

# **Exhibit 7**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

**IN RE AGGRENEX ANTITRUST  
LITIGATION**

**C.A. No. 3:14-MD-2516  
(SRU)**

**This Document Relates to:**

**ALL DIRECT PURCHASER ACTIONS**

**DECLARATION OF JEFFREY J. LEITZINGER, PH.D.  
Related to Proposed Allocation Plan and  
Net Settlement Fund Allocation**

**Econ ONE Research, Inc.**

**November 21, 2017**

550 South Hope St., Suite 800  
Los Angeles, CA 90071

## I. Introduction

1. I am the same Jeffrey J. Leitzinger who previously submitted four declarations in this case.<sup>1</sup> A summary of my experience and qualifications was contained in my September 2017 declaration. An updated summary of my training, past experience, and prior testimony is shown in Exhibit 1. I have been asked by counsel for the Direct Purchaser Class<sup>2</sup> Plaintiffs (“Plaintiffs”) in this matter to propose a procedure to allocate the Settlement Fund including any interest that has accrued, net of attorneys’ fees and expenses, incentive awards and any administrative costs (“Net Settlement Fund”)<sup>3</sup> among Class members who submit claims as part of the claims process (“Claimants”), consistent with the description of the allocation plan included in the notice mailed to Class members.<sup>4</sup> Below I set forth a proposed allocation procedure.
2. Econ One is being compensated for the time I spend on this matter at my normal and customary rate of \$800 per hour. Econ One also is being compensated for time spent by my research staff on this matter at their normal and customary hourly rates.

---

<sup>1</sup> See Declaration of Jeffrey J. Leitzinger, Ph.D., dated September 21, 2015; Declaration of Jeffrey J. Leitzinger, Ph.D. Regarding Relevant Market and Market Power, dated February 26, 2016; Declaration of Jeffrey J. Leitzinger, Ph.D., Regarding Overcharges on Generic Purchases, dated August 3, 2017; Declaration of Jeffrey J. Leitzinger, Ph.D., dated September 5, 2017.

<sup>2</sup> The Class is defined in the Settlement Agreement as:

All persons or entities in the United States and its territories and possessions including the Commonwealth of Puerto Rico who directly purchased branded Aggrenox in any form from any of the Defendants from December 1, 2009 through June 30, 2015 (the “Class Period”), or their assignees (the “Class”). Excluded from the Class are Defendants and their officers, directors, management and employees, predecessors, subsidiaries and affiliates, and all federal governmental entities. Also excluded from the Class are CVS Pharmacy, Inc., Rite Aid Corporation, Rite Aid Hdqtrs. Corp., Walgreen Co., The Kroger Co., Safeway Inc., HEB Grocery Company L.P. and Albertson’s LLC and their officers, directors, management and employees, predecessors, subsidiaries and affiliates who have brought individual claims as direct purchasers or assignees of direct purchasers to the extent they have valid assignments as more fully described in paragraph 10 [of the Settlement Agreement] (“Retailer Plaintiffs”).

<sup>3</sup> The Net Settlement Fund refers to the \$146 million settlement in this case with defendants, plus interest, net of Court approved attorneys’ fees, named plaintiff incentive awards, and court approved expenses.

<sup>4</sup> According to the Settlement Notice, Class Members will receive a *pro rata* share “depend[ing] on the amount of Aggrenox® you [the class member] directly purchased from Defendants between December 1, 2009 through June 30, 2015.” Settlement Notice at p. 7.

