

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY) M.D.L. No. 1456
AVERAGE WHOLESAL PRICE) Civil Action No. 01-12257-PBS
LITIGATION)
)
THIS DOCUMENT RELATES TO:)
)
SETTLEMENT WITH DEFENDANT)
GLAXOSMITHKLINE)

MEMORANDUM AND ORDER

November 2, 2007

Saris, U.S.D.J.

I. INTRODUCTION

Demra Jordan, a class member, was the sole objector to the \$70 million class settlement of all claims pending against the GlaxoSmithKline ("GSK") defendants in the average wholesale pricing ("AWP") multi-district litigation. She has appealed this Court's final approval of the class settlement. Plaintiffs filed a motion for the imposition of an appeal bond in the amount of \$131,700 pursuant to Fed. R. App. P. 7. After a review of the submissions, I **ALLOW** Plaintiffs' Motion for an Appeal Bond in the amount of \$61,000.

II. BACKGROUND

On August 10, 2006, Plaintiffs and GSK filed the motion for certification, for settlement purposes, of three nationwide classes. Ms. Jordan is a member of the Consumer and Third-Party

Payor Class for Payments Made for Medicare Part B Drugs Outside the Medicare Context ("Private Payor Class"). The drugs at issue are primarily physician-administered drugs for patients with serious ailments like cancer and HIV. Plaintiffs' core assertion was that the AWP's were inflated, thereby causing third-party payors ("TPPs") and consumers to overpay for drugs. In re Pharm. Indus. Average Wholesale Price Litig., 491 F. Supp. 2d 20, 29 (D. Mass. 2007). Significantly, under the settlement, all consumers would receive 100% of the claim amount. The settlement was independently evaluated by a well-known, court-appointed expert, Francis McGovern (See Docket No. 4466) ("[t]he conclusion of this report is that the settlement is fair, adequate and reasonable with respect to all class members, including consumer class members, and is consistent with other similarly situated and approved settlements"). It was mediated by Professor Eric Green, a nationally recognized mediator. Many class members are sick and elderly, and would be affected by the delay resulting from an unsuccessful appeal.

Ms. Jordan filed an objection to the certification of the Private Payor settlement class and to the final approval of the GSK settlement on June 22, 2007. She had not opted out or filed a claim. Identifying herself as a member of the proposed Private Payor settlement class, she stated, "The proposed Settlement Class cannot be properly certified due to a lack of predominance of common issues pursuant to Federal Rule of Civil Procedure

23(b)(3), as evidenced by this Court's prior rulings in this case." The objection was one sentence long; she was the only class objector. See Doc. No. 4403 ¶ 3.

The Court held a hearing with respect to the settlement on July 19, 2007. Neither Ms. Jordan nor her attorney attended this hearing. The Court entered its Final Order and Judgment Granting Final Approval to Proposed Class Action Settlement with the GlaxoSmithKline Defendants, Approving Proposed Allocation of Settlement Funds, and Approving Class Counsel's Application for Attorneys' Fees, Reimbursement of Litigation Expenses and Compensation to Class Representatives on August 7, 2007.

Ms. Jordan filed her notice of appeal on August 23, 2007. Arguing that Ms. Jordan is acting as a "spoiler" and that her appeal is "frivolous," Plaintiffs moved for the imposition of an appeal bond shortly thereafter.

III. DISCUSSION

1. Availability of Appeal Bond

Plaintiffs seek an appeal bond of \$131,700, which includes \$70,000 for attorneys' fees, \$61,000 for administrative costs associated with any delay and \$700 for costs. "In a civil case, the district court may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal." Fed. R. App. P. 7. The parties disagree as to whether this Court may require security

for "costs" like attorneys' fees and administrative costs caused by a delay in the distribution process. The First Circuit has held that when the district court determines that an appeal may be frivolous, it may require security for the costs, including appellate attorneys' fees that may be awarded on appeal pursuant to Fed. R. App. P. 38¹ and 39 as a sanction for a frivolous appeal. See Sckolnick v. Harlow, 820 F.2d 13, 15 (1st Cir. 1987). Other circuits have held to the contrary. See, e.g., Azizian v. Federated Dep't Stores, Inc., 499 F.3d 950, 955 - 58 (9th Cir. 2007) (discussing the circuit split regarding inclusion of attorneys' fees in appeal bonds). See generally 16A Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure, § 3953 (3d ed. 1999) (costs secured by a Rule 7 Bond "do not include attorney fees that may be assessed on appeal").

