

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

22-MD-3050 (KPF)

CHANTIX (VARENICLINE)
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION
(NO. II)

22-MC-3050 (KPF)

This Document Relates to All Actions

**REPLY MEMORANDUM OF LAW IN SUPPORT OF (I) CLASS COUNSEL'S
MOTION FOR AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES, AND SERVICE AWARDS AND (II) PLAINTIFFS'
MOTION FOR FINAL APPROVAL OF SETTLEMENT**

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Class Counsel¹ for (i) Consumer Plaintiffs Juan Abreu, Teresa Baptiste, Timothy Bleeker, Harold Bradley, Sharon Carroll, Karen Duff, Albert Edwards, Tara Evans, Lillian Forrest, Kimberly Hill, Valerie Hogue, Douglas Houghton, James Jacobson, Tammy LaMotte, Kathleen Lima, Debra Seeley, Daniel Spence, Hazel Taylor, Carita Thompson, Daphne Walter, Shannon Webb a/k/a Shannon Alicea (the “Consumer Plaintiffs”); and (ii) Third-Party Payor Plaintiffs County of Monmouth, MSP Recovery Claims Series 44, LLC, MSP Recovery Claims, Series LLC, and Ohio Carpenters’ Health Fund (the “TPP Plaintiffs,” and collectively with the Consumer Plaintiffs, the “Plaintiffs”) respectfully submit this Reply Memorandum of Law in support of their (i) Motion for Award of Attorneys’ Fees, Reimbursement of Expenses, and Service Awards (“Fee Motion”); and (ii) Motion for Final Approval of Settlement.

I. INTRODUCTION

The reasonableness of the Settlement and Class Counsel’s request for attorneys’ fees, litigation expenses, and Service Awards are supported by case law in this District and elsewhere and are further supported by the reaction of the Settlement Class and should be approved. In response to over 42,000 notices mailed to Settlement Class Members, which includes many sophisticated third-party payors, and a robust publication notice program designed to reach consumer and third-party payor Settlement Class Members, there are no objections to the Settlement, plan of allocation, or Class Counsel’s request for attorneys’ fees, litigation expenses, and Service Awards. Further, there is only *one* request for exclusion from the Settlement, as the other opt out noted in Plaintiffs’ opening memorandum of law (ECF No. 144) has withdrawn its

¹ “Class Counsel” are Honik LLC, Levin Sedran & Berman LLP, and Scott+Scott Attorneys at Law LLP. Unless otherwise defined herein, all capitalized terms have the meanings ascribed to them in the Class Action Settlement Agreement with Defendant Pfizer, Inc. (“Pfizer” or “Defendant”). ECF No. 131-1 (“Stipulation”). Citations to the “Joint Declaration” or “Joint Decl.” are to Joint Declaration of Joseph P. Guglielmo, David J. Stanoch, and Charles E. Schaffer, in Support of Class Counsel’s Motion for an Award of Attorneys’ Fees, Litigation Expenses, and Service Awards (“Joint Declaration” or “Joint Decl.”), ECF No. 141.

request to be excluded from the Settlement. Indeed, Settlement Class Members' support for and participation in the Settlement has been substantial. Such unequivocal backing from class members is "perhaps the most significant factor in [the] *Grinnell* inquiry." *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 119 (2d Cir. 2005).

Accordingly, this unanimously positive reaction of Settlement Class Members further supports a finding that Class Counsel's attorneys' fees, litigation expenses, and Service Awards is fair and reasonable and should be approved. Class Counsel respectfully requests that the Court enter the accompanying proposed order awarding: (i) attorneys' fees of 33.33% of the gross Settlement Fund (\$14,666,666.67); (ii) litigation expenses of \$144,340.20 from the Settlement Fund; (iii) interest on the awards at the same rate as earned by the Settlement Fund; and (iv) service awards of \$15,000 each for the TPP Plaintiffs and \$5,000 each for Consumer Plaintiffs to compensate them for the significant time and efforts they devoted to this case. Plaintiffs respectfully request that the Court enter the accompanying [Proposed] Judgment and Order Granting Final Approval of Class Action Settlement.²

II. THE COURT-APPROVED ROBUST NOTICE PROGRAM

In accordance with the Court's Preliminary Approval Order, 42,167 copies of the Notice of Proposed Settlement of Class Action (the "Notice") and Proof of Claim and Release ("Proof of Claim") have been mailed to entities in A.B. Data's third-party payor ("TPP") database, including insurance companies, health maintenance organizations, and self-insured entities, as well as pharmacy benefits managers, third-party administrators, and other entities that represent potential TPP Settlement Class Members. *See* Declaration of Marie A. Christie Regarding Dissemination of Notice and Report on Opt Out Requests and Objections Received to Date (ECF No. 146) ("AB

² Plaintiffs submit an accompanying [Proposed] Judgment containing the name of the valid and timely opt out.

Data Decl.”), ¶¶3-4. The Notice informed Settlement Class Members of the terms of the proposed Settlement, the course of the litigation and the reasons for the proposed Settlement. It also informed them that Class Counsel would apply for an award of attorneys’ fees in an amount not to exceed one-third of the Settlement Fund, as well as reimbursement of litigation costs and expenses, and that Plaintiffs would request service awards of \$15,000 each for the TPP Plaintiffs and \$5,000 each for Consumer Plaintiffs. *See* Notice (ECF No. 146, Ex. D) at 5, §12.

