notice Program") in connection with the Long-Form Settlement Agreement between Non-Converter Seller Purchaser Class Plaintiffs and Defendant Oil Price Information Service, LLC (the "Settlement Agreement") entered into in this Action.

5. The proposed Notice Program, as more fully detailed below, contemplates a mix of direct notice, where possible, targeted industry publication, and a consumer-orientated publication program to reach members of the NCSP Settlement Class, via methods described below, designed to reach at least 70% of likely NCSP Settlement Class members approximately 2.7 times on average. The Federal Judicial Center states that a publication notice plan that reaches[2] over 70% of targeted class members is considered a high percentage and the "norm" of a notice campaign.[3]

6. To ensure that our calculations and estimates are accurately projected, the Notice Program was calculated using objective, syndicated advertising research tools from MRI-Simmons

[2] "Reach" measures the number of people who receive or are otherwise exposed to a notice plan.

[3] Barbara Rothstein and Thomas Willging, *Federal Judicial Center Managing Class Action Litigation: A Pocket Guide for Judges*, at 27 (3d ed. 2010).

Research ("MRI"),[4] and online measurement from Comscore.[5] These are the same tools reasonably relied upon by advertising agencies nationwide as the basis to select media for large brands.

NOTICE PROGRAM SUMMARY

7. The proposed Notice Program is designed to inform likely NCSP Settlement Class members of the proposed Settlement between NCSPs and Settling Defendant. Pursuant to Paragraph 4(a) of the Settlement Agreement, the NCSP Settlement Class is defined as:

> All persons and entities who purchased PVC Pipe manufactured by a Defendant and subsequently sold through a non-converter PVC Pipe seller in the United States between January 1, 2021 through May 16, 2025.
>
> Specifically excluded from the Class are Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from the Class are any federal government entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, any business majority-owned by any such person, and any Co-Conspirator identified in this Action.

8. The Notice Program includes a detailed notice that will be posted on the Settlement website (**Exhibit 2**, "Detailed Notice"), direct notice by mail via a postcard or by email (**Exhibit 3**, "Postcard/Email Notice"), a digital media banner ad campaign that will be published in relevant trade publications and through various online placements and social media platforms (**Exhibit 4**, sample digital ads), and a press release distribution (**Exhibit 5**, press release).

9. To reach NCSP Settlement Class members, the proposed Notice Program contemplates usage of the following direct and indirect notice components:

[4] MRI-Simmons USA is the most comprehensive study on American Consumers and is used by the majority of media and marketing agencies in the country to perform a wide variety of analytical, planning, and reporting functions. The nationally representative study provides comprehensive data on consumer attitudes, behaviors, media preferences, and more.

[5] Comscore is a global Internet information provider on which leading companies and advertising agencies rely for consumer behavior insight and Internet usage data.

- Class Action Fairness Act notice to applicable government officials;
- Email Notice to potential NCSP Settlement Class members;
- Postcard Notice via U.S. First Class Mail to potential NCSP Settlement Class members;
- Paid notice in trade publications;
- Online display banner advertising;
- Google keyword search advertising;
- Social media advertising through Facebook and YouTube;
- A press release;
- Direct contact with relevant trade associations;
- A neutral, informational Settlement website; and
- A toll-free telephone information line.

10. It is Kroll's understanding that Interim Co-Lead Counsel are also requesting the Court permit NCSPs to obtain NCSP Settlement Class member contact information from non-converter pipe sellers to assist in providing direct emailed and mailed notice to these individuals and companies.

11. Kroll will create a list of likely NCSP Settlement Class Member data, available from Settling Defendant's data, from contact data obtained from PVC non-converter sellers, and/or from data that can be acquired from one or more leading information aggregators of contact information for municipalities, contractors, and other entities likely to have purchased PVC Pipe (the "Class List"). The Class List may include a combination of names, physical mailing addresses, and/or email addresses

CAFA NOTICE

12. On behalf of the Settling Defendant, Kroll will provide notice of the proposed Settlement pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715(b) (the "CAFA Notice"). At Settling Defendant's counsel's direction, Kroll will send the CAFA Notice, via first-class certified mail to (a) the Attorney General of the United States and (b) the applicable state Attorneys

General. The CAFA Notice will also direct the recipients to the website www.CAFANotice.com, a site that will contain all the documents relating to the Settlement referenced in the CAFA Notice.

EMAIL NOTICE

13. Kroll will email the Email Notice (Exhibit 3) to NCSP Settlement Class members. The Email Notice will consist of the information provided in Exhibit 3 noted above, with formatting to enable it to be emailed to the Class List. Kroll will track and monitor emails that are rejected or "bounced back" as undeliverable. At the conclusion of the email campaign, Kroll will provide a report with the email delivery status of each record. The report will include the number of records that had a successful Email Notice delivery and a count of the records where delivery failed. Kroll will also update its administration database with the appropriate status of the email campaign for each of the NCSP Settlement Class member records.

DIRECT MAIL NOTICE

14. Kroll will mail the Postcard Notice (Exhibit 3) to NCSP Settlement Class members. In preparation for the Postcard Notice mailing, Kroll will send the NCSP Settlement Class member data through the United States Postal Service's ("USPS") National Change of Address ("NCOA") database. The NCOA process will provide updated addresses for NCSP Settlement Class members who have submitted a change of address with the USPS in the last 48 months and the process will also standardize the addresses for mailing. Kroll will then prepare a mail file of NCSP Settlement Class members that are to receive the Postcard Notice via first-class mail.

15. Postcard Notices returned by the USPS with a forwarding address will be automatically re-mailed to the updated address provided by the USPS.

16. At the direction of Interim Co-Lead Counsel and Settling Defendant's counsel (collective, "Counsel"), Postcard Notices returned by the USPS undeliverable as addressed without a forwarding address will be sent through an advanced address search process in an effort to find a more current address for the record. If an updated address is obtained through the advanced address search process, Kroll will re-mail the Postcard Notice to the updated address.

PUBLICATION NOTICE

17. As required under Paragraph 6(b) of the Settlement Agreement, digital ads (Ex. 4) and a press release (Ex. 5) will also be provided by publication via media outlets. Kroll Media's proposal for notice by publication is set forth below.