With respect to objections to class action settlements, some courts have gone one step further and held that costs under Rule 7 may also include administrative costs to the classes that will likely be caused by the delay. See Barnes v. FleetBoston Fin. Corp., No. 01-10395-NG, 2006 U.S. Dist. LEXIS 71072, at *8 - 9

¹"Just" damages under Rule 38 include attorneys' fees. See Maher v. Hyde, 272 F.3d 83, 87 (1st Cir. 2001). Rule 38 provides:

If a court of appeals determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee.

(D. Mass. Aug. 22, 2006) (imposing interest on the class settlement for one year as costs); In re Compact Disc Minimum Advertised Price Antitrust Litig., No. MDL 1361, 2003 WL 22417252 (D. Me. Oct. 7, 2003) (imposing an appeal bond to cover a portion of fees of bank administering the class settlement fund and other costs as well as projected attorneys' fees); In re NASDAQ Mkt.-Makers Antitrust Litig., 187 F.R.D. 124, 128 - 29 (S.D.N.Y. 1999) (requiring appellant to provide security for disruption costs from a shut-down of the settlement administration). But see In re AOL Time Warner, Inc., Sec. & "ERISA" Litig., No. 02-5575, 2007 WL 2741033, at *4 n.4 (S.D.N.Y. Sept. 20, 2007) (distinguishing precedent in the Second Circuit and explaining that the court in In re NASDAQ confuses supersedeas bonds with appeal bonds). Requiring objectors to post a bond will ensure that a class litigating a frivolous appeal will not be injured or held up by spoilers.

Plaintiffs argue that a bond should be imposed because the appeal is frivolous. First, they challenge Ms. Jordan's standing to press an appeal. A non-named member of the class whose objection at the fairness hearing was overruled generally has standing to appeal that decision of the district court in order to protect her interests. See Devlin v. Scardelletti, 536 U.S. 1, 10 - 11 (2002) (involving a class where petitioner had no ability to opt out pursuant to Fed. R. Civ. P. 23(b)(1)). Here, however, objector would have received 100% of her loss (or more)

as a class member if she had filed a timely claim. Moreover, if 100%-plus recovery was not satisfactory, she had the right to opt out. Therefore, it is difficult to see how she has an injury-in-fact. The mere fact that she may have missed the claims filing deadline does not give her standing to challenge the settlement because she does not contest that she got notice of the deadline. In any event, determination of standing to appeal is properly addressed by the Appeals Court and, in light of Devlin, I can't say that the objector clearly lacks standing.

A stronger argument is that Ms. Jordan's appeal is frivolous because her one-sentence written objection was inadequate to preserve her objection on appeal. Ms. Jordan's objection was perfunctory, stating without argument or briefing that the proposed settlement class should not be certified due to a lack of predominance of common issues. This was an extremely complicated case in which I had written extensively about predominance and management issues. See In re Pharm. Indus. Average Wholesale Price Litig., 230 F.R.D. 61 (D. Mass. 2005). Contrary to the objector's claim, the Court did not decline to certify a class on predominance grounds, but rather certified a statewide class under Chapter 93A. One of the problems with a nationwide class at that point was the failure of class counsel to provide groupings of similar state laws.

Neither the objector nor her counsel appeared at the hearing to explain the objection, which was an unintelligible

placeholder. As the First Circuit has previously explained, “[f]ew principles are more a part of the warp and woof of appellate practice than the principle that ‘issues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.’” Casillas-Diaz v. Palau, 463 F.3d 77, 83 (1st Cir. 2006) citing United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990). “[I]f a party does not put enough stock in an argument to flesh it out, a reviewing court should normally dismiss the argument out of hand[;] [t]o do otherwise would be unfair both to the adverse party and to the court itself.” Casillas-Diaz, 463 F.3d at 84 (citations omitted). Thus, her appeal is likely to be deemed frivolous because she waived the argument by her fecklessness in failing to preserve the issue in such an important case.

