

EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: NEXIUM (ESOMEPRAZOLE) ANTITRUST LITIGATION	MDL No. 2409
This Document Relates To:	Civil Action No. 1:12-md-02409-WGY
All Direct Purchaser Class Actions	

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Settlement Agreement”) is made and entered into on April 1, 2015, by and between defendants Teva Pharmaceutical Industries Ltd. and Teva Pharmaceuticals USA, Inc. (collectively “Teva”), and American Sales Company, LLC (“ASC”), Meijer, Inc. and Meijer Distribution, Inc. (together, “Meijer”), Value Drug Company (“Value”), Burlington Drug Company Inc. (“Burlington”), Rochester Drug Co-Operative, Inc. (“RDC” and with ASC, Meijer, Value and Burlington, “Direct Purchaser Class Plaintiffs”), and the certified Direct Purchaser Class in *In re Nexium (Esomeprazole) Antitrust Litigation*, Civil Action No. 1:12-md-2409-WGY (D. Mass.). The Direct Purchaser Class Plaintiffs and the Direct Purchaser Class are collectively referred to herein as the “Direct Purchaser Class.” Three plaintiffs groups, the Direct Purchaser Class, the Individual Retailer Plaintiffs, and the End-Payor Class,¹ brought suit against Teva, AstraZeneca AB, Aktibolaget Hassle, AstraZeneca LP (collectively, “AstraZeneca”), Ranbaxy Pharmaceuticals, Inc., Ranbaxy Inc., and Ranbaxy Laboratories Ltd. (collectively, “Ranbaxy”), Dr. Reddy’s Laboratories, Ltd. and Dr. Reddy’s Laboratories, Inc. (collectively “DRL”) in *In re Nexium (Esomeprazole) Antitrust Litigation*, Civil Action No.

¹ See ECF No. 520.

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1:12-md-2409-WGY (D. Mass.) (the “MDL Action”). All three plaintiffs groups have agreed to settle their claims against Teva for a single payment, defined in paragraph 5 below, to be divided among the three plaintiffs groups.² This agreement covers the terms of Teva’s settlement with the Direct Purchaser Class. The Direct Purchaser Class is defined as follows:

All persons or entities in the United States, including U.S. territories, who purchased Nexium directly from AstraZeneca at any time during the period from August 27, 2008 through December 11, 2013 (the “Direct Purchaser Class”). Excluded from the Direct Purchaser Class are the Defendants, their officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

Also excluded from the Direct Purchaser Class are the “Individual Retailer Plaintiffs,” who are defined as:

CVS Pharmacy Inc., Rite Aid Corporation and Rite Aid Hdqtrs Corp., The Jean Coutu Group (PJC) USA, Inc., Maxi Drug, Inc., d/b/a Brooks Pharmacy and Eckerd Corporation, Walgreen Co., HEB Grocery Company LP, Safeway Inc., SuperValu, Inc., The Kroger Co., and Giant Eagle, Inc. in their own right as direct purchasers of Nexium from AstraZeneca, and as assignees limited to their purchases of Nexium from Class members.

See ECF No. 862.

WHEREAS, the parties acknowledge that the United States District Court for the District of Massachusetts has jurisdiction over these actions, each of the parties hereto, and all members of the Class for all manifestations of this case, including this Settlement;

WHEREAS, Plaintiffs alleged that Teva violated the federal antitrust laws by wrongfully delaying the introduction of generic versions of the prescription drug Nexium (delayed release esomeprazole magnesium) in violation of the Sherman Act, 15 U.S.C. § 1, by *inter alia*, entering

² The End-Payor Class and the Individual Retailer Plaintiffs have each entered into separate settlement agreements with Teva. Teva is making a single payment to settle the claims of all three plaintiffs groups. *See* paragraph 5 *infra*.

into an illegal market allocation conspiracy with, between, and among AstraZeneca and Ranbaxy,³ and that Plaintiffs and other members of the Class incurred significant damages as a result;