## II. Allocation Plan

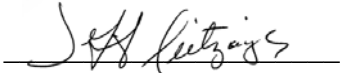
3. For purposes of allocating the Net Settlement Fund, I propose that individual Claimant allocations be set in proportion to each Claimant's actual purchases of Aggrenox between December 1, 2009 through June 30, 2015. This proposed plan is basically the same as other court-approved allocation plans in similar cases involving alleged overcharges from delayed generic competition in which I have participated as an expert, including *In re K-Dur Antitrust Litigation*, No. 01-cv-1652(SRC)(CLW) (D.N.J.) *King Drug Company of Florence, Inc., et al. v. Cephalon, Inc. et al.*, No. 06-CV-1797-MSG (E.D. Pa.), *In re Doryx Antitrust Litig. (Mylan Pharmaceuticals, Inc., v. Warner Chilcott Public Ltd.)*, No. 12-cv-3824 (E.D. Pa.); *In re Miralax Antitrust Litig.*, No. 07-cv-142 (D. Del.); *In re Prograf Antitrust Litig.*, No.11-md-2242 (D. Mass.); *In re Metoprolol Succinate Direct Purchaser Antitrust Litig.*, No.06-cv-52 (D. Del.); *In re Tricor Direct Purchaser Antitrust Litig.*, No. 05-cv-340 (D. Del.); *In re Wellbutrin XL Antitrust Litig.*, No. 08-cv-2431 (E.D. Pa.).
4. The calculation of individual Claimant allocations involves the following steps:
  - a. Calculate total Aggrenox purchases in capsules for each Class member using Boehringer's sales data;
  - b. Calculate the Aggrenox purchases covered by an assignment agreement between a Class member and an entity that purchased Aggrenox from the Class member using data provided by the Class member or its corresponding assignee;
  - c. Calculate the ratio of each Claimant's total net purchases to the overall total net Class purchases, yielding each Claimant's *pro rata* share of the Net Settlement Fund.<sup>5</sup>
5. I understand that Class Counsel are proposing an option for Claimants to submit their own purchase data should they wish. To the extent submissions from individual Claimants differ from Boehringer's transaction data, I will review the available documentation and make recommendations to the claims administrator regarding the appropriate data to use in the process based upon accuracy and completeness of the data.
6. Based on the transactional data produced in discovery, I have done preliminary computations of Aggrenox purchases for each Claimant. However, if any Class member

---

<sup>5</sup> Net of assigned volumes and returns.

fails to submit a claim or documents and submits alternative purchases, then the claims administrator may substitute the alternative purchases and re-calculate the percentage share of each Claimant. The re-calculated percentage shares of all purchases of Aggrenox during the period December 1, 2009 through June 30, 2015 will be applied to the Net Settlement Fund to determine the portions of the Fund to be remitted to each Claimant.

7. I believe that this allocation method provides a reasonable procedure for distributing the Net Settlement Fund, is consistent with other court-approved allocation plans in similar cases I am familiar with, and is consistent with the notice provided to Class members. The allocation method is practical and efficient as it uses sales data obtained from Boehringer regarding its sales of Aggrenox to Class members. Moreover, it is consistent with the relative overcharges suffered by each Class member.
8. The foregoing is true and correct to the best of my knowledge and ability.

  
\_\_\_\_\_  
Jeffrey J. Leitzinger, Ph.D.  
November 21, 2017



**Dr. JEFFREY J. LEITZINGER**  
***Managing Director***  
**Los Angeles, California**  
**Tel: 213 624 9600**

## **EDUCATION**

Ph.D., Economics, University of California, Los Angeles  
M.A., Economics, University of California, Los Angeles  
B.S., Economics, Santa Clara University

## **WORK EXPERIENCE**

*Econ One Research, Inc.*, President, July 1997 to date  
Founded *Econ One Research, Inc.*, 1997

*Micronomics, Inc.*, President and CEO, 1994-1997  
*Micronomics, Inc.*, Executive Vice President, 1988-1994  
Cofounded *Micronomics, Inc.*, 1988

*National Economic Research Associates, Inc.* 1980-1988  
(Last position was Senior Vice President and member of the Board of Directors)

*California State University, Northridge*, Lecturer, 1979-1980

## **AREAS OF EXPERTISE**

Has offered expert testimony regarding:

- Competition economics
- Commercial damages
- Econometrics and statistics
- Intellectual property
- Valuation

## **INVITED PRESENTATIONS**

Some Implications of Tyson for Econometric Models in Class Action Antitrust Cases, *American Bar Association*, 65<sup>th</sup> Antitrust Law Spring Meeting, March 2017.