The objector rightly points out that there are public policy reasons to minimize the hurdles to a litigant’s right to appeal imposed by appeal bonds. See, e.g., In re Compact Disc Minimum Advertised Price Antitrust Litig., No. MDL 1361, 2003 WL 22417252, at *2 (D. Me. Oct. 7, 2003) (“[t]o pose too high a hurdle for objectors, therefore, could create a general deterrent that might well not comport with public policy”). Still, the class is likely to be damaged if the appeal is rejected and there are public policy reasons to prevent frivolous objectors from threatening to hold up class distributions. There is no evidence that a bond would pose an undue hardship on the objector. Thus,

Rules 7 and 38 would permit these costs to be included in the bond.

Plaintiffs submitted the affidavit of Thomas R. Glenn, who documents that the plaintiff class will conservatively suffer \$61,000 in administrative costs attributable to delay in distribution. However, Plaintiffs failed to submit any evidentiary authority for their estimates that expenses will cost approximately \$700 and attorneys' fees will cost approximately \$70,000. Accordingly, I impose an appeal bond in the amount of \$61,000 pursuant to Fed. R. App. P. 7 and 38.

IV. ORDER

Plaintiffs' Motion for Imposition of Appeal Bond Under Federal Rule of Appellate Procedure 7 [Docket No. 4694] is **ALLOWED** and the appeal bond is imposed in the amount of \$61,000.

S/PATTI B. SARIS
United States District Judge

Publisher Information

**Note* This page is not part of the opinion as entered by the court.
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of publishers of these opinions.**

1:01-cv-12257-PBS Citizens for Consume, et al v. Abbott Laboratories,, et al
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Aventis Pharma TERMINATED: 10/26/2004 (Consolidated
Defendant)
Aventis Pharmaceuticals Inc. (Defendant)
Hoescht Marion Roussel, Inc. (Defendant)
Sanofi-Synthelabo, Inc. TERMINATED: 10/26/2004 (Defendant)
Z.L.B. BEHRING (Intervenor Defendant)

Thomas M. Biesty White & repres Sandoz, Inc. (Defendant)
Case LLP 1155 Avenue of enting
the Americas New York,
NY 10036 212-819-8200
212-354-8113 (fax)
tbiesty@whitecase.com
Assigned: 08/02/2007
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Sandoz, Inc. (Consolidated Defendant)
Sandoz, Inc. (Defendant)
Sandoz, Inc. (Intervenor Defendant)

Brandon L. Bigelow repres Takeda Pharmaceuticals North America, Inc. (Defendant)
Bingham McCutchen LLP enting
150 Federal Street Boston,
MA 02110 617-951-8000
brandon.bigelow@bingham.
com Assigned: 05/09/2005
ATTORNEY TO BE
NOTICED

Takeda Pharmaceutical Company, Limited (Consolidated Defendant)

Scott A. Birnbaum repres Ethex Corporation (Defendant)
Birnbaum & Godkin, LLP enting
280 Summer Street
Boston, MA 02210-1108
617-307-6100 617-307-
6101 (fax)
birnbaum@birnbaumgodkin
.com Assigned: 03/21/2005
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Ethex Corporation (Defendant)
Ethex Corporation (Consolidated Defendant)

Sheila L. Birnbaum repres Schering-Plough, Corp (Defendant)

Skadden, Arps, Slate, Meagher & Flom Four Times Square New York, NY 10036-6522 212-735-3000
sbirnbau@skadden.com
Assigned: 02/17/2005
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Donald Wayne Bivens Meyer Hendricks & Bivens PA 3003 North Central Avenue Suite 1200 Phoenix, AZ 85012 602-604-2200 Assigned: 06/21/2006 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Warrick Pharmaceuticals Corporation (Consolidated Defendant)
Dey, Inc. TERMINATED: 07/24/2007 (Consolidated Defendant)

Steven E. Bizar Buchanan Ingersoll, P.C. 1835 Market Street 11 Penn Center, 14th Floor Philadelphia, PA 19103-2985 Assigned: 04/19/2006 LEAD ATTORNEY ATTORNEY TO BE NOTICED

AmerisourceBergen Corporation (Unknown)

Rex Blackburn & Jones Boise, ID 83707 208-489-8989 Assigned: 05/08/2007 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Blackburn & Jones PO Box 7808 Boise, ID 83707 208-489-8989 Assigned: 05/08/2007 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Abbott Laboratories, Inc. (Consolidated Defendant)

Sam B. Blair, Jr. Donelson, Bearman, Caldwell, & Berkowitz, P.C. 165 Madison Avenue Tennessee Building Memphis, TN 38103 901-526-2000 901-577-2000 (fax) sblair@bakerdonelson.com Assigned: 04/21/2005 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Baker, Donelson, Bearman, Caldwell, & Berkowitz, P.C. 165 Madison Avenue First Tennessee Building Memphis, TN 38103 901-526-2000 901-577-2000 (fax)
Assigned: 04/21/2005
LEAD ATTORNEY
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repres Monarch Pharmaceuticals, Inc. (Defendant)

Lynn M. Blake Hirschen Law Firm 1041 100 Great Oaks Blvd.

