

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

IN RE:

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

This Document Relates to All Actions

22-MD-3050 (KPF)

22-MC-3050 (KPF)

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR
MOTION FOR FINAL APPROVAL OF SETTLEMENT**

TABLE OF CONTENTS

INTRODUCTION 1

FACTUAL BACKGROUND 2

 A. Settlement Terms..... 2

 B. Procedural Background..... 3

 C. Notice, Objections, and Requests for Exclusion..... 4

ARGUMENT 5

I. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE, AND WARRANTS
FINAL APPROVAL..... 5

 A. Plaintiffs and Class Counsel Have Adequately Represented
 the Settlement Class 7

 B. The Settlement Was Reached After Arm’s-Length Negotiations..... 8

 C. The Relief Provided by the Settlement Is Adequate When Considering the
 Complexity, Expense, Duration, and Risks of Continuing Litigation 10

 D. The Effective Process for Distributing Relief to the Settlement Class 14

 E. The Requested Attorneys’ Fees and Expenses Are Reasonable..... 15

 F. There Are No Other Agreements Related to the Settlement 16

 G. The Proposal Treats Class Members Equitably Relative to Each Other..... 16

 H. Application of the Remaining *Grinnell* Factors Supports Approval 18

 i. The Ability of Defendant to Withstand a Greater Judgment..... 18

 ii. The Reaction of the Settlement Class to Date 18

II. THE COURT SHOULD FINALLY CERTIFY THE SETTLEMENT CLASS..... 19

III. NOTICE SATISFIED RULE 23 AND DUE PROCESS..... 20

CONCLUSION..... 21

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Berk v. Choy</i> , 607 U.S. 187 (2026). ECF No. 116.....	4
<i>City of Detroit v. Grinnell Corp.</i> , 356 F. Supp. 1380 (S.D.N.Y. 1972), <i>aff'd</i> , 495 F.2d 448 (2d Cir. 1974).....	11
<i>City of Detroit v. Grinnell Corp.</i> , 495 F.2d 448 (2d Cir. 1974), <i>abrogated by Goldberger v. Integrated Res., Inc.</i> , 209 F.3d 43 (2d Cir. 2000)	<i>passim</i>
<i>City of Providence v. Aeropostale Inc.</i> , 2014 WL 1883494 (S.D.N.Y. May 9, 2014)	8
<i>D'Amato v. Deutsche Bank</i> , 236 F.3d 78 (2d Cir. 2001).....	10, 18
<i>Ebbert v. Nassau Cnty.</i> , 2011 WL 6826121 (E.D.N.Y. Dec. 22, 2011)	13
<i>Garner v. State Farm Mut. Auto. Ins. Co.</i> , 2010 WL 1687832 (N.D. Cal. Apr. 22, 2010)	18
<i>In re Auto. Refinishing Paint Antitrust Litig.</i> , 617 F. Supp. 2d 336 (E.D. Pa. 2007)	11
<i>In re Citigroup Inc. Sec. Litig.</i> , 2014 WL 2112136 (S.D.N.Y. May 20, 2014)	6
<i>In re Facebook, Inc., IPO Sec. & Derivative Litig.</i> , 343 F. Supp. 3d 394 (S.D.N.Y. 2018), <i>aff'd sub nom., In re Facebook, Inc.</i> , 822 F. App'x 40 (2d Cir. 2020)	18
<i>In re Global Crossing Sec. & ERISA Litig.</i> , 225 F.R.D. 436 (S.D.N.Y. 2004)	12, 17, 18
<i>In re GSE Bonds Antitrust Litig.</i> , 414 F. Supp. 3d 686 (S.D.N.Y. 2019).....	10
<i>In re Initial Pub. Offering Sec. Litig.</i> , 671 F. Supp. 2d 467 (S.D.N.Y. 2009).....	12, 21
<i>In re Linerboard Antitrust Litig.</i> , 321 F.Supp.2d 619 (E.D. Pa. Apr. 21, 2004).....	12

<i>In re LinkedIn User Priv. Litig.</i> , 309 F.R.D. 573 (N.D. Cal. 2015).....	19
<i>In re Marsh & McLennan Cos. Sec. Litig.</i> , 2009 WL 5178546 (S.D.N.Y. Dec. 23, 2009)	21
<i>In re Merrill Lynch Tyco Rsch. Sec. Litig.</i> , 249 F.R.D. 124 (S.D.N.Y. 2008)	17
<i>In re NASDAQ Mkt.-Makers Antitrust Litig.</i> , 187 F.R.D. 465 (S.D.N.Y. 1998)	14
<i>In re PaineWebber Ltd. P'Ships Litig.</i> , 171 F.R.D. 104 (S.D.N.Y.1997), aff'd, 117 F.3d 721 (2d Cir. 1997)	11, 17, 18
<i>In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.</i> , 986 F. Supp. 2d 207 (E.D.N.Y. 2013), rev'd and vacated on other grounds, 827 F.3d 223 (2d Cir. 2016).....	12
<i>In re Plastic Tableware Antitrust Litig.</i> , 1995 WL 723175 (E.D. Pa. Dec. 4, 1995).....	12
<i>In re Shopping Carts Antitrust Litig.</i> , 1983 WL 1950 (S.D.N.Y. Nov. 18, 1983).....	11
<i>In re Signet Jewelers Ltd. Sec. Litig.</i> , 2020 WL 4196468 (S.D.N.Y. July 21, 2020)	8
<i>In re Telik, Inc. Sec. Litig.</i> , 576 F. Supp. 2d 570 (S.D.N.Y. 2008).....	13
<i>Lea v. Tal Educ. Grp.</i> , 2021 WL 5578665 (S.D.N.Y. Nov. 30, 2021).....	9
<i>Lozada v. TaskUs, Inc.</i> , 2025 WL 3125848 (S.D.N.Y. Nov. 6, 2025).....	19
<i>Martinek v. Amtrust Fin. Servs., Inc.</i> , 2022 WL 16960903 (S.D.N.Y. Nov. 16, 2022).....	16
<i>Meijer, Inc. v. 3M</i> , 2006 WL 2382718 (E.D. Pa. Aug. 15, 2006)	11
<i>Moses v. New York Times Co.</i> , 79 F.4th 235 (2d Cir. 2023)	7, 11
<i>Newman v. Stein</i> , 464 F.2d 689 (2d Cir. 1972).....	11