Target Audiences

18. The publication notice program will utilize trade media to reach likely NCSP Settlement Class members and an online media campaign to achieve at least 70% reach among a target audience of adults employed in installation, maintenance, and repair occupations, and therefore likely NCSP Settlement Class members.

19. This target audience is a proxy definition for the NCSP Settlement Class, as no nationally syndicated media research data provides an exact target audience for NCSP Settlement Class members. Utilizing an overinclusive proxy audience is commonplace in both class action litigation and advertising generally.[6]

Trade Media

20. To reach likely NCSP Settlement Class members, Kroll recommends paid notice in one or more digital trade publications targeted to professionals and businesses that likely use PVC pipe in their lines of work.

21. This trade-targeted paid notice may include digital newsletters such as *CONTRACTOR eNews*, *Electrical Construction & Maintenance*'s *Electrical Zone* e-newsletter, *Electrical Contractor*'s *EC Weekly* e-newsletter, *Municipal Sewer & Water*'s *MSW* e-newsletter, or *PHCP Pros* segmented newsletters targeting HVAC, Hydronics, Plumbing, and/or Pipes, Valves, and Fittings (PVF). Paid notice to trade media may also include website placements on

[6] "If the total population base (or number of class members) is potentially unknown, it is accepted advertising and communication practice to use a proxy-media definition, which is based on accepted media research tools and methods that will allow the notice expert to establish that number. The percentage of the population reached by supporting media can then be established." Duke Law School, *GUIDELINES AND BEST PRACTICES IMPLEMENTING 2018 AMENDMENTS TO RULE 23 CLASS ACTION SETTLEMENT PROVISIONS*, at 56. This publication is available online at: https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1003&context=bolch.

sites like *Electrical Products & Solutions* (www.epsmag.net) or on websites owned by the aforementioned publishers.

Online Display

22. Kroll Media will apply a programmatic approach to display advertising placements.[7] Digital banner ads will be purchased "programmatically" using a computer algorithm to show a specific ad to a specific visitor in a specific context. These ads are device-agnostic and will appear across desktop, laptop, tablet, or mobile devices.

23. Online display ads will be targeted to adults 18 years of age or older nationwide who are likely plumbers, electricians, plumbing contractors, electrical contractors, etc., behaviorally targeted to users interested in home DIY, home repair, crafts, etc., and/or contextually targeted alongside content related to plumbing fixtures and equipment, hobbies and leisure, and/or energy and utilities.

24. The content of the digital banner ads will include relevant information for users to self-identify whether they are part of the NCSP Settlement Class. When an ad is clicked, an embedded link will direct the user to the Settlement website where they can learn more about the Settlement and potentially file a claim form online.

25. The display ad units will include the most popular and widely-accepted formats such as 160x600 (wide skyscraper), 300x250 (rectangle), 300x600 (large skyscraper), 729x90 (leaderboard), 300x50 (mobile banner), 320x50 (mobile leaderboard), and 336x280 (large rectangle).[8]

[7] In practice, when a user visits a website, an IP connection between the user's device and the publisher's webserver is established. The website then flags available ad tags so that the ad server can analyze data about the user, such as demographic attributes or location. This information is shared with advertising exchanges *(i.e.*, digital advertising marketplaces for ad space) where ad buyers can bid on the ad unit relevant to the campaign. If the ad unit is user-relevant, *i.e.*, it targets a likely class member based on matching user attributes, a bid is offered. Upon winning the bid for the ad unit, the ad is downloaded on a webpage for a user to see and this counts as an impression.

[8] Creating multiple ad sizes increases a notice plan's probability of getting the message in front of the right target audience at the right time. If a web page serves only 300x250 and 728x90 ads, and

Google Search Ads

26. Keyword search advertising will be used to display advertisements to users in their Google Search results. This will help drive likely NCSP Settlement Class members who are actively searching for information about the Settlement to the Settlement website. When a user conducts a search for Settlement-related content, such as "*pvc pipe*," "*pvc fittings*," "*pvc price fixing*," and other similar terms, a sponsored link may appear, which will provide brief information about the Settlement and direct users to the Settlement website.

Social Media Ads

27. Social media ads will appear on Facebook and YouTube.

28. Facebook ads will be targeted to adults 18 years of age or older who have listed employment relevant to the NCSP Settlement Class, such as plumbers, electricians, plumbing contractors, electrical contractors, etc. Additionally, ads will be targeted to users who are interested in home DIY, home repair, crafts, and more.

29. On YouTube, banner ads will be targeted to users 18 years of age or older who are interested in channels and/or content related to plumbing, electrical work, home DIY, PVC pipe crafting, etc.

30. Social media advertising will include relevant information for users to self-identify whether they are included in the NCSP Settlement Class. If users click on the social media ad, an embedded link takes them to the Settlement website where they can learn more about the Settlement.

Press Release

31. Kroll Media will issue a press release (Ex. 5) concerning the Settlement over Cision PR Newswire's US1 National Newsline. This network includes thousands of news outlets. The press release will also include additional targeting to a General Construction & Building Influencer

the campaign only created a 320x50 ad, a notice plan ad will not have the opportunity to serve an ad on that website.

List of journalists and media outlets covering news about building and construction, including civil engineering, architecture, landscape, materials such as concrete, and more.

NOTICE TO RELEVANT TRADE ASSOCIATIONS

32. It is Kroll's understanding that Interim Co-Lead Counsel will work with relevant trade associations composed of likely NCSP Settlement Class members, such as the American Water Works Association, the Association of Metropolitan Water Agencies, and more, to encourage them to share information regarding the Settlement with their members.

SETTLEMENT WEBSITE

33. Kroll will work with Counsel to create a dedicated Settlement website. The Settlement website URL is: www.PVCantitrust.com. The Settlement website will contain a summary of the Settlement, will allow NCSP Settlement Class members to contact the Settlement Administrator with any questions or changes of address, provide answers to frequently asked questions, and notice of important dates such as the Fairness Hearing. The Settlement website will also contain downloadable copies of relevant documents including the Complaint, Settlement Agreement, Preliminary Approval Order, Detailed Notice (in English and Spanish), and any other materials agreed upon by counsel for the Parties and/or required by the Court.

TOLL-FREE TELEPHONE NUMBER

34. Kroll will also establish a toll-free telephone number for the Settlement. The toll-free telephone number will allow NCSP Settlement Class members to call and obtain information about the Settlement through an Interactive Voice Response system and the option to be connected to a live operator.