Freidman, Hirschen Law Firm PO Box 1041 100 Great Oaks Blvd.

King Pharmaceuticals, Inc. (Defendant)
King Pharmaceuticals, Inc. (Consolidated Defendant)
Monarch Pharmaceuticals, Inc. (Consolidated Defendant)
Eisai, Inc. (Consolidated Defendant)

Albany, NY 12203 518-
377-2225 518-377-2247
(fax) Assigned: 02/16/2007
LEAD ATTORNEY
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NOTICED

Schering-Plough Corporation (Consolidated Defendant)
Warrick Pharmaceuticals Corporation (Consolidated Defendant)
Genzyme Corporation (Consolidated Defendant)

Lynn M. Blake Freidman, repres
Hirschen Law Firm PO Boxenting
1041 100 Great Oaks Blvd.
Albany, NY 12203 518-
377-2225 518-377-2247
(fax) Assigned: 02/16/2007
LEAD ATTORNEY
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NOTICED

Robert P. Blood Goodwin repres TAP Pharmaceutical Products, Inc. TERMINATED: 08/03/2007
Procter LLP Exchange enting (Consolidated Defendant)
Place 53 State Street
Boston, MA 02109 617-
570-1000 617-523-1231
(fax)
rblood@goodwinprocter.co
m Assigned: 01/18/2007
TERMINATED: 06/27/2007
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

TAP Pharmaceutical Products, Inc. TERMINATED: 08/03/2007
(Defendant)

Elise M. Bloom Proskauer repres Biovail Pharmaceuticals, Inc. 700 Route 202/206 North Bridgewater,
Rose LLP - NY 1585 enting NJ 08807 (Consolidated Defendant)
Broadway New York, NY
10036-8299 212-969-3410
212-969-2900 (fax)
ebloom@proskauer.com
Assigned: 02/16/2007
LEAD ATTORNEY
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NOTICED

Jack B. Blumenfeld Morris, repres Astrazeneca PLC (Consolidated Defendant)
Nichols, Arsht, & Tunnell enting
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Wilmington, DE 19899-
1347 302-658-9200
Assigned: 10/25/2002
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Thomas L. Boeder Perkins repres Immunex Corp. TERMINATED: 01/25/2007 (Defendant)
Coie 1201 Third Avenue, enting
40th Floor Seattle, WA
98101-3099 206-583-8575

Assigned: 06/03/2002

LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Anthony Bolognese
Bolognese & Associates
Suite 650 One Penn
Center 1617 JFK Blvd.
Philadelphia, PA 19103

repres United Food & Commercial Workers Unions and Employers Midest
enting Health Benefits Fund (Consolidated Plaintiff)

Assigned: 05/31/2002

LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Nancy M Bonnell 1275
West Washington Phoenix, enting

repres Abbott Laboratories (Consolidated Plaintiff)

AZ 85007 Assigned:

04/17/2007 LEAD
ATTORNEY ATTORNEY
TO BE NOTICED

Action Alliance of Senior Citizens of Greater Philadelphia
(Consolidated Plaintiff)
All Plaintiffs (Plaintiff)
Arizona, State of (Consolidated Plaintiff)
Carpenters & Millwrights of Houston and Vicinity Welfare Trust Fund,
Board of Trustees, Individually and on behalf of all others similarly
situated (Consolidated Plaintiff)
Citizens for Consumer Justice (Plaintiff)
Colorado Progressive Coalition (Plaintiff)
Commonwealth of Kentucky (Consolidated Plaintiff)
Commonwealth of Pennsylvania (Consolidated Plaintiff)
Congress of California Seniors (Plaintiff)
Connecticut Citizen Action Group (Plaintiff)
County of Chautauqua (Plaintiff)
County of Chenango (Consolidated Plaintiff)
County of Cortland (Consolidated Plaintiff)
County of Dutchess (Consolidated Plaintiff)
County of Lewis (Consolidated Plaintiff)
County of Nassau (Consolidated Plaintiff)
County of Onondaga (Consolidated Plaintiff)
County of Ontario (Consolidated Plaintiff)
County of Orleans (Consolidated Plaintiff)
County of Oswego (Consolidated Plaintiff)
County of Rockland (Consolidated Plaintiff)
County of Schenectady (Consolidated Plaintiff)
County of Schuyler (Consolidated Plaintiff)
County of Seneca (Consolidated Plaintiff)
County of Westchester (Consolidated Plaintiff)
County of Wyoming (Consolidated Plaintiff)
Essex County (Consolidated Plaintiff)
Florida Alliance for Retired Americans (Plaintiff)
Government Employees Hospital Association (Consolidated Plaintiff)
Gray Panthers of Sacramento (Plaintiff)
Health Action of New Mexico (Plaintiff)
Health Care For All (Plaintiff)