WHEREAS, Teva denies each and every one of Plaintiffs' allegations of unlawful conduct, and denies that any conduct challenged by Plaintiffs caused any damage whatsoever, and have asserted a number of defenses to Plaintiffs' claims;

WHEREAS, Plaintiffs and Teva agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by Teva or of the truth of any of the claims or allegations alleged in the MDL Action or a waiver of any defenses thereto;

WHEREAS, arm's-length settlement negotiations have taken place between counsel for Plaintiffs and Teva, and this Settlement Agreement, which embodies all of the terms and conditions of the settlement between Teva and Plaintiffs (the "Settlement"), both individually and on behalf of the Direct Purchaser Class, has been reached, subject to the final approval of the United States District Court for the District of Massachusetts (the "Court");

WHEREAS, Plaintiffs' counsel have concluded, after extensive discovery and investigation of the facts and the commencement of the trial, and after carefully considering the circumstances of the MDL Action, including the claims asserted in the complaints filed in these actions, and the possible legal and factual defenses thereto, that it would be in the best interests of the Class to enter into this Settlement Agreement in order to avoid the uncertainties of litigation, particularly complex litigation such as this, and to assure a benefit to the Class, and,

³ Plaintiffs earlier settled their litigation against Teva's co-defendant DRL.

further, that Plaintiffs' counsel consider the Settlement set forth herein to be fair, reasonable, and adequate and in the best interests of the Class; and

WHEREAS, Teva has concluded, despite its belief that it is not liable for the claims asserted and that it has good defenses thereto, that it would be in its best interests to enter into this Settlement Agreement to avoid the uncertainties of litigation, and thereby avoid the risks inherent in complex litigation;

WHEREAS, subsequent to Plaintiffs' agreement in principal with Teva to resolve their antitrust claims pursuant to the Settlement, the jury hearing the trial proceedings in the United States District Court for the District of Massachusetts against Teva's co-defendants, AstraZeneca and Ranbaxy, for allegedly wrongfully delaying the introduction of generic versions of Nexium (the "Nexium trial") found (1) that AstraZeneca exercised market power in the relevant market, (2) the settlement of the AstraZeneca-Ranbaxy patent litigation included a large and unjustified payment by AstraZeneca to Ranbaxy, and (3) AstraZeneca's Nexium settlement with Ranbaxy was unreasonably anticompetitive, *i.e.* the anticompetitive effects of that settlement outweighed the pro-competitive justifications, but (4) had it not been for the unreasonably anticompetitive settlement, AstraZeneca would not have agreed with Ranbaxy that Ranbaxy might launch a generic version of Nexium before May 27, 2014; and Plaintiffs have moved for a new trial against AstraZeneca and Ranbaxy under Fed. R. Civ. P. 59, and regardless of which party prevails before the district court, there is a high likelihood of an appeal by the non-prevailing party;

NOW THEREFORE, it is agreed by the undersigned, on behalf of Teva and Plaintiffs that the MDL Action and all claims of Plaintiffs against Teva asserted therein be settled, compromised and dismissed with prejudice and, except as hereinafter provided, without costs as

to Plaintiffs or Teva, subject to the approval of the Court, on the following terms and conditions:

1. **Reasonable Best Efforts to Effectuate This Settlement.** Counsel for the undersigned agree to recommend approval of this Settlement by the Court and to undertake their best efforts, including all steps and efforts contemplated by this Settlement Agreement and any other steps and efforts that may be necessary or appropriate, by order of the Court or otherwise, to secure approval and to carry out the terms of this Settlement.