Rodriguez v. CPI Aerostructures, Inc.,
2021 WL 9032223 (E.D.N.Y. Nov. 10, 2021).....20

Rodriguez v. CPI Aerostructures, Inc.,
2023 WL 2184496 (E.D.N.Y. Feb. 16, 2023).....19

Velez v. Novartis Pharms. Corp.,
2010 WL 4877852 (S.D.N.Y. Nov. 30, 2010).....16

Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.,
396 F.3d 96 (2d Cir. 2005).....5, 6, 18, 20

Statutes

28 U.S.C. §1715.....5

Class Action Fairness Act 2005.....5, 18, 19

Other Authorities

FED. R. CIV. P. 23 *passim*

FED. R. CIV. P. 304

INTRODUCTION

Plaintiffs respectfully submit this memorandum of law in support of their motion for final approval of the proposed \$44,000,000 non-reversionary cash Settlement with Pfizer Inc., resolving the claims of consumers and third-party payors who paid for Chantix that was allegedly contaminated with, and recalled because of, a nitrosamine known as N-nitrosovorenicline (“NNV”), a genotoxic, probable human carcinogen.

The Settlement is the product of adversarial, arm’s-length negotiation before an experienced mediator,¹ reached after this Court sustained certain of Plaintiffs’ claims and after the Parties had developed a substantial evidentiary record through extensive party and third-party discovery, document review, deposition testimony, and expert consultation. The Settlement delivers a certain and substantial recovery now, without years of further litigation—contested class certification, expert discovery, *Daubert* and summary judgment motions, trial, and the appeals that would predictably follow—and without the substantial risk that the Settlement Class would recover nothing at all.

Following Court-approved notice, 2 Settlement Class Members requested exclusion, and none objected. Because every factor under Rule 23(e)(2) and the *Grinnell* factors supports approval, and because the notice program satisfied Rule 23 and due process, Plaintiffs respectfully request that the Court grant final approval of the Settlement, finally certify the Settlement Class, and enter the accompanying [Proposed] Judgment and Order Granting Final Approval of Class Action Settlement.

¹ Fouad Kurdi, Esq. of Resolutions LLC. See <http://resolutionsllc.com/fouad-kurdi/>.

FACTUAL BACKGROUND

A. Settlement Terms

The Settlement Agreement provides that Defendant will pay \$44 million in cash into a non-reversionary interest-bearing Escrow Account to be used to pay Settlement Class Members who submit valid and timely Approved Claims. Settlement Agreement ¶1.5.

Further, for settlement purposes only, the Parties agreed, pursuant to Rule 23, to class certification of a Settlement Class consisting of “all individuals and third-party payors who paid any amount of money for retail purchases of Chantix in the United States and its territories from September 29, 2015 through September 17, 2021.” *Id.* ¶1.30. The Settlement Class excludes “(i) Pfizer and its officers, directors, managers, employees, subsidiaries, and affiliates; (ii) government agencies or governmental actors, including, without limitation, any state Attorney General office, other than government-funded employee benefit plans; (iii) counsel for the Parties in this action and their respective law firms; (iv) any judge to whom this action is assigned, along with his or her staff; and (v) all Persons who validly opt out of the Settlement Class in a timely manner.” *See* ECF No. 142.²

Upon the Effective Date, and by operation of the Final Judgment, Plaintiffs and all Settlement Class Members who do not timely and validly request exclusion from the Settlement will release the Released Parties from the Released Claims, including Unknown Claims. *Id.*

² In preparing for the upcoming final approval hearing, the Parties identified a scrivener’s error in the Settlement Agreement that omitted the language of individuals excluded from the Settlement Class. On September 28, 2026, the Parties submitted a stipulated Amendment to Settlement Agreement (ECF No. 142) setting forth the omitted language. As explained in the letter accompanying the stipulation, the parties intended these exclusions to apply to the Settlement Class and have conducted the class notice and claims process to date in line with these exclusions. Indeed, the notice forms approved by the Court and disseminated to the Settlement Class informed the Settlement Class that Pfizer, government agencies, and any entity that validly opts out are excluded from the Settlement Class were excluded. *See* ECF No. 131-1 at 71, 83. Thus, this correction does not constitute a material change to the terms of the Settlement.

¶¶1.24, 1.26, 3.1. The release is limited to claims for economic loss arising out of or related to the purchase of or payment for Chantix and expressly does not encompass any claims for medical monitoring or personal injury. *Id.* ¶1.24.

B. Procedural Background

This Action was centralized on December 22, 2022, by the Judicial Panel on Multidistrict Litigation, which consolidated eight pending cases in this transferee Court, ECF No. 1, followed by consolidation of eight additional actions on January 4, 2023, ECF No. 2, and consolidation of Ohio Carpenters’ Health Fund’s related action following its filing of a related complaint on January 17, 2023. These cases now comprise the present Action.

Following written submissions, on May 1, 2023, the Court appointed interim co-lead counsel and liaison counsel for the proposed classes. ECF No. 39. Thereafter, Plaintiffs filed their Consolidated Master Class Action Complaint on May 5, 2023 (the “Complaint”). ECF No. 40. The Complaint seeks economic damages on behalf of a nationwide class of consumers and third-party payors (“TPPs”) that paid for Chantix that was allegedly contaminated with NNV, a genotoxic, probable human carcinogen. The Complaint’s central allegation is that Pfizer failed to disclose the presence of NNV in Chantix and that Plaintiffs and the Class overpaid for the drug.

