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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

IN RE: LIPITOR ANTITRUST  
LITIGATION

This document relates to:

Direct Purchaser Class Actions

MDL No. 2332

Master Docket No. 3:12-cv-2389  
(ZNQ/JBD)

**DECLARATION OF MATTHEW F. GATELY IN SUPPORT OF  
DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR  
DISTRIBUTION FROM THE SETTLEMENT FUND**

I, Matthew F. Gately, am an attorney duly authorized to practice law in the State of New Jersey and am admitted to practice before the United States District Court for the District of New Jersey. I am counsel for the Direct Plaintiff Class Plaintiffs (“Plaintiffs”) in the above captioned litigation. I submit this declaration in support of Plaintiffs’ Motion for Distribution from the Settlement Fund.

1. Attached as Exhibit 1 hereto is a true and correct copy of the Declaration of Tina Chiango of RG/2 Claims Administration in Support of Motion for Distribution from the Settlement Fund, filed herewith (the “RG/2 Claims Declaration”).

2. On June 12, 2024, the Court granted final approval of Plaintiffs’ settlement with defendants Pfizer Inc., Pfizer Manufacturing Ireland, Warner-Lambert Co., and Warner-Lambert Co. LLC (“Pfizer”). ECF No. 1424.

3. Also on June 12, 2024, the Court approved a Plan of Allocation (filed as Exhibit 2 to Plaintiffs’ Motion for Preliminary Approval of Settlement at ECF No. 1363-3), which described the procedures and methods to be used by RG/2 Claims to allocate and distribute the Net Settlement Fund to Claimants who submit valid claims.

4. Pursuant to Paragraph 9 of the Final Approval Order (ECF No. 1424), RG/2 Claims and Lead Class Counsel<sup>1</sup> were authorized to begin administration and distribution of the Net Settlement Fund in accordance with the approved Plan of Allocation (ECF No. 1363-3).

5. In accordance with the Plan of Allocation, on or about March 22, 2024, RG/2 Claims mailed pre-populated Claim Forms to each Class Member setting forth

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<sup>1</sup> “Lead Class Counsel” are David F. Sorensen and his firm Berger Montague PC, Bruce E. Gerstein and his firm Garwin Gerstein & Fisher LLP, and Thomas M. Sobol and his firm Hagens Berman Sobol Shapiro LLP. ECF No. 1374, ¶ 7.

the calculation of each Class Member's qualifying net purchases of brand and generic Lipitor. *See* RG/2 Claims Declaration, ¶ 5. Specifically, as explained in the accompanying RG/2 Claims Declaration, RG/2 Claims worked with Lead Class Counsel and Econ One to (i) identify the Class Members from the transactional sales data produced during the litigation; (ii) calculate the amount of all qualifying purchases of brand and generic Lipitor by each Class Member using the produced transactional sales data; and (iii) calculate each Class Member's total qualifying purchases of brand and generic Lipitor. *Id.* ¶ 4. These figures were included in the pre-populated Claim Forms sent to Class Members.

6. An un-populated version of the Claim Form was posted on the websites of Lead Class Counsel at <https://bergermontague.com/wp-content/uploads/Lipitor-Claim-Form.pdf>, <https://www.hbsslaw.com/sites/default/files/case-downloads/lipitor/lipitor-claim-form.pdf>, and <https://garwingerstein.com/wp-content/uploads/2024/02/Lipitor-Claim-Form.pdf>. RG/2 Claims Declaration, ¶ 5; *see also id.* at Ex. A (copy of the un-populated Claim Form).

7. Since mailing the Claim Forms, RG/2 Claims and Lead Class Counsel, with the help and consultation of Econ One, worked with Claimants who submitted valid Claim Forms—including those Claim Forms submitted by Class Members or on the basis of assignments from Class Members—to process and evaluate these claims, and to determine each Claimant's qualifying net purchases of brand and

generic Lipitor. RG/2 Claims Declaration, ¶¶ 7-8. RG/2 Claims and Lead Class Counsel followed up individually with certain Class Members for which RG/2 Claims and Lead Class Counsel had contact information that did not respond to RG/2 Claims' Claim Form mailing. *Id.* ¶ 6.

8. In administrating the settlement, RG/2 Claims (i) evaluated all submitted Claim Forms; (ii) with the help of economic consultant Econ One, evaluated any accompanying data submitted therewith; and (iii) worked with Econ One and Lead Class Counsel and to determine the weighted *pro rata* payment from the Net Settlement Fund for each Claimant who submitted a valid, approved Claim Form, and, (iv) drafted a report of its activities and results in a final report to the Court, submitted herewith. *See* RG/2 Claims Declaration, ¶¶ 7-9.

9. Based on RG/2 Claims' administration of the settlement in accordance with the Plan of Allocation, RG/2 Claims has determined that 42 Claimants filed valid Claim Forms and are eligible for participation in the Net Settlement Fund. *Id.* ¶ 7. Five claims were rejected because the Claimants failed to submit documentation showing (a) that they purchased Lipitor directly from Defendant Pfizer or generic Lipitor directly from Defendant Ranbaxy during the Class Period, or (b) any assignment of rights from a Class Member that would allow these Claimants to participate in the settlement. *Id.* ¶ 9.

10. The list of qualified Claimants whose Claim Forms were accepted is attached as Exhibit B to the RG/2 Claims Declaration. The *pro rata* percentage shares were calculated using the data produced by the manufacturers of brand and generic Lipitor and data submitted by Claimants with their Claim Forms, in accordance with the Court-approved Plan of Allocation.

11. As part of the RG/2 Claims Declaration, RG/2 Claims indicates that it has incurred \$12,833.36 in unpaid professional fees and expenses for administering the claims in this settlement and anticipates incurring an additional \$5,697 in fees and expenses to complete the initial distribution of funds to Claimants, file the necessary tax returns, and respond to Claimant inquiries concerning the initial distribution. RG/2 Claims Declaration, ¶ 10.

12. In addition, Econ One incurred fees in connection with the claims administration process, specifically in calculating Class Members' and Claimants' purchases and *pro rata* shares of the Net Settlement Fund, including, in some cases, the examination and auditing of additional data provided by Claimants with their Claim Forms. Econ One's outstanding fees total \$87,641.00. RG/2 Claims Declaration, ¶ 11.

13. RG/2 Claims estimates that that the tax liability for the Settlement Fund to be approximately \$710,000 based on interest earned or to be earned on the Settlement Fund if a distribution is made by October 2024 and has recommended

that up to \$1 million amount be withheld from the distribution to cover any such liability, since the anticipated tax liability is subject to change based on interest rate changes that may occur through October 2024, which cannot be predicted. RG/2 Claims Declaration, ¶ 12 & n.4.

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

Executed this 13th day of August, 2024.

/s/Matthew F. Gately  
Matthew F. Gately