International Union of Operating Engineers, Local No. 68 Welfare Fund (Consolidated Plaintiff)
Maine Consumers for Affordable Health Care (Plaintiff)
Massachusetts Senior Action Council (Plaintiff)
Masspirg (Plaintiff)
Minnesota Senior Federation (Plaintiff)
National Automatic Sprinkler Industry Welfare Fund (Intervenor Plaintiff)
New Jersey Citizen Action (Plaintiff)
New York State Wide Senior Action Council (Plaintiff)
North Carolina Fair Share (Plaintiff)
Oregon Health Action Campaign (Plaintiff)
Oregon State Public Interest Research Group (Plaintiff)
Pennsylvania Alliance For Retired Americans (Plaintiff)
Pipefitters Local 537 Trust Funds (Plaintiff)
Rice & Thompson (Plaintiff)
State of Arizona (Consolidated Plaintiff)
State of California (Plaintiff)
State of Connecticut (Plaintiff)
State of Florida (Consolidated Plaintiff)
State of Florida (Plaintiff)
State of Mississippi (Consolidated Plaintiff)
State of Montana (Plaintiff)
State of Nevada (Consolidated Plaintiff)
State of Nevada (Plaintiff)
State of Nevada/State of Montana (Plaintiff)
State of New York (Plaintiff)
State of Ohio (Consolidated Plaintiff)
State of South Carolina (Consolidated Plaintiff)
Suffolk County (NY) (Plaintiff)
The City of New York (Consolidated Plaintiff)
The City of New York and Captioned New York Counties (Plaintiff)
The County of Columbia (Consolidated Plaintiff)
The County of Erie (Consolidated Plaintiff)
The County of Ulster (Consolidated Plaintiff)
The People of the State of Illinois (Plaintiff)
Twin Cities Baker Workers Health & Welfare Fund (Consolidated Plaintiff)
United Food & Commercial Workers Unions and Employers Midest Health Benefits Fund (Consolidated Plaintiff)
United Senior Action of Indiana, Inc. (Plaintiff)
United States, ex rel. (Consolidated Plaintiff)
Ven-A-Care of the Florida Keys Inc. (Consolidated Plaintiff)
Ven-A-Care of the Florida Keys, Inc. (Consolidated Plaintiff)
Ven-A-Care of the Florida Keys, Inc. (Plaintiff)
Vermont Public Interest Research Group (Plaintiff)
West Virginia Citizen Action (Plaintiff)
Wisconsin Citizen Action (Plaintiff)
Betty Sicher (Plaintiff)
Constance Thompson (Plaintiff)
Edward West (Consolidated Plaintiff)
Harold Bean (Plaintiff)
Henry D. McMaster (Consolidated Plaintiff)
Jack Douglas (Plaintiff)