After extensive briefing on Pfizer’s Motion to Dismiss, ECF Nos. 42-45, 49-52, on May 28, 2024, the Court denied in part Pfizer’s motion to dismiss and allowed Plaintiffs’ consumer protection and certain unjust enrichment claims to proceed on the basis that Pfizer did not disclose that Chantix was not manufactured in compliance with current Good Manufacturing Practices (“cGMPs”). ECF No. 58 at 18, 91. The Court required supplemental briefing on the breach-of-warranty and negligence-based claims. ECF No. 58 at 91. After another round of letter briefing, ECF Nos. 62, 70, on May 6, 2025, the Court dismissed all express and implied warranty claims and the negligence-based claims except for negligent misrepresentation under two states’ laws

ECF No. 83. Pfizer filed its answer on July 15, 2025, ECF No. 99, and discovery commenced. Although the pleadings were joined, Plaintiffs more recently sought reconsideration of the breach-of-warranty dismissal in light of *Berk v. Choy*, 607 U.S. 187 (2026). ECF No. 116.

The Parties engaged in extensive discovery, including non-party discovery. Requests for production of documents were exchanged by the Parties. The Parties substantially completed document production in February 2026. By that time, Plaintiffs reviewed over 250,000 documents totaling approximately 2.11 million pages produced by Pfizer and third parties. Plaintiffs served 118 requests for production of documents, seven interrogatories, and 95 requests for admission on Pfizer. Defendant served 71 requests for production of documents on each Consumer Plaintiff and 73 to 86 requests for production of documents on each TPP Plaintiff, 16 interrogatories on each Consumer Plaintiff and 17 to 21 interrogatories on each TPP Plaintiff, and 41 requests for admission on each Consumer Plaintiff and 143 requests for admission on each TPP Plaintiff. Plaintiffs also subpoenaed seven non-parties (SQA, Express Scripts, Apotex, MedImpact, Walgreens, Roquette, and Caremark) and Defendant subpoenaed six non-parties (Walgreens, Walmart, CVS, Express Scripts, OptumRx, and MedImpact) for relevant documents and data. Defendant deposed several Consumer Plaintiffs. Plaintiffs deposed, pursuant to Rule 30(b)(1), Pfizer's Global Solids Quality Leader, in Dublin, Ireland. At the time the Settlement was reached, Plaintiffs were preparing to defend several additional Consumer Plaintiffs and Third-Party Payor Plaintiffs for their depositions while preparing to depose several additional Pfizer deponents pursuant to Rule 30(b)(1) and Rule 30(b)(6).

C. Notice, Objections, and Requests for Exclusion

In the Preliminary Approval Order, the Court approved the Parties' notice plan and the forms of notice annexed to the Settlement Agreement, and appointed A.B. Data, Ltd. as Settlement Administrator. A.B. Data commenced notice on June 13, 2026. Decl. of Marie A. Christie

Regarding Dissemination of Notice and Report on Opt Out Requests and Objections Received to Date (“AB Data Decl.”), ¶2. TPP Settlement Class Members received email notice wherever a valid email address was available, supplemented by custom banner advertising directed at TPPs; because retail purchasers of a prescription medication cannot be identified from Pfizer’s records, consumer Settlement Class Members received notice through a media program of internet banner advertising, social media, and keyword search sponsorships, which delivered over 17 million impressions, together with a press release over PR Newswire’s US1 Newswire. Before notice commenced, A.B. Data established a dedicated Settlement Website, ChantixSettlement.com, where Settlement Class Members can review the Settlement Agreement, the long-form notices, Class Counsel’s fee and expense motion, and other pertinent filings, and can submit Claim Forms online. The notices advised Settlement Class Members of the terms of the Settlement, their right to submit a claim, to request exclusion, or to object and appear at the Final Approval Hearing, and of the deadlines for doing so. Pfizer, through A.B. Data, further served notice of the proposed Settlement under 28 U.S.C. §1715 on the Attorney General of the United States and the attorneys general of each State and territory in which Settlement Class Members reside.

The deadline to object or opt out of the Settlement was September 14, 2026. Following robust notice, zero Class Members have objected and two requested exclusion, and no federal or state official served with Class Action Fairness Act 2005 (“CAFA”) notice has objected to or otherwise commented on the Settlement.

ARGUMENT

I. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE, AND WARRANTS FINAL APPROVAL

Public policy favors settling disputed claims among private litigants, particularly in class actions. *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 116 (2d Cir. 2005) (“We are

mindful of the ‘strong judicial policy in favor of settlements, particularly in the class action context.’”). Approving the Settlement would serve this policy by avoiding years of additional resources for this Court and, likely, the Court of Appeals for the Second Circuit.

Rule 23(e) of the Federal Rules of Civil Procedure provides that a class action settlement must be presented to the Court for approval. The Settlement should be approved if the Court finds it “fair, reasonable, and adequate.” FED. R. CIV. P. 23(e)(2). In ruling on final approval of a class settlement, courts in the Second Circuit have held that a court should examine both the negotiating process leading to the settlement and the settlement’s substantive terms. *Wal-Mart Stores*, 396 F.3d at 116; *In re Citigroup Inc. Sec. Litig.*, 2014 WL 2112136, at *2-3 (S.D.N.Y. May 20, 2014).