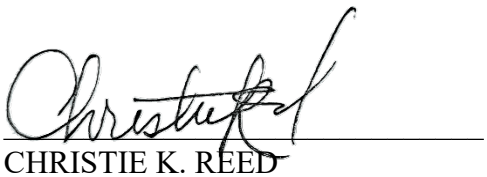
POST OFFICE BOX

35. Kroll will designate a post office box with the mailing address *{name}*, c/o Kroll Settlement Administration LLC, P.O. Box <<####>>, New York, NY <<Zip-Zip4>>, in order to receive requests for exclusion, objections, and correspondence from NCSP Settlement Class members.

CONCLUSION

36. The proposed Notice Program reflects a particularly appropriate and highly targeted way to provide notice to NCSP Settlement Class members. The publication notice via media outlets is designed and estimated to reach at least 70% of likely NCSP Settlement Class members approximately 2.7 times on average. This reach may be further supplemented by the direct notice effort and paid notice in trade publications. In my opinion, the Notice Program described above is reasonably calculated to provide notice to likely NCSP Settlement Class members and is consistent with best practicable, court-approved notice programs in similar matters, the requirements of Fed. R. Civ. P. 23(c)(2)(B), and the Federal Judicial Center's guidelines concerning appropriate reach.[9]

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge. Executed on June 6, 2025, in Lakewood, California.



CHRISTIE K. REED

[9] FED. JUD. CTR., *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide* (2010), available at https://www.fjc.gov/sites/default/files/2012/NotCheck.pdf. The guide suggests that the minimum threshold for adequate notice is 70%. *See id*. At pp. 1, 3.

EXHIBIT 1

KROLL

Settlement Administration Services

Kroll provides innovative technology and consulting services for class action, mass tort, regulatory remediation and government claims administration.

We are raising the bar in class action, mass tort, regulatory and government claims administration. With our proprietary technology, security, and global resources, coupled with our team's 50+ years of legal administration expertise, we offer unmatched solutions and capacity for even the most complex settlements anywhere in the world.

Time-tested leader in our field

Managed more than 4,000 settlements

Processed over 100 million claims

$30 billion+ in distributions

Designed and managed 1,000+ court-approved multi-media campaigns

Why partner with Kroll for your settlement administration needs?

- **Unrivaled Data Security and Technology.** Our cutting-edge proprietary technology platforms are built to handle any case, no matter the size or complexity. Through our innovative technology and our unrivaled data security measures, we create custom solutions, including a real-time case statistics dashboard, while providing clients with unlimited scalability in our secure, certified environment. Nothing is more important than protecting the confidentiality and integrity of customer data while meeting or exceeding regulatory requirements. Our clients can have the utmost confidence when working with Kroll on their most complex and sensitive matters.
- **Industry Leading Claims Administration Team.** With decades of experience across all types of settlements, our team is well-versed in every aspect of the administration process and has worked on some of the most historic and complex cases of all time. We work closely with all parties involved, often assisting clients before

KROLL

settlement agreements are finalized, to ensure a value-maximizing, reliable and effective administration.

- **Most Experienced Notice Media Team Globally.** Through our in-house media team, we offer superior outreach programs that are rooted in analytics, validated by third parties and highly defensible in court. Our notice media team, led by one of the industry's most distinguished legal notice and communications experts,has successfully planned and implemented thousands of court-approved notice programs, including government enforcement actions and product recalls.
- **Best-in-Class Claims Administration Processes.** With our best-in-class claims processing procedures and focus on quality, we guarantee more accurate claims handling, speed, and responsiveness. We also provide a fully digital solution from start to finish for any engagement. Our electronic administration service offering encompasses noticing, claim filing, receipt of supporting documentation, corresponding with class members, clearing deficiencies and/or rejections and digital disbursements.
- **Global Footprint with Resources and Expertise to Scale.** With 5,000 experts around the world, we provide our clients with unlimited capacity to handle any settlement administration.

Representative class action experience

With over 50 years of experience in class action settlement administration, our team has successfully handled some of the largest and most complex settlements in history. Our cutting-edge administration solutions address matters in the evolving global regulatory framework.

For a more detailed look at our class action settlement experience, please visit kroll.com/settlement-administration.

Contact

Website: kroll.com/settlement-administration

Phone: +1 844 777 8055

Yahoo! Inc. Customer Data Security Breach Litigation, Case No. 5:16md02752, United States District Court Northern District of California

- $117.5 million settlement
- Over 1.3 million claims filed
- Over 924 million notices sent
- Over 194 million class members globally

In Re: Currency Conversion Fee Antitrust Litigation, MDL No. 1409, United States District Court for the Southern District of New York

- $336 million settlement
- 10.2 million claims filed
- Over 38 million notices mailed

Cook et al. v. Rockwell International Corp. and The Dow Chemical Co., Case No. 90cv00181, United States District Court for the District of Colorado

- $375 million settlement
- Over 250,000 payments made
- Over 58,000 notices mailed

Columbia Gas Cases, Civil Action No. 1877cv01343G, Superior Court of Massachusetts

- $143 million settlement
- Approx. 16,000 claims filed
- Approx. 92,000 notices mailed

In Re: Schering-Plough Corporation Securities Litigation, Case No. 01cv0829, United States District Court for the Southern District of New Jersey

- $165 million settlement
- Over 71,000 claims filed

Brian Warner et al. v. Toyota Motor Sales, USA, Case No. 2:15cv02171, United States District Court for the Central District of California

- $3.4 billion settlement
- Over 2 million notices mailed
- 1.5 million vehicles affected

KROLL

Settlement Administration

Antitrust Class Action

Antitrust class action litigation is complex and time sensitive. Our mission is to accurately and efficiently support our attorney clients in the successful management, notice, administration and distribution of a settlement to maintain compliance and satisfy due process.

Our team has administered some of the most complex and high-profile antitrust settlements in U.S. history.

We are the leader in the notice and administration of direct and indirect antitrust class action settlements.

Each member of our team is well-versed in every aspect of settlement administration, allowing us to foresee potential problems before they occur and recommend proven and tried solutions. Our in-house media team is led by an internationally recognized notice expert and is the most experienced legal notice team in the industry.