Further, the Notice apprised Settlement Class Members of: (a) their right to object to the Settlement, plan of allocation, and Class Counsel’s request for attorneys’ fees and expenses, and the proposed service awards to Plaintiffs; (b) their right to exclude themselves from the Settlement Class; and (c) the September 14, 2026 deadline for exclusions and objections. *See id.* at 1, 5-7. Internet banner ads and social media newsfeed ads were published as well, delivering over 17 million impressions, and directing viewers to the settlement website for information regarding the Settlement, including the attorneys’ fee and expense request and Service Award request. *See* AB Data Decl., ¶¶5-6, Ex. B.

As noted above, following implementation of this notice program, *not a single Settlement Class Member has objected* to Class Counsel’s application for attorneys’ fees and litigation expenses, or Plaintiffs’ request for Service Awards. None have objected to the Settlement overall or the plan of allocation of the Settlement Amount. Moreover, only one request for exclusion from the Settlement Class remains in effect. Notice reached a substantial amount of Settlement Class Members, and none objected, which as discussed below, further evinces the reasonableness of Class Counsel’s request for attorneys’ fees and final approval of the Settlement and certification of the Settlement Class.

III. THE REQUEST FOR ATTORNEYS' FEES, LITIGATION EXPENSES, AND SERVICE AWARDS SHOULD BE GRANTED

Class Counsel's request for attorneys' fees, litigation expenses, and service awards is fair and reasonable under the relevant factors as discussed in the opening memorandum. *See* ECF No. 140. Promptly after Class Counsel filed the fee motion, the Claims Administrator uploaded the fee motion to the settlement website for Settlement Class Members to review. Now that the time for objecting or requesting exclusion from the Settlement Class has passed, the absence of a single objection to Class Counsel's request further supports the finding that the request is fair and reasonable. *See In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 419648, at *21 ("The absence of any objections to the requested attorneys' fees and Litigation Expenses supports a finding that the request is fair and reasonable."); *In re Air Cargo Shipping Servs. Antitrust Litig.*, 2015 WL 5918273, at *6 (E.D.N.Y. Oct. 9, 2015) (holding a lack of objections supported approving an award for class representatives).

The positive reaction of the Settlement Class should also be considered with respect to Class Counsel's applications for an award of attorneys' fees and litigation expenses, as well as the proposed service awards of \$15,000 each for the TPP Plaintiffs and \$5,000 each for Consumer Plaintiffs. Indeed, courts uniformly hold that the complete absence of objections to the requested attorneys' fees and litigation expenses supports a finding that the requests are fair and reasonable. *See, e.g., Vaccaro v. New Source Energy Partners L.P.*, 2017 WL 6398636, at *8 (S.D.N.Y. Dec. 14, 2017) ("The fact that no class members have explicitly objected to these attorneys' fees supports their award."); *In re Veeco Instruments Inc. Sec. Litig.*, 2007 WL 4115808, at *10 (S.D.N.Y. Nov. 7, 2007) (the reaction of class members to a fee and expense request "'is entitled to great weight by the Court'" and the absence of any objection "suggests that the fee request is fair and reasonable").

IV. THE SETTLEMENT SHOULD BE FINALLY APPROVED

Settlement Class Members have been afforded a full and fair opportunity to consider the proposed Settlement and the Settlement's binding effect, as well as an opportunity to exclude themselves and respond and/or appear in Court. The Settlement Class's overwhelming support of the Settlement is a clear indicator of the Settlement Class's satisfaction with the Settlement. Notably, the Settlement Class includes sophisticated third-party payors with the wherewithal to scrutinize this Settlement. Consequently, the lack of objections is a strong affirmation by the Settlement Class of its support for the Settlement. *In re Citigroup Inc. Sec. Litig.*, 965 F. Supp. 2d 369, 382 (S.D.N.Y. 2013) (lack of institutional investor objection to settlement is an indicia of fairness); *see also In re Bisy Sec. Litig.*, 2007 WL 2049726, at *1 (S.D.N.Y. July 16, 2007) (noting only one individual raised any objection, "even though the class included numerous institutional investors who presumably had the means, motive, and the sophistication to raise objections").

Likewise, the fact that only one request for exclusion has been submitted, weighs in favor of approval. *See In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 419648, at *6 (finding that despite a few requests for exclusion the overall reaction of the class supported approval of the settlement); *In re Advanced Battery Techn., Inc. Sec. Litig.*, 298 F.R.D. 171, 176 (S.D.N.Y. 2014) ("[M]inimal investors electing to opt out of the Settlement provides evidence of Class Members' approval of the terms of the Settlement.").

V. CONCLUSION

For the foregoing reasons, and the reasons stated in Class Counsel's Motion for Award of Attorneys' Fees, Reimbursement of Expenses, and Service Awards and Plaintiffs' Motion for Final Approval of Settlement, Class Counsel respectfully request that this Court (i) grant Plaintiffs' Fee Motion and award attorneys' fees in the amount of \$14,666,666.67, or 33.33% of the Settlement Fund, and litigation expenses in the amount of \$144,340.20, plus interest earned at the same rate

as the Settlement Fund on these awards, and incentive awards for TPP Plaintiffs of \$15,000 and Consumer Plaintiffs of \$5,000; and (ii) grant final approval of the Settlement, finally certify the Settlement Class, and enter the Final Judgment against Pfizer.

Dated: October 2, 2026

Respectfully submitted,
SCOTT + SCOTT ATTORNEYS AT LAW LLP

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CERTIFICATE OF SERVICE

On this 2nd day of October, 2026, a true and correct copy of the foregoing was filed and served upon all counsel of record via the Court's CM/ECF system.

/s/ Joseph P. Guglielmo
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