Under FED. R. CIV. P. 23(e)(2), a court may approve a class settlement as “fair, reasonable, and adequate” after considering the following factors:

- a. whether the class representatives and class counsel have adequately represented the class;
- b. whether the proposal was negotiated at arm’s length;
- c. whether the relief provided for the class is adequate, taking into account:
 - i. the costs, risks, and delay of trial and appeal;
 - ii. the effectiveness of any proposed method of distributing relief to the class, including the method of processing class member claims;
 - iii. the terms of any proposed award of attorneys’ fees, including timing of payment; and
 - iv. any agreement required to be identified under Rule 23(e)(3); and
- d. whether the proposal treats class members equitably relative to each other.

In *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000), the Second Circuit held that the following factors should be considered in evaluating a class action settlement: (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of

the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

“Rule 23(e)(2) does not displace our *Grinnell* factors, which remain a useful framework for considering the substantive fairness of a settlement.” *Moses v. New York Times Co.*, 79 F.4th 235, 243 (2d Cir. 2023). Accordingly, as set forth below, the Settlement demonstrates all of the factors supporting its fairness, reasonableness, and adequacy under Rule 23(e)(2) and Second Circuit authority.

A. Plaintiffs and Class Counsel Have Adequately Represented the Settlement Class

First, the Court must consider whether the “class representatives and class counsel have adequately represented the class.” Rule 23(e)(2)(A). Throughout the course of the Action, Plaintiffs participated actively and knowledgeably in the litigation by, among other things: (i) communicating regularly with Class Counsel about the posture and progress of the Action; (ii) reviewing the pleadings and other Court filings in the Action; (iii) participating in discovery, including responding to document requests, interrogatories, requests for admission, and producing documents and data in support of their claims; and (iv) certain Plaintiffs sitting for depositions. In doing so, Plaintiffs had the benefit of advice from their knowledgeable counsel well-versed in similar class action litigation. ECF No. 141, ¶35.

Class Counsel—Ruben Honik of Honik LLC, Charles E. Schaffer of Levin Sedran & Berman LLP, and Joseph P. Guglielmo of Scott+Scott Attorneys at Law LLP—are highly qualified and experienced in complex class action litigation, as set forth in their firm resumes (ECF No. 131

Exs. 3-5), and prosecuted this Action vigorously and effectively against well-resourced, highly capable defense counsel. Class Counsel have been appointed to leadership positions in numerous class actions and MDLs in this Circuit and throughout the United States, including in pharmaceutical contamination litigation closely analogous to this Action. *See, e.g., In re Valsartan, Losartan, and Irbesartan Prods. Liab. Litig.*, No. 1:19-md-02875 (D.N.J.); *In re Metformin Mktg. & Sales Practices Litig.*, No. 2:20-cv-02324 (D.N.J.); *In re Zantac (Ranitidine) Prods. Liab. Litig.*, No. 9:20-md-02924 (S.D. Fla.). Class Counsel have likewise recovered substantial sums for consumers and third-party payors in prescription-drug overcharge litigation. *See, e.g., Russo v. Walgreen Co.*, No. 1:17-cv-02246 (N.D. Ill.) (\$100 million settlement). Moreover, during the litigation, Class Counsel developed a deep understanding of the facts of the case and the merits of the claims. ECF No. 141, ¶¶6-17, 22-23. That understanding was built through a comprehensive pre-filing investigation, motion practice that defeated Pfizer’s motion to dismiss in part, extensive party and third-party discovery, the review of over 250,000 documents totaling approximately 2.11 million pages, deposing Pfizer’s Global Solids Quality Leader in Dublin, Ireland, and working with experts and consultants in pharmaceuticals, cGMP compliance, and toxicology. *Id.*, ¶¶ 6-17. The judgment of Class Counsel that the Settlement is in the best interests of the Settlement Class is also entitled to “great weight.” *In re Signet Jewelers Ltd. Sec. Litig.*, 2020 WL 4196468, at *4 (S.D.N.Y. July 21, 2020); *City of Providence v. Aeropostale Inc.*, 2014 WL 1883494, at *5 (S.D.N.Y. May 9, 2014).

Rule 23(e)(2)(A) is therefore satisfied: the Settlement Class has been, and continues to be, adequately represented.

B. The Settlement Was Reached After Arm’s-Length Negotiations

Next, the Court must consider whether the settlement “was negotiated at arm’s length.” FED. R. CIV. P. 23(e)(2)(B). “[A] District Court reviewing a proposed settlement must pay close

attention to the negotiating process, to ensure that the settlement resulted from arm's-length negotiations and that plaintiffs' counsel . . . possessed the [necessary] experience and ability, and have engaged in the discovery, necessary to effective representation of the class's interests." *Lea v. Tal Educ. Grp.*, 2021 WL 5578665, at *8 (S.D.N.Y. Nov. 30, 2021). This analysis therefore also implicates the *Grinnell* factor considering "the stage of the proceedings and the amount of discovery completed." *Grinnell*, 495 F.2d at 463.

By the time the Parties began settlement discussions, the Action was well into discovery. The Court had ruled on Pfizer's motion to dismiss, sustaining Plaintiffs' core claims and framing the issues for discovery. Plaintiffs had served and received written discovery on Pfizer, issued subpoenas to seven third parties, and completed their review of the documents produced. Certain consumer plaintiffs had been deposed, and Plaintiffs had deposed one of Pfizer's key witnesses. Class Counsel therefore negotiated the settlement with a developed evidentiary record and a concrete understanding of both the strength of Plaintiffs' contamination and overpayment theories, and the defenses Pfizer would press at class certification, summary judgment, and trial. Joint Decl. of Joseph P. Guglielmo, David J. Stanoch, and Charles E. Schaffer in Support of Plaintiffs' Motion for Final Approval of Settlement ("Supp. Joint Decl."), ¶2.