Where Are We on Class Certification? Examples from Health Care and Pharmaceutical Cases, *ABA Section of Antitrust Law, Health Care and Pharmaceuticals and Civil Practice and Procedure and Trial Practice Committees*, March 2016.

Corporations & Cartels: Should You Be a Plaintiff?, *American Bar Association*, 62<sup>nd</sup> Antitrust Law Spring Meeting, March 2014.

Developments in Antitrust Cases Alleging Delayed Generic Competition in the Pharmaceutical Industry, *American Antitrust Institute*, 5<sup>th</sup> Annual Future of Private Antitrust Enforcement Conference, December 2011.

Class Certification and Calculation of Damages, *American Bar Association*, Section of Antitrust Law and *International Bar Association*, 8<sup>th</sup> International Cartel Workshop, February 2010.

Class Certification Discussion and Demonstration, *American Bar Association*, Section of Antitrust Law, The Antitrust Litigation Course, October 2007.

Antitrust Injury and the Predominance Requirement in Antitrust Class Actions, *American Bar Association*, Houston Chapter, April 2007.

Class Certification Discussion and Demonstration, *American Bar Association*, Section of Antitrust Law, The Antitrust Litigation Course, October 2005.

What Can an Economist Say About the Presence of Conspiracy?, *American Bar Association*, Antitrust Law, The Antitrust Litigation Course, October 2003.

Lessons from Gas Deregulation, *International Association for Energy Economics*, Houston Chapter, December 2002.

A Retrospective Look at Wholesale Gas Industry Restructuring, *Center for Research in Regulated Industries*, 20<sup>th</sup> Annual Conference of the Advanced Workshop in Regulation and Competition, May 2001.

The Economic Analysis of Intellectual Property Damages, *American Conference Institute*, 6<sup>th</sup> National Advanced Forum, January 2001.

Law and Economics of Predatory Pricing Under Federal and State Law, *Golden State Antitrust and Unfair Competition Law Institute*, 8<sup>th</sup> Annual Meeting, October 2000.

**INVITED PRESENTATIONS (cont'd.)**

Non-Price Predation--Some New Thinking About Exclusionary Behavior, *Houston Bar Association*, Antitrust and Trade Regulation Section, October 2000.

After the Guilty Plea: Does the Defendant Pay the Price in the Civil Damage Action, *American Bar Association*, Section of Antitrust Law, 48<sup>th</sup> Annual Spring Meeting, April 2000.

Economics of Restructuring in Gas Distribution, *Center for Research in Regulated Industries*, 12<sup>th</sup> Annual Western Conference, July 1999.

A Basic Speed Law for the Information Superhighway, *California State Bar Association*, December 1998.

Innovation in Regulation, *Center for Research in Regulated Industries*, 11<sup>th</sup> Annual Western Conference, July/September 1998.

Electric Industry Deregulation: What Does the Future Hold?, *Los Angeles Headquarters Association*, November 1996.

Why Deregulate Electric Utilities?, *National Association of Regulatory Utility Commissioners*, November 1995.

Restructuring U.S. Power Markets: What Can the Gas Industry's Experience Tell Us?, *National Association of Regulatory Utility Commissioners*, July 1995.

Natural Gas Restructuring: Lessons for Electric Utilities and Regulators, *International Association for Energy Economics*, May 1995.

Techniques in the Direct and Cross-Examination of Economic, Financial, and Damage Experts, *The Antitrust and Trade Regulation Law Section of the State Bar of California and The Los Angeles County Bar Association*, 2<sup>nd</sup> Annual Golden State Antitrust and Trade Regulation Institute, October 1994.

Demonstration: Deposition of Expert Witnesses and Using Legal Technology, *National Association of Attorneys General*, 1994 Antitrust Training Seminar, September 1994.

Direct and Cross Examination of Financial, Economic, and Damage Experts, *The State Bar of California, Antitrust and Trade Regulation Law Section*, May 1994.

Price Premiums in Gas Purchase Contracts, *International Association for Energy Economics*, October 1992.