Joan S. Lee (Plaintiff)
John Bennett (Plaintiff)
John V. Digel (Consolidated Plaintiff)
John B. Rice (Plaintiff)
Kimberly K. Hoover (Intervenor Plaintiff)
Leroy Townsend (Consolidated Plaintiff)
Pearl Munic (Plaintiff)
Robert J. Swanston (Plaintiff)
Roberta S. Starks (Intervenor Plaintiff)
Ronald E. Turner (Consolidated Plaintiff)
Shirley Geller (Consolidated Plaintiff)
Sue Miles (Plaintiff)
T. Mark Jones (Consolidated Plaintiff)
T. Mark Jones (Plaintiff)
Zachary T. Bentley (Consolidated Plaintiff)
The City of New York 100 Church Street Room 3-162 New York,
NY 10007 212-788-1007 (Plaintiff)
Susan Aaronson Kline & Specter, P.C. 1525 Locust Street
Philadelphia, PA 19102 215-772-1000 215-735-0957 (fax)
terri.benedetto@klinespecter.com (Plaintiff)
Kline & Specter, P.C. Kline & Specter, P.C. 1525 Locust Street
19th Floor Philadelphia, PA 19102 215-772-1000 215-735-0957
(fax) shanin.specter@klinespecter.com (All Plaintiffs)
Esquire Donald E. Haviland, Jr. The Haviland Law Firm, LLC 740
S. Third Street Third Floor Philadelphia, PA 19147 215-609-4661
215-392-4400 (fax) haviland@havilandlaw.com (Plaintiff)

Neville H. Boschert repres
Watkins, Ludlam, Winter & enting
Stennis, P.A., 63 North
State street Jackson, MS
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601-949-4804 (fax)
nboschert@watkinsludlam.c
om Assigned: 12/06/2006
TERMINATED: 10/09/2007
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Ivax Pharmaceuticals, Inc. (Consolidated Defendant)

Michael P Boudett Foley repres
Hoag LLP 155 Seaport enting
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02210-2600 617-832-1180
617-832-7000 (fax)
mboudett@foleyhoag.com
Assigned: 09/29/2006
ATTORNEY TO BE
NOTICED

Sicor Inc. (Consolidated Defendant)
Teva Pharmaceuticals USA, Inc. (Defendant)
Astrazeneca Pharmaceuticals LP (Defendant)

Ali Bovingdon Justice repres State of Montana (Plaintiff)
Building 215 North enting
Sanders P.O. Box 201401
Helena, MT 59620-1401
406-444-2026 406-444-

3549 (fax) Assigned:

03/23/2006 LEAD

ATTORNEY ATTORNEY

TO BE NOTICED

Felix Lee Bowie, III repres Wyeth (Consolidated Defendant)

Davidson, Bowie & Sims, enting

PLLC PO Box 321405

Jackson, MS 39232 601-

932-0028 Assigned:

12/06/2006 LEAD

ATTORNEY ATTORNEY

TO BE NOTICED

George Ian Brandon, Sr. repres Apothecan, Inc. (Consolidated Defendant)

Squire Sanders & enting

Dempsey, LLP 2

Renaissance Square 40 N.

Central Ave. Phoenix, AR

85004-4441 602-528-4000

602-253-8129 (fax)

Assigned: 06/21/2006

LEAD ATTORNEY

ATTORNEY TO BE

NOTICED

Bristol-Myers Squibb Co. (Consolidated Defendant)

Oncology Therapeutics Network Corp. (Consolidated Defendant)

Jeniphir Breckenridge repres All Plaintiffs (Plaintiff)

Hagens Berman Sobol enting

Shapiro, LLP 1301 Fifth

Avenue Suite 2900

Seattle, WA 98101 206-

623-7292 206-623-0594

(fax) jeniphir@hbsslaw.com

Assigned: 02/13/2006

LEAD ATTORNEY

ATTORNEY TO BE

NOTICED

State of Nevada (Consolidated Plaintiff)

State of Nevada/State of Montana (Plaintiff)

James J. Breen The Breen repes Ven-A-Care of the Florida Keys, Inc. (Plaintiff)

Law Firm, P.A. 3562 Old enting

Milton Parkway Alpharetta,

GA 30005 770-740-0008

770-740-9109 (fax)

jbreen@breenlaw.com

Assigned: 09/03/2003

LEAD ATTORNEY

ATTORNEY TO BE

NOTICED

State of California (Plaintiff)

Ven-A-Care of the Florida Keys, Inc. (Consolidated Plaintiff)

Thomas W. Breidenstein repres State of Ohio (Consolidated Plaintiff)

Barrett & Weber 500 enting

Fourth and Walnut Centre

105 E Fourth Street

Cincinnati, OH 45202 513-
721-2120 Assigned:
02/16/2007 LEAD
ATTORNEY ATTORNEY
TO BE NOTICED