Against that backdrop, in December 2025, Class Counsel began exploring a negotiated resolution of the Action, and the Parties' counsel agreed to retain experienced mediator Fouad Kurdi, Esq. In connection with the mediation, Class Counsel requested and obtained substantial mediation-related discovery from Pfizer. Defendant produced confidential documents and information regarding the pricing, profits, and quantities of Chantix sold throughout the Class Period. The Parties and their counsel conducted a full-day in-person mediation on March 11, 2026, before Mr. Kurdi. The negotiations were adversarial and conducted at arm's length, with the

Parties exchanging proposals through the mediator, and concluded only at the end of the day with an agreement in principle to settle the Action for \$44,000,000. ECF No. 141, ¶¶ 23-24; *D’Amato v. Deutsche Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (mediator’s involvement in settlement negotiations “helps to ensure that the proceedings were free of collusion and undue pressure”); *In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 693 (S.D.N.Y. 2019) (“mediator’s involvement in settlement negotiations can help demonstrate their fairness”).

On March 12, 2026, the Parties informed the Court of their agreement to settle the Action and requested a stay. ECF No. 122. On March 12, 2026, the Court granted a 45-day stay pending the filing of the motion for preliminary approval of the Settlement. ECF No. 122. On April 23, 2026, the Court granted the Parties’ request to extend the stay until May 18, 2026, so the Parties could continue their negotiations to finalize the Settlement. ECF Nos. 126, 127. The Court granted an additional stay until May 26, 2026, so the Parties could complete their negotiations and execute the Settlement. ECF No. 128. Thereafter, the Parties executed the Settlement Agreement on May 26, 2026.

C. The Relief Provided by the Settlement Is Adequate When Considering the Complexity, Expense, Duration, and Risks of Continuing Litigation

The Court must consider whether “the relief provided for the class is adequate, taking into account . . . the costs, risks, and delay of trial and appeal.” FED. R. CIV. P. 23(e)(2)(C). This assessment implicates several *Grinnell* factors, including: (1) the complexity, expense, and likely duration of the litigation; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class through the trial; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation. *Grinnell*, 495 F.2d at 463. Here, in Class Counsel’s judgement and opinion the \$44,000,000 cash Settlement

provides significant monetary relief to Settlement Class Members, especially given the risks of continued litigation.

The determination of a “reasonable” settlement “is not susceptible [to] a mathematical equation yielding a particularized sum.” *In re PaineWebber Ltd. P’Ships Litig.*, 171 F.R.D. 104, 130 (S.D.N.Y.1997), *aff’d*, 117 F.3d 721 (2d Cir. 1997). *See also Moses*, 2026 WL 364231, at *3 (eschewing the need for exact values). Instead, “in any case there is a range of reasonableness with respect to a settlement. . . .” *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972).

Although Plaintiffs had not yet served a classwide damages model, the Settlement can be measured against Pfizer’s net sales of Chantix during the approximately fourteen-month period on which any trial would have focused—beginning in September 2020, the latest date on which Plaintiffs assert Pfizer was on notice of the presence of nitrosamines in Chantix and ending with Pfizer’s final month of United States sales. Plaintiffs’ damages model would be based on the claim that the presence of nitrosamines in Chantix caused them to overpay for Chantix. The exact amount of overpayment would be determined by and subject to expert analysis and evaluation. Pfizer’s sales of Chantix during that period were approximately \$805.6 million. The \$44,000,000 Settlement thus delivers approximately 5.5% of those net sales. Supp. Joint Decl., ¶3. Although Pfizer did not disclose profits for Chantix, assuming a 20% profit margin, the \$44,000,000 would deliver approximately 27% of those profits—without the risk that the Class would recover nothing at all. *Id.*; *see also City of Detroit v. Grinnell Corp.*, 356 F. Supp. 1380, 1385, 1390 (S.D.N.Y. 1972), *aff’d*, 495 F.2d 448 (2d Cir. 1974) (settlement of 3.2% to 3.7% of sales approved); *In re Shopping Carts Antitrust Litig.*, 1983 WL 1950, at *9 (S.D.N.Y. Nov. 18, 1983) (settlement of 5.5% of sales approved); *In re Auto. Refinishing Paint Antitrust Litig.*, 617 F. Supp. 2d 336, 344 (E.D. Pa. 2007) (settlement of 1.5% of sales approved); *Meijer, Inc. v. 3M*, 2006 WL 2382718, at

*16 (E.D. Pa. Aug. 15, 2006) (settlement of 2% of sales approved); *In re Linerboard Antitrust Litig.*, 321 F.Supp.2d 619, 627 (E.D. Pa. Apr. 21, 2004) (settlement of 1.62% of sales approved); *In re Plastic Tableware Antitrust Litig.*, 1995 WL 723175, at *1 (E.D. Pa. Dec. 4, 1995) (settlement of 3.5% of sales approved); see also *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 986 F. Supp. 2d 207, 229 (E.D.N.Y. 2013) (approving settlement that recovered 2.5% of fees paid), *rev'd and vacated on other grounds*, 827 F.3d 223 (2d Cir. 2016); *In re Initial Pub. Offering Sec. Litig.*, 671 F. Supp. 2d 467, 510 (S.D.N.Y. 2009) (approving settlement that recovered 2% of estimated damages). Pfizer would have argued that Plaintiffs were not injured and suffered no damage as they purportedly received the benefit of their bargain. Thus, there was a clear risk that the Court or a jury would agree with Pfizer and find that Plaintiffs and the Class were not injured by purchasing Chantix.