Over the last five decades, our team has administered hundreds of antitrust matters, and we have distributed billions of dollars in settlement funds. Kroll has experience across all types of antitrust cases, including monopolies, price-fixing, price discrimination, product tying and complex financial instruments.

Representative antitrust settlements

In re Dental Supplies Antitrust Litigation, No. 1:16-cv-696, (E.D.N.Y.)

Contant v. Bank of America, No. 1:17-cv-3139, (S.D.N.Y.)

In re Commodity Exchange Inc., No. 14-md-2548, (S.D.N.Y.)

In re Domestic Air Transportation Antitrust Litigation, No. 1:90-cv-2485, (S.D.N.Y.)

In re Nasdaq Market-Makers Antitrust Litigation, MDL No. 1023, (S.D.N.Y.)

In re Currency Conversion Fee Antitrust Litigation, MDL No. 1409, (S.D.N.Y.)

In re Packaged Seafood Products Antitrust Litigation, No. 15-md-2670, (S.D. Cal.)

In re Actos Antitrust Litigation, No. 1:13-cv-09244, (S.D.N.Y.)

Contact

Website: kroll.com/settlement-administration | **Phone:** +1 844 777 8055

About Kroll

As the leading independent provider of risk and financial advisory solutions, Kroll leverages our unique insights, data and technology to help clients stay ahead of complex demands. Kroll's global team continues the firm's nearly 100-year history of trusted expertise spanning risk, governance, transactions and valuation. Our advanced solutions and intelligence provide clients the foresight they need to create an enduring competitive advantage. At Kroll, our values define who we are and how we partner with clients and communities. Learn more at Kroll.com.

EXHIBIT 2

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

If you purchased any PVC Pipe in the United States and its territories from January 1, 2021, through May 16, 2025, a class action Settlement may affect your rights.

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

La información proporcionada en este aviso está disponible en español en [*www.yyyyyy.com*].

- A Settlement has been reached in a class action antitrust lawsuit filed on behalf of Non-Converter Seller Purchasers ("NCSPs") of PVC Pipe with Defendant Oil Price Information Service, LLC ("OPIS" or "Settling Defendant"). This Settlement only applies to Settling Defendant and does not dismiss claims against other Defendants in the case in the United States District Court for the Northern District of Illinois (the "Court") entitled *In re: PVC Pipe Antitrust Litigation*, Case No. 1:24-cv-07639 (N.D. Ill.).

- If approved by the Court, the Settlement will resolve whether and to what extent OPIS participated in a combination or conspiracy to restrain trade, the purpose and effect of which was to suppress competition and to allow co-Defendant PVC Pipe producers ("Non-Settling Defendants" or "Converter Defendants") to charge supra-competitive prices for PVC Pipe products from January 1, 2021, through May 16, 2025, in violation of federal and state laws. If approved, the Settlement will avoid litigation costs and risks to NCSP Plaintiffs and OPIS and will release OPIS from liability to members of the Settlement Class.

- The Settlement requires OPIS to pay $3,000,000. In addition to this monetary payment, OPIS has agreed to provide specified cooperation in the NCSP Plaintiffs' continued prosecution of the litigation. There will be no payments to the Settlement Class at this time. You will be notified later of an opportunity to file a claim after the Court has approved a process to allocate funds recovered in the case.

- The Court has not decided whether OPIS did anything wrong, and OPIS does not concede or admit any liability for alleged wrongdoing.

- We recommend that you register at the case website, www.yyyyyy.com, to receive updates – you may not receive further notices about this case unless you register. If you are uncertain about how to proceed, you should promptly contact the Settlement Administrator to discuss your options.

- Your legal rights are affected whether you act or do not act. Your options are explained below. Please read this notice carefully. You have a choice to make now.

YOUR LEGAL RIGHTS AND OPTIONS		DEADLINE
EXCLUDE YOURSELF	Get no settlement benefits but keep any right to file your own lawsuit or be part of any other lawsuit against OPIS concerning the Released Claims (as defined in the Settlement Agreement).	**Postmarked by: [Month Day, 2025]**
OBJECT	Write to the Court about why you do not like the Settlement.	**Postmarked by: [Month Day, 2025]**

ATTEND A HEARING	Ask to speak to the Court about the fairness of the Settlement.	**Notice of Appearance by: [Month Day, 2025]**
DO NOTHING	You will remain part of the Settlement and you may participate in any monetary distribution, which will happen later. The Settlement will resolve your claims against OPIS, and you will give up your rights to sue OPIS about the Released Claims (as defined in the Settlement Agreement). You will be bound by the judgment.	

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case must still decide whether to approve the Settlement and the requested attorneys' fees and expenses.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION ABOUT THE LAWSUIT

1. What is this Action about?

This class action is called *In re: PVC Pipe Antitrust Litigation*, Case No. 1:24-cv-07639, and is pending in the United States District Court for the Northern District of Illinois. Judge LaShonda A. Hunt is overseeing this class action. Non-Converter Seller Purchaser Plaintiffs allege that OPIS, Converter Defendants, and their co-conspirators conspired and combined to fix, raise, maintain, and stabilize the price of PVC Pipe from January 1, 2021, to May 16, 2025, with the intent and expected result of increasing prices of PVC Pipe sold in the United States and its territories, in violation of federal antitrust laws and various state antitrust and consumer protection laws.

The Converter Defendants named in the NCSP Plaintiffs' First Consolidated Class Action Complaint are producers of PVC Pipe in the United States. OPIS published a newsletter through which the Converter Defendants and their co-conspirators fixed the prices of the PVC they manufactured and/or sold. NCSP Plaintiffs have reached a Settlement with OPIS. However, NCSP Plaintiffs' case is still proceeding against the Converter Defendants. The Converter Defendants may be subject to separate settlements, judgments, and class certification orders. If applicable, you will receive a separate notice regarding the progress of the litigation and any resolution of claims against the other Defendants.

Please register at the case website, www.yyyyyy.com, to receive updates regarding the progress of the litigation, the Settlement, and any resolution of claims against the Non-Settling Defendants. The case website will be updated as circumstances change, so check back regularly for updates.

OPIS has not conceded or admitted any allegations of wrongdoing in this lawsuit and would allege numerous defenses to Plaintiffs' claims if the case against it were to proceed.

