

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: GENERIC PHARMACEUTICALS  
PRICING ANTITRUST LITIGATION**

**MDL No. 2724  
Case No. 2:16-MD-2724**

**THIS DOCUMENT RELATES TO:**

**HON. CYNTHIA M. RUFE**

*Direct Purchaser Plaintiffs' Actions*

**ORDER GRANTING DIRECT PURCHASER PLAINTIFFS' MOTION FOR  
AN AWARD OF ATTORNEYS' FEES IN ALL DPP SETTLEMENTS TO DATE  
AND FOR REIMBURSEMENT OF EXPENSES AND PAYMENT OF SERVICE  
AWARDS IN THE SANDOZ SETTLEMENT**

Direct Purchaser Class Plaintiffs (“DPPs”) have entered into six class-action settlements with Defendants in this multi-district litigation. This order addresses class counsel’s request for attorney’s fees in all of the settlements to date, as well as the expenses and service awards for the most recent Sandoz settlement.

Federal Rule of Civil Procedure 23(h) provides that “[i]n a certified class action, the court may award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement.”<sup>1</sup> The Third Circuit has held that “[t]wo considerations must play central roles in the assessment of a fee award under Rule 23(h): 1) how the amount awarded stacks up against the benefit given to the class, using either the amounts paid or the sums promised; and 2) whether side agreements between class counsel and the defendant suggest an unreasonable attorney’s fee award.”<sup>2</sup>

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<sup>1</sup> Fed. R. Civ. P. 23(h).

<sup>2</sup> *In re Wawa, Inc. Data Sec. Litig.*, 85 F.4th 712, 718–19 (3d Cir. 2023).

DPPs propose a 29% contingency fee, calculated on a net basis after expenses and service awards, rather than as a gross percentage of the settlement amount. The Court determines that this is a reasonable award, and lower than the one-third or greater often allowed in contingency-fee agreements.<sup>3</sup> Class counsel represent that the proposed fee also is lower than the lodestar of hours billed by class counsel, and although it is useful as part of the overall consideration of the fee award, the Court does not rely heavily on this contention, given the complexity of the MDL and that the settlements are on a Defendant-by-Defendant basis, making it difficult to determine the lodestar for any given settlement. Instead, the Court puts more significant weight on the incontrovertible fact that experienced and skilled class counsel have spent years working on the cases in the MDL at a considerable expenditure of time and effort, and the settlements have achieved a substantial, tangible benefit for the class members.<sup>4</sup> The settlements provide for direct monetary payments to the class members, unlike class-action settlements in which the plaintiffs receive coupons or other non-cash remuneration.<sup>5</sup> In addition, the settlement funds, which have been steadily accruing interest, are in the process of being distributed, beginning with the earliest of the settlements, so that the class members will realize these benefits in short order.

In addition, there have been no objections to the fee request from any of the direct purchaser class members, all of which are sophisticated entities that received direct notice of the settlements. The earlier settlements provided that one-third of the net amounts was reserved for a future fee award; class counsel seek a lower percentage, which results in increased benefits to the

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<sup>3</sup> See, e.g., *Vista Healthplan, Inc. v. Cephalon, Inc.*, No. 06-1833, 2020 WL 1922902 at \*31 (E.D. Pa. April 21, 2020).

<sup>4</sup> Although other Plaintiff groups, including the State Plaintiffs, also performed considerable investigations and work in the MDL, DPP class counsel have been a critical force since the earliest days of the litigation, even before the MDL was formed.

<sup>5</sup> See *id.* at 723.

class members. As the attorney's fees are a percentage of the settlement funds, there is no concern regarding side agreements with any of the settling Defendants, such as clear sailing clauses "which amount to agreements by a settling party not to oppose a fee application up to a certain amount" or fee reversions, "which provide that if the judge reduces the amount of fees that the proposed settlement awards to class counsel, the savings shall enure not to the class but to the defendant."<sup>6</sup> Counsel affirmed at the final approval hearing that there are no side agreements with Defendants.

The fee request has been transparent at all stages, and at the final approval hearing, class counsel affirmed that they will submit to the Court a full accounting of the disbursement of the settlement funds. Upon careful consideration of all relevant factors, the Court determines that the requested payments are reasonable and warranted.

**AND NOW**, this 17th day of March 2025, upon consideration of Direct Purchaser Plaintiffs' ("DPPs") Motion for an Order Granting: (1) An Award of Attorneys' Fees; (2) Reimbursement of Expenses; and (3) Payment of Service Awards ("DPPs' Motion") [MDL Doc. No. 3102] and the Court having held a final approval hearing in open court on March 17, 2025, it is hereby **ORDERED** that DPPs' Motion is **GRANTED** as follows:

1. DPPs' request for attorneys' fees equaling 29% of the net settlement funds created via their settlements with Apotex, Breckenridge, Heritage, Sandoz, Sun and Taro, which the Court finds to be fair and reasonable and within the range of fees ordinarily awarded in this District and throughout the Third Circuit, is hereby **APPROVED**.

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<sup>6</sup> *Id.* at 725 (internal citations and quotation marks omitted).

2. To provide for attorneys' fees from the Sandoz settlement, following the Effective Date of the Sandoz settlement, DPPs may withdraw 29% of the Sandoz net settlement fund after deducting the reimbursement of expenses and the award of service awards described in Paragraphs 5 and 6 below, and adding any accrued interest.

3. To provide for attorneys' fees from the Apotex, Breckenridge, Heritage, Sun, and Taro settlements for which DPPs previously sought permission to set one-third set aside for a future fee petition, DPPs may withdraw 87% of each one-third set aside, *i.e.*, the equivalent of 29% of each net settlement fund, and shall distribute the remainder of each set-aside to members of the applicable Settlement Class.<sup>7</sup>

4. Lead Counsel shall allocate the attorneys' fees among all of the counsel representing DPPs based on Lead Counsel's evaluation of the contribution of such counsel to the prosecution and resolution of this litigation.<sup>8</sup>

5. The reimbursement of DPPs' expenses submitted on September 23, 2024, is hereby **APPROVED**. Following the Effective Date of the Sandoz settlement, DPPs may withdraw \$2,000,000 from the Sandoz Settlement Fund for reimbursement of common benefit expenses that DPPs incurred through August 31, 2024 and for the reimbursement of expenses incurred by the various DPP law firms through February 29, 2024.

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<sup>7</sup> *See, e.g.*, Order Granting Motion by Direct Purchaser Class Plaintiffs for an Order Pursuant to Paragraph 26 of This Court's May 11, 2022 Order, at ¶ 3 [MDL Doc. No. 2387] (granting DPPs' one-third set aside of the Sun and Taro Settlement Funds).

<sup>8</sup> As discussed at the final approval hearing, Lead Counsel has retained the services of an attorney experienced in the allocation of fee awards to assist in this evaluation.

6. Service Awards to the Class Representatives are hereby **APPROVED**. Following the Effective Date of the Sandoz settlement, DPPs may withdraw \$80,000 from the Sandoz Settlement Fund in order to pay a \$20,000 Service Award to each of DPPs' four Class Representatives.

It is so **ORDERED**.

**BY THE COURT:**

*/s/ Cynthia M. Rufe*

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**CYNTHIA M. RUFÉ, J.**