

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

IN RE OPANA ER ANTITRUST LITIGATION	MDL No. 2580
THIS DOCUMENT RELATES TO: Direct Purchaser Action	Lead Case No. 14-cv-10150 Hon. Harry D. Leinenweber

**[PROPOSED] ORDER APPROVING DIRECT PURCHASER PLAINTIFFS' MOTION
FOR DISTRIBUTION OF NET SETTLEMENT FUND**

AND NOW, on this ____ day of _____ 2023, upon consideration of Direct Purchaser Plaintiffs' Motion for Distribution From the Net Settlement Fund dated _____, 2023, and supporting materials filed in connection therewith, and consideration of any other filings made in connection therewith:

WHEREAS, the Court previously issued an Order Granting Final Judgment and Order of Dismissal Approving Direct Purchaser Class Settlement and Dismissing Direct Purchaser Class Claims Against Impax Laboratories, Inc. [ECF No. 1085] (the "Final Approval Order"), approving the terms of the settlement agreement, the contents of the Claim Form, and the Plan of Allocation in this action;

WHEREAS, pursuant to the Court-approved Plan of Allocation, RG/2 Claims Administration, ("RG/2"), the Court-appointed claims administrator, was required to and did mail a populated Claim Form to each Class Member setting forth each Class Member's qualifying net purchases of brand and generic Opana ER;

WHEREAS, RG/2 has identified 34 Claimants who submitted valid, accepted claims

and who are eligible for participation in the Net Settlement Fund¹ and, with the assistance of Class Counsel's economic consultant Econ One, Inc. ("Econ One"), has calculated each Claimant's net qualifying purchases of brand and generic Opana ER and determined the *pro rata* percentages of the Net Settlement Fund allocated to each such Claimant;

WHEREAS, RG/2 has incurred claims administration expenses totaling \$8,597 and anticipates incurring an additional \$2,150 in fees and expenses necessary to complete the initial distribution of funds to Claimants, file the necessary tax returns, and respond to any Claimant inquiries;

WHEREAS, in addition to RG/2's outstanding and anticipated fees, there are outstanding invoices to Econ One totaling \$31,321 for work done in connection with administering the Plan of Allocation, and calculating each claimant's *pro rata* share of the Net Settlement Fund;

WHEREAS, RG/2 has estimated a \$476,000 tax liability for interest earned on funds held in the Net Settlement Fund for 2023;

WHEREAS, as set forth in Paragraph 17 of the Final Approval Order, the Court has retained jurisdiction over the action, the parties, and all Class Members.

NOW THEREFORE, IT IS HEREBY ORDERED as follows:

1. The administrative determinations of RG/2 concerning the claims submitted in this case as set forth in RG/2 Declaration² are hereby APPROVED.

¹ "Net Settlement Fund" is defined in Direct Purchaser Class Plaintiffs' Plan of Allocation for the Direct Purchaser Class. *See* ECF No. 1043-2, at 1.

² The "RG/2 Declaration" is the Declaration of Tina Chiango in Support of Motion for Distribution From the Net Settlement Fund, dated May 17, 2023 and filed with Direct Purchaser Plaintiffs' Motion for Distribution from the Net Settlement Fund.

2. RG/2 shall distribute to each of the 34 Claimants whose Claim Form has been accepted by RG/2 and which is listed in Exhibit B to the Final RG/2 Report, its *pro rata* percentage of the balance of Net Settlement Fund, as computed by Econ One, who assisted RG/2.

3. Payment from the Net Settlement Fund in the amount of \$10,747 to RG/2 for fees and expenses associated with the claims administration process is hereby APPROVED.

4. Payment from the Net Settlement Fund in the amount of \$31,321 to Econ One for fees and expenses associated with the claims administration process is hereby APPROVED.

5. Withholding of \$476,000 from the distribution to cover the 2023 estimated tax liability is APPROVED.

6. No additional Claim Forms, beyond those 34 previously received and accepted by RG/2, shall be allowed.

7. Any further claims against the Net Settlement Fund established for purposes of the settlement, beyond those 34 Claim Forms already received and accepted, are finally and forever barred.

8. Direct Purchaser Plaintiffs, Class Counsel, Econ One, RG/2, and all persons who were involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims filed in this action, or who are otherwise involved in the administration or taxation of the Net Settlement Fund, are hereby released and discharged from any and all claims arising out of such involvement, and, pursuant to the release terms of the settlement agreements, all Class Members and Claimants, whether or not they are to receive payment from the Net Settlement Fund, are hereby barred from making any further claim against the Net Settlement Fund beyond the amount allocated to them as described in ¶ 2 above.

9. Class Counsel, RG/2, and Econ One are hereby authorized to discard (a) paper or hard copies of Claim Forms and related documents not less than one year after the final distribution of the Net Settlement Fund to Claimants with accepted claims; and (b) electronic media or data not less than three years after the distribution of the Net Settlement Fund to Claimants.

10. The Court retains jurisdiction over any further application or matter which may arise in connection with the administration of these settlements.

IT IS SO ORDERED

Hon. Harry D. Leinenweber
United States District Judge
U.S. District Court for the Northern
District of Illinois, Eastern Division