2. Why is this lawsuit a class action?

In a class action lawsuit, one or more people or businesses called class representatives sue on behalf of others who have similar claims, all of whom together are a "class." Individual class members do not have to file a lawsuit to participate in the class action settlement, or be bound by the judgment in the class action. One court resolves the issues for everyone in the class, except for those who exclude themselves from the class. The class representatives in this case are Plaintiffs: George Bavolak, City of Omaha, Delta Line Construction Co., TC Construction, Inc., Water District No. 1 of Johnson County (Kansas), Blake Wrobbel, and James Corsey.

3. Why is there a Settlement?

The Court did not decide in favor of NCSP Plaintiffs or OPIS. NCSP Plaintiffs believe they may have won at trial and possibly obtained a greater recovery. OPIS believes NCSP Plaintiffs may not have succeeded at class certification or won at a trial. But litigation involves risks to both sides, and therefore NCSP Plaintiffs and OPIS have agreed to the Settlement. The Settlement requires OPIS to pay money, as well as provide specified cooperation in the NCSP Plaintiffs' continued prosecution of the litigation. NCSP Plaintiffs and their attorneys believe the Settlement is in the best interests of all Settlement Class members.

4. What if I received previous communications regarding this lawsuit?

You may have received other communications regarding this lawsuit, including solicitations by other attorneys seeking to represent you as a plaintiff in an individual (or "direct action") lawsuit against Defendants. These communications were not approved by the Court and did not come from Court-appointed Settlement Class Counsel. You should carefully review this Notice and your rights as a potential member of the Settlement Class before deciding whether to opt out or stay in the Settlement Class. However, there is a second class, the Direct

Purchaser Plaintiff ("DPP") Class that represents those who purchased PVC Pipe directly from Converter Defendants. The DPP Class has also reached a settlement with OPIS, and will also be sending out notice.

WHO IS INCLUDED IN THE SETTLEMENT

5. How do I know if I am part of the Settlement?

The Court decided that, for Settlement purposes, members of the Settlement Class are defined as:

> All persons and entities who purchased PVC Pipe manufactured by a Defendant and subsequently sold through a non-converter PVC Pipe seller in the United States between January 1, 2021, through May 16, 2025.
>
> Specifically excluded from the Settlement Class are Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from the Settlement Class are any federal government entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this Action, any business majority-owned by any such person, and any Co-Conspirator identified in this Action.

Also excluded from the Settlement Class is anyone who files a timely and valid exclusion request. Before any funds will be disbursed, the Court will have to approve a plan of allocation. After the Court's initial approval of that plan of allocation, you will receive further notice and an opportunity to object to that plan of allocation.

While this Settlement is only with OPIS at this time, the Settlement Class includes all purchasers of PVC Pipe products (as defined below in Paragraph Six) who purchased the products other than directly from Defendants, entities owned or controlled by Defendants, or other producers of PVC Pipe. If you are a member of the Settlement Class and do not exclude yourself, you may be eligible to participate in (or exclude yourself from) any additional settlements which may arise with any other Defendants in the case.

6. What PVC Pipe products are included in the Settlement?

For purposes of the Settlement, "PVC Pipe" means polyvinyl chloride pipe, and pipe converted into fittings for such pipe. "PVC Pipe" includes polyvinyl chloride pipe used in municipal drinking and wastewater, plumbing, or electrical conduit applications.

7. Are there exceptions to being included in the Settlement?

Yes. As noted in Paragraph 5 above, specifically excluded from the Settlement Class are the Court and its personnel, any Defendants and their parent or subsidiary companies, and any distributor named as a co-conspirator in NCSPs' Complaint (Core & Main, Ferguson Enterprises, and Fortiline Waterworks). Also excluded from the Settlement Class is anyone who files a timely and valid exclusion request.

If you are in one of these categories, you are not a member of the Settlement Class and are not eligible to participate in the Settlement.

8. What if I am still not sure whether I am part of the Settlement?

If you are still not sure if you included, please review the detailed information contained in the Settlement Agreement available at www.yyyyyy.com, or call the Settlement Administrator toll-free at (xxx) xxx-xxxx.

THE BENEFITS OF THE SETTLEMENT

9. What does the Settlement with OPIS provide?

If the Settlement is approved, OPIS will pay $3,000,000 to resolve all Settlement Class members' claims against OPIS for the Released Claims (as defined in the Settlement Agreement). In addition to this monetary benefit, OPIS has also agreed to provide specified cooperation in the NCSP Plaintiffs' continued prosecution of the litigation. OPIS has also agreed that for a period of two (2) years after this Settlement is approved by the Court, it will not engage in conduct that is determined in a final non-appealable judgment to constitute a per se violation of Section 1 of the Sherman Act in the PVC Pipe Market. The Settlement Agreement is available at www.yyyyyy.com.

10. What are the Settlement benefits being used for?

No money will be distributed at this time. Settlement Class Counsel will continue to pursue the lawsuit against the Non-Settling Defendants. At a later time, Settlement Class Counsel will request that the Court approve a plan of allocation, award attorneys' fees, permit the reimbursement of certain litigation costs and expenses, and award service awards for the class representatives. You will receive further notice and an opportunity to make a claim or object to these requests. See Question 20 for more information regarding Settlement Class Counsel's attorneys' fees, costs, and expenses. All Settlement funds that remain after payment of the Court ordered attorneys' fees, expenses, and service awards will be distributed at the conclusion of the lawsuit or as ordered by the Court.

11. What am I giving up by staying in the Settlement Class?

Unless you exclude yourself, you are staying in the Settlement Class, which means that you cannot sue, continue to sue, or be part of any other lawsuit against OPIS that pertains to the Released Claims (as defined in the Settlement Agreement).

It also means that all of the Court's orders will apply to you and legally bind you. The Released Claims are detailed in the Settlement Agreement available at www.yyyyyy.com.

You are not releasing your claims against any Defendant other than OPIS by staying in the Settlement Class.

12. What are the Released Claims?

The Settlement Agreement in paragraphs 15 and 16 (titled "Settlement Release") describes these "Released Claims" and the "Released Parties" in necessary legal terminology, so read these sections carefully. The Settlement Agreement is available at [www.yyyyyy.com] or in the public court records on file in this lawsuit. For questions regarding the Releases or what they mean, you can also contact one of the lawyers listed in Question 17 for free, or you can talk to your own lawyer at your own expense.