2. **Motion for Preliminary Approval.** Promptly following the execution of this Settlement Agreement by all parties hereto, Plaintiffs shall file with the Court a motion for preliminary approval of the Settlement. The motion for preliminary approval shall request the entry of a preliminary approval order substantially in the form of Exhibit A hereto (the “Preliminary Approval Order”), including: (i) the preliminary approval of the Settlement set forth in this Settlement Agreement as fair, reasonable, and adequate, and in the best interests of the Class; (ii) approval of the notice plan; (iii) a schedule for a hearing by the Court after the notice period has expired to approve the Settlement and to consider Plaintiffs’ counsel’s applications for reimbursement of costs and expenses, and incentive awards to each of the Direct Purchaser Class Plaintiffs as set forth in this Settlement Agreement; and (iv) a stay of all proceedings in the Direct Purchaser Class Action against Teva until such time that (a) either Teva or Plaintiffs exercise their rights to cancel and terminate the Settlement Agreement pursuant to paragraphs 15 and 16, or (b) the Court renders a final decision regarding the approval of the Settlement. After the Court preliminarily approves the Settlement, Plaintiffs shall, in accordance with the Preliminary Approval Order, provide Class members with notice of the Settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure substantially in the form attached hereto as Exhibit B. Plaintiffs’ counsel will recommend notice to the Class by means of direct mail.

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3. **Motion for Final Approval and Entry of Final Judgment.** If the Court preliminarily approves this Settlement Agreement, Plaintiffs shall submit a motion for final approval of this Settlement by the Court, after appropriate notice to the Class, and shall seek entry of an order and final judgment:

- a. finding this Settlement Agreement and its terms to be a fair, reasonable and adequate settlement as to Plaintiffs and the Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation pursuant to its terms;
- b. providing for payment and reimbursement of the costs and expenses described in paragraph 5(c) from the Settlement Fund (as defined below), payment of incentive awards to each of the Direct Purchaser Class Plaintiffs, and disbursement of the remainder to the Direct Purchaser Class;
- c. directing that all of the Direct Purchaser Class claims in the MDL Action be dismissed with prejudice as to Teva and, except as provided for herein, without costs;
- d. reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including the administration and consummation of this Settlement, the payment and reimbursement of the costs and expenses described in paragraph 5(c), and the payment of incentive awards to each of the Direct Purchaser Class Plaintiffs, and disbursement of the remainder to the Direct Purchaser Class;
- e. directing that the judgment of dismissal shall be final and appealable;
- f. directing that, for a period of five years, the Clerk of the Court shall maintain the record of those members of the Class who have timely excluded themselves from the Class and that a certified copy of such records shall be provided to Defendants; and
- g. entering final judgment in substantially the form of the Final Judgment and Order attached hereto as Exhibit C (the "Final Judgment and Order").

4. **Finality of Settlement.** This Settlement Agreement shall become final upon the occurrence of the following:

- a. (i) Neither Teva nor Plaintiffs have availed themselves of their respective rights to cancel and terminate the Settlement pursuant to paragraphs 15 and 16; (ii) it is approved by the

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Court as required by Rule 23(e) of the Federal Rules of Civil Procedure; (iii) entry, as provided for in paragraph 3 herein, is made of the Final Judgment and Order of dismissal with prejudice against Named Plaintiffs and the members of the Class; and (iv) the time for appeal from the Court's approval of this Settlement as described in subparagraph 4(a)(ii) hereof and entry of the Final Judgment and Order as described in subparagraph 4(a)(iii) hereof has expired or, if appealed, either such appeal shall have been dismissed prior to resolution by the Court or approval of this Settlement and the Final Judgment and Order has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review, and (v) either of the following:

b. Both the separate settlement agreement between Teva and the Individual Retailer Plaintiffs and the separate settlement agreement between Teva and the End-Payor Class become final by their terms; or

c. Teva elects to proceed with this Settlement notwithstanding the failure of one or both of the Individual Retailer Plaintiffs or End-Payor Class settlements to become final and any portions of the Settlement Fund attributable to settlements that are not effectuated have been returned to Teva in accordance with paragraph 6.

5. Settlement Fund.

(a) Subject to the terms and conditions of this Settlement Agreement and the Escrow Agreement (as defined below), within ten (10) business days after (a) receipt by Teva of fully-executed copies of this Settlement Agreement and the Escrow Agreement and (b) entry by the Court of the Preliminary Approval Order without material change, Teva shall deposit the Settlement Fund Amount (as defined below) into an escrow account (the "Escrow Account") held and administered by Berdon Claims Administration LLC (the "Escrow Agent"). The

Settlement Fund Amount shall be Twenty Four Million Dollars and no/100 (\$24,000,000.00). The Settlement Fund Amount settles the claims of all three plaintiffs groups (the Direct Purchaser Class, the Individual Retailer Plaintiffs, and the End-Payor Class) against Teva, and shall be allocated among the three plaintiffs groups as set forth in paragraph 5(c) below. The Settlement Fund Amount deposited by Teva into the Escrow Account and any accrued interest shall be referred to as the “Settlement Fund.”

