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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

*In re K-Dur Antitrust Litigation*

This document relates to:

All Direct Purchaser Actions

Civil Action No. 01-cv-1652(SRC)(CLW)  
MDL Docket No. 1419

**DECLARATION OF BRUCE E. GERSTEIN IN SUPPORT OF DIRECT PURCHASER  
CLASS PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF  
PROPOSED SETTLEMENT, APPROVAL OF THE FORM AND MANNER OF NOTICE  
TO THE CLASS AND PROPOSED SCHEDULE FOR A FAIRNESS HEARING**

I, Bruce E. Gerstein, declare as follows:

1. I am an attorney admitted *pro hac vice* in this matter and a partner in the law firm of Garwin Gerstein & Fisher LLP, Co-Lead Counsel for Direct Purchaser Class Plaintiffs pursuant to the Court's Order dated December 12, 2001 (ECF No. 57). I submit this Declaration in support of Direct Purchaser Class Plaintiffs' Unopposed Motion for Preliminary Approval of Proposed Settlement, Approval of the Form and Manner of Notice to the Class and Proposed Schedule for a Fairness Hearing. I have first-hand knowledge of the following and could testify to same if called as a witness.

2. Attached hereto as Exhibit 1 is a true and correct copy of a Settlement Agreement dated May 15, 2017 between Direct Purchaser Class Plaintiffs and Defendants Merck & Co. (formerly known as Schering-Plough Corporation) and Upsher-Smith Laboratories (collectively, “Defendants”).

3. Attached hereto as Exhibit A to the Settlement Agreement is a proposed Order Granting Direct Purchaser Class Plaintiffs’ Unopposed Motion for Preliminary Approval of Proposed Settlement, Approval of the Form and Manner of Notice to the Class and Proposed Schedule for a Fairness Hearing.

4. Attached hereto as Exhibit B to the Settlement Agreement is a proposed form of Notice.

5. Attached hereto as Exhibit C to the Settlement Agreement is a proposed Final Judgment and Order of Dismissal Approving Direct Purchaser Class Settlement and Dismissing Direct Purchaser Class Claims Against Defendants.

6. Attached hereto as Exhibit D to the Settlement Agreement is a true and correct copy of an Escrow Agreement dated May 15, 2017 between Direct Purchaser Class Plaintiffs, Defendants and Berdon Claims Administration LLC.

May 15, 2017

/s/ Bruce E. Gerstein  
Bruce E. Gerstein