13. What happens if I do nothing at all?

If you do nothing, you will remain a member of the Settlement Class and participate in this Settlement if you submit a valid claim form, if required, when that option is available at a later date. You will also have the opportunity to participate in (or exclude yourself from) any future settlements or judgments obtained by NCSP Plaintiffs against other Defendants in the case, and you will also have an opportunity to object to the plan of allocation and requests for attorneys' fees, reimbursement of expenses, and service awards.

EXCLUDING YOURSELF FROM THE SETTLEMENT

14. How do I exclude myself from the Class?

If you do not want the benefits offered by the Settlement and you do not want to be legally bound by the terms of the Settlement, or if you wish to pursue your own separate lawsuit against OPIS, you must exclude yourself by submitting a written request to the Settlement Administrator (see address below) by ____**, 2025** stating your intent

to exclude yourself from the Settlement Class (an "Exclusion Request"). Your Exclusion Request must include the following:

If You are an individual:

(1) Your full name, current mailing address, email address, and telephone number;
(2) A statement that you wish to be excluded from the Settlement Class;
(3) Your signature;
(4) Documents sufficient to show proof of Your membership in the Settlement Class (e.g., receipts showing purchase of PVC Pipe) during the Class Period.

If You are a business:

(1) Your company's full name, current mailing address, email address, and telephone number;
(2) A statement that you wish to be excluded from the Settlement Class;
(3) A signature from an authorized representative of Your business along with a statement of that person's position or authority by which he or she has the power to exclude the entity from the Settlement Class; and
(4) Documents sufficient to show proof of Your membership in the Settlement Class (e.g., receipts showing purchase of PVC Pipe) during the Class Period.

If Your Exclusion Request includes an Assignment from another business or person, then in addition to the above information, your Exclusion Request must:

(1) Identify the name of the assignor and the assignee;
(2) Provide a copy of the signed assignment agreement; and
(3) the total value of PVC Pipe purchases during the Settlement Class Period from each Defendant or alleged co-conspirator that is subject to the assignment.

You must mail your Exclusion Request, **postmarked no later than _____, 2025**, to:

In re PVC Antitrust Litigation
c/o Kroll Settlement Administration LLC
P.O. XXXX
New York, NY 10150-XXXX

15. If I exclude myself, can I get anything from the Settlement with OPIS?

No. If you exclude yourself, you are telling the Court that you do not want to be part of the Settlement with OPIS. You can only get Settlement benefits from the Settlement with OPIS if you stay in the Settlement and submit a valid claim form when that option is available at a later date.

16. If I do not exclude myself, can I sue OPIS for the same thing later?

No. Unless you exclude yourself, you give up the right to sue OPIS for the claims that the Settlement resolves. If you have a pending lawsuit against OPIS, speak to your lawyer in that lawsuit immediately to determine whether you must exclude yourself from this Settlement Class to continue your own lawsuit against OPIS.

By staying in the lawsuit, you are not releasing your claims in this case against any Defendant other than the OPIS.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court that I do not like the Settlement?

If you are a member of the Settlement Class and have not excluded yourself from the Settlement, you can object to the Settlement if you do not like part or all of it. The Court will consider your views.

To object, you must send a letter or other written statement saying that you object to the Settlement with OPIS in *In re: PVC Pipe Antitrust Litigation*, Case No. 1:24-cv-07639 and the reasons why you object to the Settlement. If you wish to appear in person to be heard or object to the Settlement Agreement, you must submit an appropriate and timely request to appear. Be sure to include your full name, current mailing address, and email address. Your objection must be signed. You may include or attach any documents that you would like the Court to consider. Do not send your written objection to the Court or the judge. Instead, mail the objection to the Settlement Administrator, Settlement Class Counsel, and counsel for OPIS at the addresses listed below. **Your objection must be postmarked by Month Day, 2025**.

Settlement Administrator: In re PVC Antitrust Litigation c/o Kroll Settlement Administration LLC P.O. XXXX New York, NY 10150-XXXX	**Settlement Class Counsel:** Brian D. Clark Lockridge Grindal Nauen PLLP 100 Washington Avenue South Suite 2200 Minneapolis, Minnesota 55401 **Settlement Class Counsel:** Karin Garvey Scott+Scott Attorneys at Law LLP The Helmsley Building 230 Park Ave. 24th Floor New York, NY 10169	**OPIS Counsel:** Brian K. O'Bleness Dentons US LLP 1900 K Street NW Washington, DC 20006

18. What is the difference between objecting and excluding myself?

Objecting is telling the Court that you do not like something about the Settlement. You can object only if you do not exclude yourself from the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object because the Settlement no longer affects you.

THE LAWYERS REPRESENTING YOU

19. Do I have lawyers in this class action?

Yes, the Court has appointed the lawyers identified as Settlement Class Counsel in Question 17 to represent the Settlement Class. If you wish to remain a member of the Settlement Class, you do not need to hire your own lawyer because Settlement Class Counsel is working on your behalf. If you wish to pursue your own case separate from this one, or if you exclude yourself from the Settlement Class, these lawyers will no longer represent you. You will need to hire your own lawyer if you wish to pursue your own lawsuit against OPIS.

20. How will the lawyers be compensated?

Settlement Class Counsel intend to ask the Court at a later date for attorneys' fees of up to one-third of the Settlement Fund (including on accrued interest) in connection with this and potential future settlements based on

their services in this Action, but Settlement Class Counsel do not intend to request an award of attorneys' fees at this time. Settlement Class Counsel will also later request reimbursement of litigation expenses and costs as well as service awards for the class representatives. Any payment to the attorneys or class representatives will be subject to Court approval, and the Court may award less than the requested amount. Any attorneys' fees, costs, expenses, and service awards that the Court orders, plus the costs to administer the Settlement, will come out of the Settlement Fund.

Settlement Class Counsel may seek additional attorneys' fees, costs, expenses, and service awards from any other settlements or recoveries obtained in the future. When Settlement Class Counsels' motion for fees, costs, expenses, and service award is filed, it will be available at www.yyyyyy.com. You will have an opportunity to comment on or object to such requests at a later time.