Measured against the risks Plaintiffs faced and the defenses Pfizer would have pressed, the recovery is fair, reasonable, and adequate. That is because “the settlement amount’s ratio to the maximum potential recovery need not be the sole, or even the dominant, consideration when assessing the settlement’s fairness.” *In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 460-61 (S.D.N.Y. 2004). Indeed, “the fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.” *Grinnell*, 495 F.2d at 455. Here, completing fact and expert discovery, certifying a contested class (and sustaining any such certification on appeal), defeating *Daubert* and summary judgment challenges, and then achieving a litigated verdict (and sustaining any such verdict on appeal) would have been a difficult and uncertain undertaking. See *Initial Pub. Offering*, 671 F. Supp. at 481 (finding that the complexity, expense, and duration of continued litigation supports final approval where, among other things, “motions would be filed

raising every possible kind of pre-trial, trial and post-trial issue conceivable”). Trial of the claims would have required extensive expert testimony on issues related to the contamination of Chantix, as well as proof of classwide damages on a common, formulaic basis. Courts regularly observe that these sorts of disputes—requiring dueling testimony from experts—are particularly difficult for plaintiffs to litigate. *See, e.g., In re Telik, Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 579-80 (S.D.N.Y. 2008) (in a “battle of experts, it is virtually impossible to predict with any certainty which testimony would be credited . . .”).

In assessing the fairness, reasonableness, and adequacy of a settlement, courts should consider the “risks of establishing liability [and] the risks of establishing damages.” *Grinnell*, 495 F.2d at 463. In most cases, this is the most important factor a court considers in analyzing a proposed settlement. *Id.* at 455 (“The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.”). Plaintiffs faced substantial risks in obtaining class certification, defeating any motion for summary judgment, and establishing liability and damages at trial.

Complex issues of law and fact would likely be raised at class certification, and the losing party would likely seek interlocutory review under Rule 23(f). Moreover, a court can review and modify class certification at any time before final judgment. FED. R. CIV. P. 23(c)(1)(C) (“An order that grants or denies class certification may be altered or amended before final judgment.”). The Settlement avoids uncertainty about class certification and the risks of maintaining certification through trial and on appeal. *See Ebbert v. Nassau Cnty.*, 2011 WL 6826121, at *12 (E.D.N.Y. Dec. 22, 2011) (risk of de-certification of the certified class supported approval of Settlement).

In addition, Pfizer likely would have moved to exclude Plaintiffs' experts under *Daubert* and for summary judgment, which the Court could have found meritorious in part or in whole. And even if Plaintiffs overcame these risks and took the case against Pfizer to trial, a jury could have found that Plaintiffs failed to meet their burden. If the Class prevailed against Pfizer at trial, any verdict could have been vacated or reversed on appeal. Even on the most favorable assumptions, class certification briefing, expert discovery, summary judgment, trial, and the appeal that would predictably follow would have deferred any recovery to Settlement Class Members by years. The Settlement delivers a certain, prompt, and substantial benefit in place of that delay. In sum, "[t]here can be no doubt that this class action would be enormously expensive to continue, extraordinarily complex to try, and ultimately uncertain of result." *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 477 (S.D.N.Y. 1998). These uncertainties substantially increase the case's complexity, duration, and expense, demonstrating that the Settlement was justified and should be finally approved.

D. The Effective Process for Distributing Relief to the Settlement Class

Rule 23(e)(2)(C)(ii) instructs courts to consider whether the relief provided to the class is adequate in light of the "effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims." Here, the Available Settlement Fund will be distributed with the assistance of an experienced Settlement Administrator, A.B. Data, Ltd. ("A.B. Data").

The Settlement Administrator will distribute consumer Settlement Class Members their pro rata share of the Available Settlement Fund based on the amount they paid for Chantix. The Settlement Administrator will initially set aside 20% of the Available Settlement Fund to make payments to consumer Settlement Class Members. If the amount of payments to consumer Settlement Class Members would exceed this cap, the total award shall be reduced on a pro rata

basis based on the amount paid by each consumer Settlement Class Member so that it will not exceed 20% of the Available Settlement Fund. Settlement Agreement ¶2.1. The remainder of the Available Settlement Fund shall be distributed to each valid third-party payor Settlement Class Member on a pro rata basis according to the total amount of the qualifying and documented payments for Chantix. Settlement Agreement ¶2.1(d).

If the Settlement is approved and the Effective Date is reached, Settlement Agreement ¶¶1.12, 9.1, and the claims process is completed, Cash Awards will be made for Approved Claims of Settlement Class Members. If there are unclaimed funds after the initial distribution, a supplemental distribution (if sufficient funds remain) will be made on a pro rata basis to all Settlement Class Members who claimed their initial payments. Settlement Agreement ¶2.1(f). If a secondary distribution is not feasible and funds remain unclaimed, the Parties will discuss a cy pres recipient with Court approval. *Id.* at ¶2.1(g).

Rule 23(e)(2)(C)(ii) is therefore satisfied. The claims process is straightforward, administered by an experienced third-party administrator, and structured so that the Available Settlement Fund is distributed to Settlement Class Members on a pro rata basis—with a supplemental distribution to claiming Settlement Class Members where funds remain, and cy pres reserved as a last resort subject to the Court’s approval.

E. The Requested Attorneys’ Fees and Expenses Are Reasonable

Rule 23(e)(2)(C)(iii) requires the Court to consider the terms of any proposed award of attorneys’ fees. As set forth in Class Counsel’s attorneys’ fee briefing (ECF No. 140), Class Counsel request attorneys’ fees of 33.33% of the Settlement Fund (\$14,666,666.67), reimbursement of \$144,340.20 in litigation expenses, and service awards of \$15,000 for each TPP Plaintiff and \$5,000 for each Consumer Plaintiff. The Court-approved notice advised Settlement Class Members of each request, informed them that the motion for attorneys’ fees would be posted

on the settlement website, and advised them of their right to object. ECF No. 131-1 at 67, 73, 79, 86.