Valuing Water Supply Reliability, *Western Economic Association*, Natural Resources Section, July 1992.



**INVITED PRESENTATIONS (cont'd.)**

Transportation Services After Order 636: "Back to the Future" for Natural Gas, Seminar sponsored by Jones, Day, Reavis & Pogue, May 1992.

The Cost of an Unreliable Water Supply for Southern California, Forum presented by Micronomics, Inc., May 1991.

Market Definition: It's Time for Some "New Learning", *Los Angeles County Bar Association*, Antitrust and Corporate Law Section, December 1989.

Market Definition in Antitrust Cases: Some New Thinking, *Oregon State Bar*, Antitrust Law Section, March 1987.

Future Directions for Antitrust Activity in the Natural Gas Industry, *International Association of Energy Economists*, February 1987.

Information Externalities in Oil and Gas Leasing, *Western Economic Association Meetings*, Natural Resources Section, July 1983.

Economic Analysis of Offshore Oil and Gas Leasing, *Western States Land Commissioners Association*, December 1982.

**PUBLISHED ARTICLES**

"Statistical Significance and Statistical Error in Antitrust Analysis," *Antitrust Law Journal*, Volume 81, Issue 2, July 2017.

"The Predominance Requirement for Antitrust Class Actions--Can Relevant Market Analysis Help?," *American Bar Association, Section of Antitrust Law, Economics Committee Newsletter*, Volume 7, No. 1, Spring 2007.

"A Retrospective Look at Wholesale Gas: Industry Restructuring," *Journal of Regulatory Economics*, January 2002.

"Balance Needed in Operating Agreements as Industry's Center of Gravity Shifts to State Oil Firms," *Oil & Gas Journal*, October 2000.

"What Can We Expect From Restructuring In Natural Gas Distribution?" *Energy Law Journal*, January 2000.

"Gas Experience Can Steer Power Away from Deregulation Snags," *Oil & Gas Journal*, August 1996.

"Anatomy of FERC Order 636: What's out, What's in," *Oil & Gas Journal*, June 1992.

**PUBLISHED ARTICLES** (cont'd.)

“Antitrust II – Future Direction for Antitrust in the Natural Gas Industry,” *Natural Gas*, November 1987.

“Information Externalities in Oil and Gas Leasing,” *Contemporary Policy Issues*, March 1984.

“Regression Analysis in Antitrust Cases: Opening the Black Box,” *Philadelphia Lawyer*, July 1983.

“Foreign Competition in Antitrust Law,” *The Journal of Law & Economics*, April 1983.

**REGULATORY SUBMISSIONS**

In the Matter of the Application of Southern California Gas Company Regarding Year Six (1999-2000) Under its Experimental Gas Cost Incentive Mechanism and Related Gas Supply Matters; A.00-06-023, Public Utilities Commission of the State of California, November 2001.

Sempra Energy and KN Energy, Incorporation; Docket No. EC99-48-000 (Affidavit and Verified Statement), Federal Energy Regulatory Commission, March/May 1999.

Rulemaking on the Commission’s Own Motion to Assess and Revise the Regulatory Structure Governing California’s Natural Gas Industry (Market Conditions Report), Public Utilities Commission of the State of California, July 1998.

In the Matter of the Application of Pacific Enterprises, Enova Corporation, et al. for Approval of a Plan of Merger Application No. A. 96-10-038, Public Utilities Commission of the State of California, August/October 1997.

In re: Koch Gateway Pipeline Company; Docket No. RP 97-373-000, Federal Energy Regulatory Commission, May/October 1997 and February 1998.

In the Matter of the Application of Sadlerochit Pipeline Company for a Certificate of Public Convenience and Necessity; Docket No. P-96-4, Alaska Public Utilities Commission, May 1996.

Public Funding of Electric Industry Research, Development, and Demonstration (RD&D) Under Partial Deregulation, California Energy Commission, January 1995.

**REGULATORY SUBMISSIONS (cont'd.)**

NorAm Gas Transmission Company; Docket No. RP94-343-000, Federal Energy Regulatory Commission, August 1994/June 1995.