THE COURT'S FAIRNESS HEARING

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing to decide whether to approve the Settlement (the "Fairness Hearing"). You may attend and you may ask to speak, but you do not have to. The Court will hold a Fairness Hearing on **Month Day, 2025, at 10:00 a.m**. **Central**. The Fairness Hearing will take place in person at the Everett McKinley Dirksen Federal Courthouse, 219 South Dearborn, Chicago, Illinois 60604 and will also be available via [video conference/teleconference]. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to class members who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. The Court may also move the Fairness Hearing to a later date or make it a video/telephonic-only conference without providing additional notice to the Class. Updates will be posted to the Settlement website www.yyyyyy.com regarding any changes to the hearing date.

22. Do I have to attend the Fairness Hearing?

No. Settlement Class Counsel will answer any questions the Court may have. However, you are welcome to attend. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

23. May I speak at the Fairness Hearing?

Yes. You may ask to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *In re: PVC Pipe Antitrust Litigation*, Case No. 1:24-cv-07639 (N.D. Ill.)." Be sure to include your name, current mailing address, telephone number, and signature.

Your Notice of Intention to Appear must be postmarked by Month Day, 2025, and it must be sent to the Clerk of the Court, Settlement Class Counsel, and counsel for OPIS.

The address for the Clerk of the Court is:

United States District Court for the Northern District of Illinois
Eastern Division
Dirksen U.S. Courthouse
219 S. Dearborn Street
Chicago, IL 60604

The addresses for Settlement Class Counsel and counsel for OPIS are provided in Question 17. You cannot ask to speak at the hearing if you excluded yourself from the Settlement Class.

GETTING MORE INFORMATION

24. Where do I get more information or update my address?

This Notice contains a summary of relevant Court papers. You can review relevant decisions and orders and additional information about this Action on the case website at www.yyyyyy.com You may also contact the Settlement Administrator by mail, email, or phone using the following contact information:

In re PVC Antitrust Litigation
c/o Kroll Settlement Administration LLC
P.O. XXXX
New York, NY 10150-XXXX

Email: info@xxxxxx.com

(XXX) XXX-XXXX

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

EXHIBIT 3

Court-Ordered Legal Notice

This Notice may affect your legal rights.
Please read it carefully.

Important Legal Notice Authorized by the United States District Court, Northern District of Illinois about a class Action.

Please be advised that your rights may be affected by a class action lawsuit pending in the United States District Court for the Northern District of Illinois if you purchased PVC pipe during the period from January 1, 2021 through May 16, 2025.

Scan QR Code for the detailed notice regarding this class Action.

In re PVC Antitrust Litigation
c/o Kroll Settlement Administration LLC
P.O. XXXX
New York, NY 10150-XXXX

In re PVC Pipe Antitrust Litigation, **Case No. 1:24-cv-07639**

THIS POSTCARD ONLY PROVIDES LIMITED INFORMATION ABOUT THE CLASS ACTION.

For more information or to update your address, visit: www.yyyyyy.com, email: info@yyyyyy.com, or call: (XXX) XXX-XXXX

Pursuant to a motion filed with the Court on June 6, 2025, a settlement ("Settlement") has been reached in the above-referenced class action ("Action") that is pending against Oil Price Information Service, LLC ("OPIS"). IF YOU ARE IN THE SETTLEMENT CLASS, YOUR RIGHTS WILL BE AFFECTED BY THIS CASE. This notice advises you of basic information about your options. A long-form notice is available at **www.yyyyyy.com.**

How do I know if I am a Class Member? The Settlement Class includes all persons and entities who purchased PVC Pipe manufactured by a Defendant and subsequently sold through a non-converter PVC Pipe seller in the United States between January 1, 2021 through May 16, 2025. As is explained in the long-form notice, certain individuals and entities (including Defendants and their family members) are excluded from the Settlement Class by definition.

What Are My Options? The Settlement requires OPIS to pay $3,000,000 to the Settlement Class and provide cooperation in the ongoing Action against the remaining Defendants. **If you do nothing**, you will remain in the Settlement Class and you may be eligible for a future payment if you submit a valid Claim Form. **If you remain in the Settlement Class**, you will be bound by the Settlement, and you may not pursue a lawsuit on your own against OPIS with regard to any issues in the Action. **If you DO NOT want to be a Settlement Class member** and be legally bound by the Settlement, **you must exclude yourself from the Settlement Class**. Full instructions on the process to exclude yourself or your business are contained in the long-form notice at **www.yyyyyy.com**. To exclude yourself from the Settlement Class, you must send the information described in the long-form notice to the Settlement Administrator and counsel for the Parties. Your Exclusion Request must be **received no later than [INSERT DATE], 2025**. You cannot exclude yourself by phone or by email. If you make a proper Exclusion Request, you will not be legally bound the Settlement.

What Has Happened So Far? On August 23, 2024, NCSP Plaintiffs filed the first class action case alleging price-fixing in the PVC pipe market. On September 30, 2024, (as amended on October 17, 2024), the Court appointed the law firms of Lockridge Grindal Nauen PLLP and Scott+Scott Attorneys at Law LLP as "Class Counsel." Discovery is currently stayed, with pretrial motions expected in Summer 2025. **A more detailed description of the Action and the claims asserted is contained in the long-form notice available at www.yyyyyy.com.**

Your Other Rights. Settlement Class members are represented by Class Counsel. You will not be personally responsible for their fees and expenses; instead Settlement Class Counsel intend to ask the Court at a later date for attorneys' fees of up to one-third of the Settlement Fund (including on accrued interest) and service awards for the class representatives. You may hire your own attorney, at your own expense. If you hire a lawyer to speak for you or to appear in Court, your lawyer must file a Notice of Appearance.

PLEASE KEEP YOUR PURCHASE RECORDS AND NOTIFY THE SETTLEMENT ADMINISTRATOR OF ANY CHANGE IN ADDRESS.

Do not contact the Court, Defendants, or their counsel. All questions should be directed to the Settlement Administrator or Settlement Class Counsel.

EXHIBIT 4

PVC Pipe Antitrust Settlement

Text For Social Media & Banner Ads

Primary Text: If you purchased any PVC Pipe, you may have paid too much. An antitrust settlement may affect you.