Class Counsel's request is reasonable in light of the work performed, the results achieved, and the risks assumed in prosecuting the Action on a wholly contingent basis. Moreover, Class Counsel's request is in line with awards in this District. This Court has reasoned in another complex class action case "that an award of attorneys' fees of 33.33% of the Settlement Fund is reasonable given the high risk, complex issues, skill of the attorneys and the contingency nature involved in bringing this litigation." *Martinek v. Amtrust Fin. Servs., Inc.*, 2022 WL 16960903, at *2 (S.D.N.Y. Nov. 16, 2022); *see also In re Akari Therapeutics PLC Sec. Litig.*, No. 1:17-cv-03577 (S.D.N.Y. Nov. 28, 2018) (awarding one-third of the settlement fund plus expenses); *Velez v. Novartis Pharms. Corp.*, 2010 WL 4877852, at *21 (S.D.N.Y. Nov. 30, 2010) ("[d]istrict courts in the Second Circuit routinely award attorneys' fees that are 30 percent or greater"). A lodestar cross-check confirms the reasonableness of the request: it reflects a multiplier of 1.93 on Class Counsel's lodestar of \$7,601,643.70 for 9,109.4 hours worked through August 1, 2026. ECF No. 140 at 13. Rule 23(e)(2)(C)(iii) is therefore satisfied.

F. There Are No Other Agreements Related to the Settlement

Rule 23(e)(2)(C)(iv) directs the Court to consider "any agreement required to be identified under Rule 23(e)(3)." The Settlement Agreement filed at ECF No. 131-1 and as amended at ECF No. 142-1, at ¶1, to address a scrivener's error is the Parties' entire agreement resolving the Action, and no other agreements were made in connection with the proposed Settlement. Supp. Joint Decl., ¶4.

G. The Proposal Treats Class Members Equitably Relative to Each Other

Rule 23(e)(2)(D) asks whether the Settlement "treats class members equitably relative to each other." It does. The Settlement grants no preferential treatment to any Plaintiff or to any

segment of the Settlement Class: every Settlement Class Member with an Approved Claim is compensated from the same Fund on a pro rata basis, measured by what that member paid for Chantix. *See In re Merrill Lynch Tyco Rsch. Sec. Litig.*, 249 F.R.D. 124, 135 (S.D.N.Y. 2008) (“A plan of allocation that calls for the pro rata distribution of settlement proceeds . . . is presumptively reasonable.”). The Court should approve the plan of allocation as fair and reasonable.

Class Counsel determined the 20% allocation on the Available Settlement Fund attributed to Consumer Plaintiffs based on their analysis and estimation of the percentage amount of damages associated with consumers’ purchases of Chantix compared to percentage amount of damages associated with the amounts paid by TPPs for Chantix. Settlement Agreement ¶2.1; Supp. Joint Decl., ¶5. The allocation therefore is based on the relative economic stake of the two groups rather than favoring either one. Because this formulation was based on a “reasoned, rational basis” by “competent and experienced class counsel” the allocation plan is well supported. *See Global Crossing*, 225 F.R.D. at 462 (citing *In re Am. Bank Note Holographics, Inc. Sec. Litig.*, 127 F. Supp. 2d 418, 429-30 (S.D.N.Y. 2001)). Notably, a plan of allocation does not need to be tailored to fit each and every class member with “mathematical precision.” *PaineWebber*, 171 F.R.D. at 133. Here, the *pro rata* distribution contemplated by the distribution plan compensates Settlement Class Members in proportion to the amounts they paid for Chantix, and thus in proportion to the relative value of their claims, which supports a finding that it is reasonable. *See Global Crossing*, 225 F.R.D. at 462. The requested service awards do not disturb this equitable treatment: they are uniform within each Plaintiff group, were disclosed in the notice, and are payable only in the amounts the Court approves. Rule 23(e)(2)(D) is satisfied.

H. Application of the Remaining *Grinnell* Factors Supports Approval

i. The Ability of Defendant to Withstand a Greater Judgment

While it is Class Counsel’s understanding that Defendant Pfizer could withstand a judgment in excess of \$44 million, courts generally do not find the ability of a defendant to withstand a greater judgment to be an impediment when the other factors favor the settlement. *See, e.g., Veeco*, 2007 WL 4115809, at *11 (“this factor alone does not prevent the Court from approving the Settlement where the other *Grinnell* factors are satisfied”); *see also PaineWebber*, 171 F.R.D. at 129. “This is especially true where, as here, the other *Grinnell* factors weigh heavily in favor of settlement approval.” *Global Crossing*, 225 F.R.D. at 460.

ii. The Reaction of the Settlement Class to Date

The Settlement Class’s reaction to date strongly favors approval. Of the many thousands of consumers and third-party payors who paid for Chantix during the Settlement Class Period, none have objected to the Settlement and only two have requested exclusion. “If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement.” *Wal-Mart Stores*, 396 F.3d at 118; *see also D’Amato*, 236 F.3d at 86-87 (district court properly concluded that 18 objections from a class of 27,883 weighed in favor of approval). The Settlement Class’s reaction carries particular weight here because the Class includes third-party payors—health and welfare funds, insurers, and their assignees—that are sophisticated, well-resourced entities, represented by experienced counsel and fully capable of evaluating the Settlement and objecting or opting out had they believed the recovery inadequate. That not one sophisticated institutional payor has objected to the Settlement is indicia of its fairness. *See In re Facebook, Inc., IPO Sec. & Derivative Litig.*, 343 F. Supp. 3d 394, 410 (S.D.N.Y. 2018), *aff’d sub nom., In re Facebook, Inc.*, 822 F. App’x 40 (2d Cir. 2020). Further, the absence of governmental objection following CAFA notice also supports approval. *See Garner v. State Farm Mut. Auto.*

Ins. Co., 2010 WL 1687832, at *14 (N.D. Cal. Apr. 22, 2010) (“CAFA presumes that, once put on notice, state or federal officials will raise any concerns that they may have”); *In re LinkedIn User Priv. Litig.*, 309 F.R.D. 573, 589 (N.D. Cal. 2015) (no governmental objections following CAFA notice favors settlement approval); *Lozada v. TaskUs, Inc.*, 2025 WL 3125848, at *4 (S.D.N.Y. Nov. 6, 2025) (noting lack of objections following CAFA notice in approving settlement), *report and recommendation adopted*, 2025 WL 3482752 (S.D.N.Y. Dec. 4, 2025).