Julie B. Brennan Manchel repres UnitedHealthcare, Inc. & United HealthCare Insurance Company
& Brennan, P.C. 199 Wells enting 9900 Bren Road East Minnetonka, MN 55343 (Unknown)
Avenue Suite 301 Newton,
MA 02459 617-796-8920
617-796-8921 (fax)
jbbrennan@manchelbrennan
.com Assigned: 10/27/2005
LEAD ATTORNEY
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NOTICED

Oxford Health Plans, LLC (Unknown)
Kenneth J. Brennan repres Edward West (Consolidated Plaintiff)
SimmonsCooper LLC 707 enting
Berkshire Blvd East Alton,
IL 62024 618-259-2222
Assigned: 07/16/2007
LEAD ATTORNEY
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Charlie Bridgmon repres State of South Carolina (Consolidated Plaintiff)
McCutchen, Balnton, enting
Rhodes & Johnson PO Box
11209 Columbia, SC
29211 803-252-4050
Assigned: 10/16/2006
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Henry D. McMaster (Consolidated Plaintiff)
State of South Carolina (Consolidated Plaintiff)
Douglas S. Brooks Kelly, repres Amgen Inc. (Defendant)
Libby & Hoopes, PC 175 enting
Federal Street Boston, MA
02110 617-338-9300 617-
338-9911 (fax)
dbrooks@klhboston.com
Assigned: 05/24/2002
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Ross B. Brooks Milberg repres County of Nassau (Consolidated Plaintiff)
Weiss & Bershad LLP One enting
Pennsylvania Plaza New
York, NY 10119 212-594-
5300 Assigned: 05/17/2007
LEAD ATTORNEY
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NOTICED

Melanie Matison Brown repres Bristol-Myers Squibb Co. (Consolidated Defendant)

Sedgwick Detert Moran & enting
Arnold One North Wacker
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melanie.brown@sdma.com

Assigned: 12/20/2006

LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Raymond L. Brown Brown, repres Astrazenca LP (Consolidated Defendant)

Buchanan & Sessoms, PA enting

PO Box 2220 Pascagoula,
MS 39569-2220 228-762-
0035 Assigned: 12/06/2006

LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

John Anthony Bruegger repres Edward West (Consolidated Plaintiff)

Simmons Cooper LLC 707 enting

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jbruegger@simmonscooper

.com Assigned: 12/27/2006

LEAD ATTORNEY
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NOTICED

Nicole Y. Brumsted Lieff repres Citizens for Consumer Justice (Plaintiff)

Cabraser Heimann & enting

Bernstein, LLP 175 Federal
Street, 7th Floor Boston,
MA 02110 617-720-5000

Assigned: 12/19/2001

LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

Colorado Progressive Coalition (Plaintiff)

Congress of California Seniors (Plaintiff)

Florida Alliance for Retired Americans (Plaintiff)

Health Care For All (Plaintiff)

Massachusetts Senior Action Council (Plaintiff)

Masspirg (Plaintiff)

Minnesota Senior Federation (Plaintiff)

New Jersey Citizen Action (Plaintiff)

New York State Wide Senior Action Council (Plaintiff)

Pennsylvania Alliance For Retired Americans (Plaintiff)

Vermont Public Interest Research Group (Plaintiff)

West Virginia Citizen Action (Plaintiff)

Wisconsin Citizen Action (Plaintiff)

Jason Bruno Dickstein repres Baxter Healthcare Corp. (Consolidated Defendant)

Shapiro Morin & Oshinsky enting

LLP 2101 L Street NW

Washington, DC 20037
Assigned: 03/29/2006
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Patrick M. Bryan Kirkland & Ellis LLP 655 Fifteenth Street Washington, DC 20005-5793 202-879-5000 202-879-5200 (fax) pbryan@kirkland.com
Assigned: 04/05/2007
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Bill L Bryant, Jr. Akerman Senterfitt-Tallahassee FL 106 E. College Ave Tallahassee, FL 32301 850-224-9634 850-325-2528 (fax) Assigned: 12/06/2006 LEAD ATTORNEY ATTORNEY TO BE NOTICED

Baxter International, Inc. (Defendant)

repres Ivax Corp. (Defendant)

enting

Teva Pharmaceutical USA (Consolidated Defendant)

Teva Pharmaceuticals USA, Inc. (Defendant)

repres Boehringer Ingelheim International GMBH (Consolidated Defendant)

enting

Boehringer Ingelheim Pharmaceuticals, Inc. (Consolidated Defendant)

Boehringer Ingelheim Roxane, Inc (Consolidated Defendant)