Headline: PVC Pipe Antitrust Settlement

Description: Court Authorized Notice

Banner Ads

Version 1

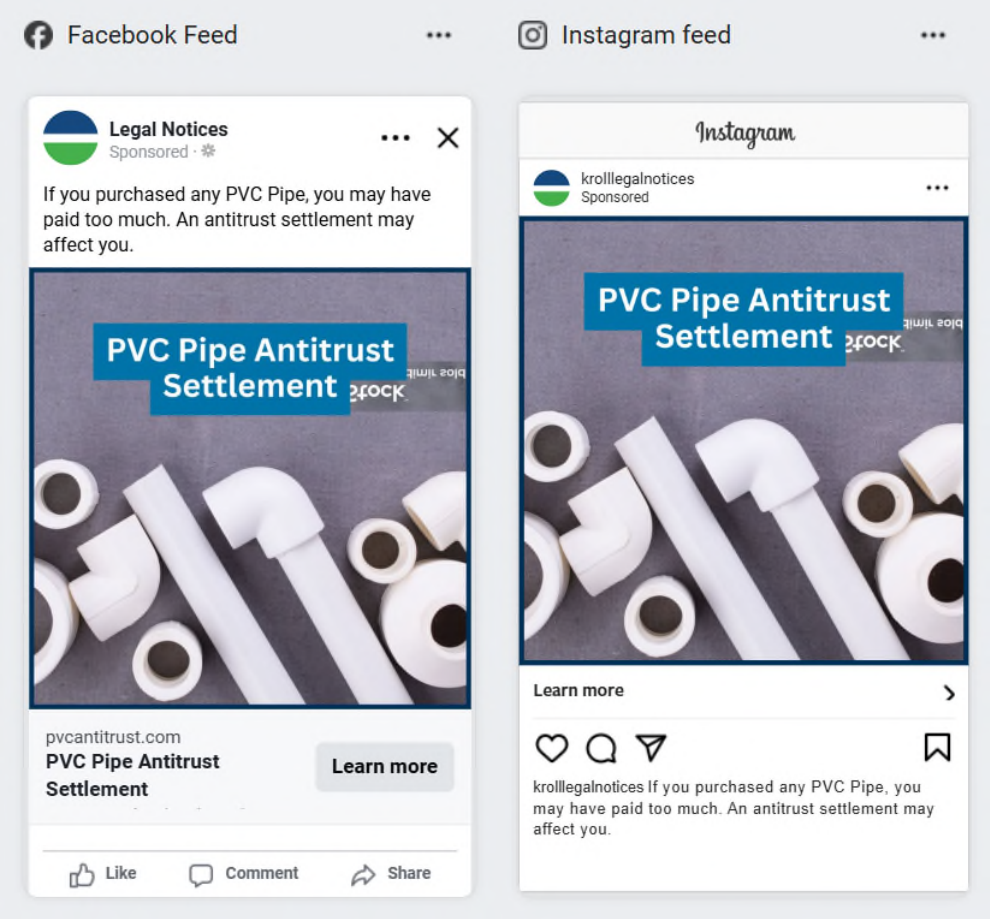
Version 2

Version 3

PVC Pipe Antitrust Settlement

Social Media Ad

All images selected for use on the banner ads will be used on the social media ads. Samples provided below.



PVC Pipe Antitrust Settlement

Search Ad

Preview Link:

http://www.karooya.com/responsive-search-ad-preview-tool?id=repa1q8mzq48qbq5

EXHIBIT 5

If you purchased any PVC Pipe, you may have paid too much. An antitrust settlement may affect you.

Philadelphia, Month DD, 2025 /PRNewswire/ -- The following statement is being issued by Kroll Settlement Administration regarding *In re PVC Pipe Antitrust Litigation*.

A settlement has been reached in a class action lawsuit called *In re PVC Pipe Antitrust Litigation*, No. 1:24-cv-07639 (the "Lawsuit"), which is pending in the United States District Court for the Northern District of Illinois (the "Court") against Oil Price Information Service, LLC ("OPIS" or "Settling Defendant"). This Settlement applies only to OPIS and does not dismiss claims against other Defendants in the Lawsuit. Non-Converter Seller Purchaser Plaintiffs allege that OPIS, Converter Defendants, and their co-conspirators conspired and combined to fix, raise, maintain, and stabilize the price of PVC Pipe from January 1, 2021, to May 16, 2025, with the intent and expected result of increasing prices of PVC Pipe sold in the United States and its territories, in violation of federal antitrust laws and various state antitrust and consumer protection laws.

If you are a Settlement Class Member, your rights will be affected by this case.

Who is a Settlement Class Member?
Settlement Class Members include all persons and entities that purchased PVC Pipe manufactured by a Defendant and subsequently sold through a non-converter PVC Pipe seller in the United States between January 1, 2021, through May 16, 2025.

What are your options?
The Settlement requires OPIS to pay $3,000,000 to the Settlement Class and provide cooperation in the ongoing litigation against the remaining Defendants.

- **If you do nothing**, you will remain in the Class and may be eligible for a future payment after the Court has approved a claim process.
- **If you remain in the Class**, you will be bound by the Settlement and you may not pursue a lawsuit on your own against OPIS about the claims in the Lawsuit.
- **If you DO NOT want to be a Class Member**, **you must exclude yourself**. Your exclusion request must be **received no later than Month DD, 2025**. You cannot exclude yourself by phone or by email. If you make a proper request for exclusion, you will not be legally bound by the Settlement

  Full instructions on how to exclude yourself or your business are available at www.yyyyyy.com.

Do Settlement Class Members need to hire a lawyer?
Settlement Class Members are represented by Class Counsel. You will not be personally responsible for their fees and expenses. A copy of the motion for reimbursement of litigation expenses will be available at www.yyyyyy.com.

You may hire your own attorney, at your own expense. If you hire a lawyer to speak for you or to appear in Court, your lawyer must file a Notice of Appearance.

The Court's fairness hearing.
The Court will hold a fairness hearing on **Month 00, 2025 at x0:00 x.m. Central** to consider whether the

Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them then. Any attorneys' fees, costs, expenses, and service awards that the Court orders, plus the costs to administer the Settlement, will come out of the Settlement Fund.

This is only a summary. More details about the proposed Settlement and instructions on how to object or exclude yourself are available at **www.yyyyyyy.com** or by calling **(000) 000-0000**. You may also write with questions to *{name}*, c/o Kroll Settlement Administration LLC, P.O. Box <<####>>, New York, NY <<Zip-Zip4>>.

SOURCE: Kroll Settlement Administration

Media Contact (press only): TBD, (000) 000-0000