Natural Gas Vehicle Program; Investigation No. 919-10-029, California Public Utilities Commission, July 1994.

Transcontinental Gas Pipe Line Corporation; Docket No. RP93-136-000 (Proposed Firm-to-the-Wellhead Rate Design), Federal Energy Regulatory Commission, January 1994.

In re: Sierra Pacific's Proposed Nomination for Service on Tuscarora Gas Pipeline; Docket No. 93-2035, The Public Service Commission of Nevada, July 1993.

Employment Gains in Louisiana from Entergy-Gulf States Utilities Merger, Louisiana Public Utilities Commission, December 1992.

Employment Gains to the Beaumont Area from Entergy-Gulf States Utilities Merger, Texas Public Utilities Commission, August 1992.

Transcontinental Gas Pipe Line Corporation; Docket No. RS 92-86-000 (Affidavit regarding Transco's Proposed IPS Service), Federal Energy Regulatory Commission, June 1992.

In Re: Pipeline Service Obligations; Docket No. RM91-11-000; Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; Docket No. RM91-3-000; Revisions to the Purchased Gas Adjustment Regulations; Docket No. RM90-15-000, Federal Energy Regulatory Commission, May 1991.

In the Matter of Natural Gas Pipeline Company of America; Docket No. CP89-1281 (Gas Inventory Charge Proposal), Federal Energy Regulatory Commission, January 1990.

In the Matter of United Gas Pipeline Company, UniSouth, Cypress Pipeline Company; Docket No. CP89-2114-000 (Proposed Certificate of Storage Abandonment by United Gas Pipeline Company), Federal Energy Regulatory Commission, December 1989.

In the Matter of Tennessee Gas Pipeline Company; Docket No. CP89-470 (Gas Inventory Charge Proposal), Federal Energy Regulatory Commission, July 1989.

In the Matter of Take-Or-Pay Allocation Proposed by Mississippi River Transmission Corporation, Federal Energy Regulatory Commission, March 1988.

**REGULATORY SUBMISSIONS (cont'd.)**

In the Matter of Natural Gas Pipeline Company of America: Docket No. RP87-141-000 (Gas Inventory Charge Proposal), Federal Energy Regulatory Commission, December 1987.

In the Matter of Application of Wisconsin Gas Company for Authority to Construct New Pipeline Facilities: 6650-CG-104, Public Service Commission, State of Wisconsin, August 1987.

Trans-Alaska Pipeline System: Docket Nos. OR 78-1-014 and OR 78-1-016 (Phase 1 Remand), Federal Energy Regulatory Commission, October 1983.

Dr. Jeffrey Leitzinger  
 November 2013 – October 2017

Proceeding	Court/Commission/Agency	Docket or File	Deposition/ Trial/Hearing	Date	On Behalf Of
1. <u>In Re: Wellbutrin XL Antitrust Litigation</u>	U.S. District Court, Eastern District of Pennsylvania	Case No. 2:08-CV-2431	Deposition Hearing Deposition Deposition	March 2010 April 2011 November 2011 November 2014	Plaintiff Plaintiff Plaintiff Plaintiff
2. <u>King Drug Company of Florence, Inc., et al. v. Cephalon, Inc., et al.</u>	U.S. District Court, Eastern District of Pennsylvania	No. 06-CV-1797-MSG	Deposition Deposition Deposition	August 2011 February 2014 July 2014	Plaintiff Plaintiff Plaintiff
3. <u>In Re: Wholesale Grocery Products Antitrust Litigation</u>	U.S. District Court, District of Minnesota	Civil Action No. 09-md-02090-ADM/AJB, 09-md-02090-ADM/TNL	Deposition Hearing Deposition Deposition	December 2011 May 2012 April 2016 March 2017	Plaintiff Plaintiff Plaintiff Plaintiff
4. <u>In Re: AndroGel Antitrust Litigation</u>	U.S. District Court, Northern District of Georgia	Case No. 1:09-MD-2084-TWT	Deposition Deposition Deposition	July 2012 October 2016 July 2017	Plaintiff Plaintiff Plaintiff
5. <u>Astrazeneca AB, Aktiebolaget Hässle, KBI-E Inc., KBI Inc., and Astrazeneca, LP v. Apotex Corp., Apotex Inc. and Torpharm, Inc.</u>	U.S. District Court, Southern District of New York	Civil Action No. 01-CIV-9351 (BSJ)	Deposition Trial	August 2013 November 2013	Defendant Defendant
6. <u>In re: Prograf Antitrust Litigation</u>	U.S. District Court, District of Massachusetts	Case No. 1:11-cv-10344-RWZ	Deposition	November 2013	Plaintiff