II. THE COURT SHOULD FINALLY CERTIFY THE SETTLEMENT CLASS

Plaintiffs’ Preliminary Approval Motion set forth the bases for the certification of the Settlement Class. ECF. Nos. 129-132. In connection with the Preliminary Approval Motion, the Court found that the Settlement Class satisfied the requirements of Rule 23(a) and (b)(3) and issued the Preliminary Approval Order preliminarily certifying a class for settlement purposes. ECF No. 133. Nothing has happened since the Court granted preliminary approval that would alter its findings. Class Counsel now request that the Court finally certify the Settlement Class as defined in the Settlement Agreement (ECF No. 131-1) and amended by stipulation to address a scrivener’s error (ECF No. 142-1) pursuant to FED. R. CIV. P. 23(a) and (b)(3), for settlement purposes only, and appoint Third-Party Payor Plaintiffs County of Monmouth, MSP Recovery Claims Series 44, LLC, MSP Recovery Claims, Series LLC, and Central Midwest Regional Council of Carpenters Welfare Fund f/k/a Ohio Carpenters’ Health Fund and 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, and Shannon Webb a/k/a Shannon Alicea as class representatives and Ruben Honik and David J. Stanoch of Honik LLC, Charles E. Schaffer of Levin Sedran & Berman LLP, and Joseph P. Guglielmo of Scott+Scott Attorneys at Law LLP as Class Counsel. *See Rodriguez*

v. CPI Aerostructures, Inc., 2023 WL 2184496, at *5 (E.D.N.Y. Feb. 16, 2023) (recommending final certification of the settlement class, noting that there had been no objections or opt-outs from class members, and no other material information had emerged that would alter the court’s findings since its preliminary approval order).

III. NOTICE SATISFIED RULE 23 AND DUE PROCESS

Pursuant to the Preliminary Approval Order, notice of the proposed Settlement issued that satisfied all the requirements of Rule 23 and due process. Notice of a settlement must be “reasonable”—i.e., it must “fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings,” *Wal-Mart Stores*, 396 F.3d at 114—and be the best notice practicable under the circumstances. FED. R. CIV. P. 23(e). Both the substance of the notice program here and the methods of dissemination satisfied these standards.

Collectively, the forms of notice describe, among other things: (i) the terms of the Settlement and the recovery; (ii) the reasons for the Settlement; (iii) the maximum attorneys’ fees and expenses that may be sought; (iv) the procedures for requesting exclusion from the Settlement Class and objecting; (v) the procedure for submitting a Claim Form; (vi) the proposed plan for distributing the settlement proceeds to the Settlement Class; and (vii) the date, time and place of the Final Approval Hearing.

Notice issued by direct mail and email notice to Settlement Class Members for whom such information is available, in conjunction with a robust publication and social media campaign designed to reach Settlement Class Members, is sufficient in this District to satisfy Rule 23(e). *AB Data Decl.*, ¶16; *see also Rodriguez v. CPI Aerostructures, Inc.*, 2021 WL 9032223, at *13 (E.D.N.Y. Nov. 10, 2021) (finding that notice plan was “reasonable and adequate” and satisfied Rule 23(e) because the proposed notice was “detailed enough to inform the class members of their

rights and obligations, and the proposed methods of notice, including publishing the summary notice in [news publications] . . . are practical and likely to be effective in reaching the affected individuals”); *Initial Pub. Offering*, 260 F.R.D. at 119-20 (same). Additionally, the Notice Program provided information regarding the settlement website and a toll-free number. The settlement website provided information to Settlement Class Members, including copies of the settlement documents and relevant pleadings, and allowed Settlement Class Members to electronically file claims with the Settlement Administrator. AB Data Decl., ¶10.

This combination of individual mailed notice to those who could be identified with reasonable effort, supplemented by publication and internet notice, was “the best notice . . . practicable under the circumstances.” FED. R. CIV. P. 23(c)(2)(B); *see, e.g., In re Marsh & McLennan Cos. Sec. Litig.*, 2009 WL 5178546, at *12-13 (S.D.N.Y. Dec. 23, 2009).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant final approval of the Settlement and enter the [Proposed] Judgment and Order Granting Final Approval of Class Action Settlement., submitted herewith, which will: (i) finally approve the Settlement on the terms set forth in the Settlement Agreement; and (ii) finally certify the Settlement Class and appoint Plaintiffs as class representatives and Class Counsel, for purposes of the settlement only.

Dated: September 28, 2026

Respectfully submitted,
SCOTT+SCOTT ATTORNEYS AT LAW LLP

/s/ Joseph P. Guglielmo

Joseph P. Guglielmo
Michelle E. Conston
The Helmsley Building,
230 Park Avenue
24th Floor
New York, NY 10169
Tel.: (212) 223-4478
Fax: (212) 223-6334

jguglielmo@scott-scott.com
mconston@scott-scott.com

Ruben Honik
David J. Stanoch, Of Counsel
HONIK LLC
1515 Market Street, Suite 1100
Philadelphia, PA 19102
Tel.: (267) 435-1300
ruben@honiklaw.com

Charles E. Schaffer
LEVIN SEDRAN & BERMAN LLP
510 Walnut Street, Suite 500
Philadelphia, PA 19106
Tel.: (215) 592-1500
cschaffer@lfsblaw.com

Class Counsel

CERTIFICATE OF SERVICE

On this 28th day of September, 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
Joseph P. Guglielmo