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Classes*

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

IN RE LIPITOR ANTITRUST
LITIGATION

MDL No. 2332

This Document Relates To:

Case No. 3:12-cv-2389-ZNQ-JBD

All End-Payor Class Actions

**END-PAYOR CLASS COUNSEL'S AMENDED REQUEST FOR
REIMBURSEMENT OF LITIGATION EXPENSES**

Cohen Milstein Sellers & Toll, PLLC, Wexler Boley & Elgersma LLP, Motley Rice LLC, and Grant & Eisenhofer P.A. (collectively, “Co-Lead Counsel”), along with Liaison Counsel, Dilworth Paxon LLP, respectfully submit this amended request for reimbursement of litigation expenses.

On August 27, 2024, Co-Lead Counsel filed their Motion for an Award of Attorneys’ Fees, Reimbursement of Expenses, and Grant of Service Awards to the Class Representatives (“Motion for Fees and Expenses”), seeking a requested fee award of 33 $\frac{1}{3}$ % of the common fund—amounting to a total of \$11,666,666—to provide reasonable compensation to all Class Counsel for the more than 23,291.65 hours prosecuting the Classes’ claims. Dkt. No. 1466-1 at 3, 9-25. Co-Lead Counsel also requested reimbursement of \$2,202,611.05 in expenses that were reasonable and necessarily incurred in connection with the prosecution of the Classes’ claims from the inception of this case through May 31, 2024. *Id.* at 3-4, 25-27. Class Counsel also sought service awards of \$15,000 for each of the Class Representatives in acknowledgement of the service and commitment they provided throughout the long course of this litigation. *Id.* at 4, 27-28.

As a result of an audit subsequently performed by Co-Lead Counsel, Co-Lead Counsel discovered that certain expenses were inadvertently omitted from their request for reimbursement of expenses, as described below.

First, as detailed in the Co-Lead Counsel Declaration, Class Counsel

previously requested reimbursement of \$353,853.23 for invoiced but unpaid expenses relating to the claims-administration duties undertaken by Epiq Class Action and Claims Solutions, Inc. (“Epiq”). Co-Lead Decl.,¹ Dkt. 1468, ¶¶ 83-84. Class Counsel also requested an additional \$40,000.00 as an “Epiq Holdback” in anticipation of any unanticipated costs during the claims-administration process. *Id.* ¶ 84.

Co-Lead Counsel submit this Supplemental Memorandum to clarify that the \$353,853.23 figure in their Motion for Fees and Expenses represented Epiq’s then-outstanding invoices for claims-administration costs, fees, and expenses related to issuing notice to the Settlement Classes. Co-Lead Decl. ¶ 83. Since that filing, Epiq has continued its work on claims administration, including anticipated tasks through and beyond the planned distribution of settlement funds to claimants. This work is consistent with the estimate provided by Epiq in its winning and most cost-effective bid for claims-administration services. The monthly invoices for this ongoing work (from August 2024 onward) have now exceeded the initial \$40,000 Epiq holdback.

Epiq has committed to a cap of \$510,000 for completion of all of its duties as Claims Administrator for this Settlement. Accordingly, Class Counsel now amend

¹ References to “Co-Lead Declaration” refer to the Declaration of Co-Lead Counsel in Support of End-Payor Class Counsel’s Motion for Final Approval of Settlement and Other Relief and Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Grant of Service Awards to the Class Representatives, dated August 27, 2024.

the request in their Motion for Fees and Expenses to seek a total reimbursement of \$510,000 to cover the full claims-administration costs incurred by Epiq (without any additional holdback). Should the total amount of Epiq’s invoiced work be lower than the \$510,000 cap to which Epiq has agreed, the excess will be distributed to eligible claimants in accordance with the Plan of Allocation.

Second, Co-Lead Counsel discovered during their audit that certain firms did not seek reimbursement for litigation-fund assessments paid at the beginning of the twelve-year-long litigation. *See* Decl. of Kenneth A. Wexler in Supp. of Amended Request for Reimbursement of Litigation Expenses, filed herewith. Co-Lead Counsel also discovered an instance in which another firm’s assessment was incorrectly attributed to the Wexler Boley & Elgersma LLP firm. The below list itemizes, by firm, the omitted and incorrectly attributed litigation-fund contributions, each of which is reflected in Co-Lead Counsel’s contemporaneously maintained deposit records.

Firm	Total Contribution to Litigation Fund by Certain Firms, as Requested in August 27, 2024 Motion for Fees and Expenses	Corrected Amount of Contribution to Litigation Fund Based on Co-Lead Counsel’s Audit	Difference Requested for Reimbursement
Heins Mills & Olson, P.L.C.	\$15,000.00	\$31,000.00	\$16,000.00

Branstetter, Stranch & Jennings, PLLC	\$0.00	\$10,000.00	\$10,000.00
Joseph Smith	\$0.00	\$3,000.00	\$3,000.00
Shaheen & Gordon	\$0.00	\$3,000.00	\$3,000.00
Bonsignore Trial Lawyers, PLLC	\$0.00	\$3,000.00	\$3,000.00
Glancy Binkow & Goldberg	\$0.00	\$3,000.00	\$3,000.00
Gross Belsky & Alonso	\$0.00	\$3,000.00	\$3,000.00
Pastor Law Office	\$0.00	\$3,000.00	\$3,000.00
Jasper Smith Olson	\$0.00	\$3,000.00	\$3,000.00
Wayne Parsons Law	\$0.00	\$3,000.00	\$3,000.00
Wexler Boley & Elgersma LLP	\$454,125.00	\$439,125.00	(\$15,000.00)
TOTALS:	\$469,125.00	\$504,125.00	\$35,000.00

Below is a revised chart summarizing the updated expenses incurred on behalf of the Classes.

REVISED SUMMARY OF EXPENSES INCURRED ON BEHALF OF THE CLASSES

Expense Category	Amount
Expenses Incurred To Date	\$2,003,400.50
Invoiced But As-Yet Unpaid Epiq Expenses	\$510,000.00 ²
Additional Contributions to Litigation Fund Not Previously Reported to the Court and Not Included in Expenses Incurred To-Date	\$35,000.00
Litigation Fund Balance	(\$194,642.68)
Total Expense Reimbursement Request	\$2,353,757.82

The above expenses were all reasonably incurred and necessary to the representation of the Classes. Because these expenses were critical to achieving the result obtained for the Classes, and fully reasonable given the demands of this complex antitrust case, Class Counsel respectfully request expense reimbursement in the amended amount of \$2,353,757.82.

Co-Lead Counsel attach a revised Proposed Order for the Court’s convenience and will be prepared to answer any questions the Court may have at the Final Fairness Hearing Scheduled for October 1st.

DATED: September 24, 2024

Respectfully submitted,

/s/ Lisa J. Rodriguez

² Co-Lead Counsel have removed the Epiq Holdback amount because Epiq has agreed to the cap of \$510,000 for claims administration for the Settlement.

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CERTIFICATE OF SERVICE

The undersigned certifies that on September 24, 2024, a copy of the foregoing End-Payor Class Counsel's Amended Request For Reimbursement of Litigation Expenses was filed with the Court electronically. Those attorneys who are registered with the Electronic Filing System may access this filing through the Court's System and notice of this filing will be sent to these parties by operation of the Court's Electronic Filing System.

/s/ Lisa J. Rodriguez