Dr. Jeffrey Leitzinger  
 November 2013 – October 2017

Proceeding	Court/Commission/Agency	Docket or File	Deposition/ Trial/Hearing	Date	On Behalf Of
7. <u>The Shane Group, Inc., et al., v. Blue Cross Blue Shield of Michigan</u>	U.S. District Court, Eastern District of Michigan, Southern Division	No. 2:10-cv-14360-DPH-MKM	Deposition	December 2013	Plaintiff
8. <u>Adriana M. Castro, M.D., P.A. and Sugartown Pediatrics, LLC, et al. v. Sanofi Pasteur, Inc.</u>	U.S. District Court, District of New Jersey	Action No. #11-CV-07178-JLL	Deposition	September 2014	Plaintiff
9. <u>FiTeq Inc. v. Venture Corporation, LTD., and Cebelian Holding PTE, LTD.</u>	U.S. District Court, Northern District of California, San Jose Division	Case No.: C 13-01946 BLF	Deposition	January 2015	Plaintiff
10. <u>Louisiana Wholesale Drug Co., Inc., et al., v. Schering-Plough Corporation; Upsher-Smith Laboratories; and American Home Products Corporation</u>	U.S. District Court, District of New Jersey	MDL No. 1419	Deposition	May 2015	Plaintiff
11. <u>In Re: Rail Freight Surcharge Antitrust Litigation</u>	U.S. District Court, District of Columbia	Case No. 1:07-MC-00489	Deposition Hearing	June 2015 September 2016	Plaintiff Plaintiff
12. <u>In Re: Lidoderm Antitrust Litigation</u>	U.S. District Court, Northern District of California	No. 14-MD-02521-WHO	Deposition Deposition Deposition	July 2016 November 2016 June 2017	Plaintiff Plaintiff Plaintiff
13. <u>Social Ranger, LLC v. Facebook, Inc.</u>	U.S. District Court, District of Delaware	C.A. No. 14-1525-LPS	Deposition	March 2017	Plaintiff

Dr. Jeffrey Leitzinger  
 November 2013 – October 2017

Proceeding	Court/Commission/Agency	Docket or File	Deposition/ Trial/Hearing	Date	On Behalf Of
14. <u>UFCW &amp; Employers Benefit Trust, et al., v. Sutter Health, et al.</u>	Superior Court of California, County of San Francisco	No. CGC 14-538451	Deposition Deposition	March 2017 June 2017	Plaintiff Plaintiff
15. <u>Merced Irrigation District v. Barclay's Bank, PLC</u>	U.S. District Court, Southern District of New York	No. 1:15-cv-04878-VM-GWG	Deposition	March 2017	Plaintiff
16. <u>In re: Celebrex (Celecoxib) Antitrust Litigation</u>	U.S. District Court, Eastern District of Virginia, Norfolk Division	Civil Action No. 14-cv-00361	Deposition Hearing	April 2017 June 2017	Plaintiff Plaintiff
17. <u>Sourceone Dental Inc. v. Patterson Companies, et al.</u>	U.S. District Court, Eastern District of New York	Case No. 15-cv-05440	Deposition	July 2017	Plaintiff
18. <u>In Re Solodyn (Minocycline Hydrochloride) Antitrust Litigation</u>	U.S. District Court, District of Massachusetts	MDL No. 14-md-2503-DJC	Deposition	August 2017	Plaintiff