(b) The Escrow Account shall be established and administered pursuant to the escrow agreement attached hereto as Exhibit D (the “Escrow Agreement”). It is intended that the Escrow Account be treated as a “qualified settlement fund” for federal income tax purposes pursuant to Treas. Reg. § 1.468B-1 and that any taxes due as a result of income earned by the Settlement Fund will be paid from the Settlement Fund. Except as otherwise expressly permitted by paragraph 3(d)(4) of the Escrow Agreement, the Escrow Agent shall disburse funds from the Escrow Account only pursuant to and consistent with the express terms of this Settlement Agreement, Teva’s Settlement Agreements with the End-Payor Class and Individual Retailer Plaintiffs,⁴ the Preliminary Approval Order, the Final Judgment and Order, the Escrow Agreement, and as expressly authorized by any other applicable order of the Court. Interest earned by the Settlement Fund shall be for the benefit of the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs, less any taxes imposed on such interest.

(c) The Settlement Fund shall be available for (1) the costs and expenses incurred by counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs in the MDL Action, as approved by the Court, through trial; (2) any costs and expenses, not in excess of

⁴ The terms of Teva’s settlement agreements with the End-Payor Class and Individual Retailer Plaintiffs mirror the terms of this Settlement Agreement.

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Two Million Dollars and no/100 (\$2,000,000.00), incurred by counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs in continuing their litigation against AstraZeneca and Ranbaxy, including, *inter alia*, any costs incurred during retrial of Plaintiffs' claims against AstraZeneca and Ranbaxy, in the event the Court grants a retrial against AstraZeneca and Ranbaxy; and/or for an appeal of the judgment (or any part thereof) of Plaintiffs' claims against AstraZeneca and Ranbaxy; (3) any taxable costs; (4) taxes payable on the Settlement Fund; (5) any and all administrative and notice expenses associated with this litigation or the Settlement; and (6) the remainder of the Settlement Fund, if any, shall be allocated (a) in the amount of One Million Dollars and no/100 (\$1,000,000.00) to the End-Payor Class, (b) with 61% of the remainder of the Settlement Fund to be allocated to the Direct Purchaser Class and 39% to the Individual Retailer Plaintiffs. Direct Purchaser Class Counsel will not seek attorneys' fees from the Settlement Fund, and the Direct Purchaser Class' portion of the Settlement Fund shall be available for distribution to the members of the Class upon the Settlement becoming final pursuant to paragraph 4 of this Settlement Agreement, subject to the deductions set forth in this paragraph and payment of any Court-approved incentive awards to each of the Direct Purchaser Class Plaintiffs. No portion of the Settlement consideration shall constitute, or shall be construed as constituting, a payment in lieu of treble damages, fines, penalties, punitive damages or forfeitures.

6. The effectuation of the Settlement Agreement is, at Teva's sole option, contingent on the effectuation of Teva's settlements with the End-Payor Class and the Individual Retailer Plaintiffs. If either of the settlements with the End-Payor Class or the Individual Retailer Plaintiffs is not effectuated (including, for example, because the Settlement with the End-Payor Class does not receive Final Approval), and Teva elects to effectuate the instant Settlement Agreement, Teva and Plaintiffs shall use their best efforts to agree on a reasonable estimate of the total amount that

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would otherwise have been payable under Paragraph 5(c) to the settling group(s) whose Settlement is not effectuated. That amount shall be paid to Teva from the Settlement Fund, with the remainder to constitute the remaining Settlement Fund available for payment under Paragraph 5(c). Any dispute will be submitted to the court for final resolution, which decision will not be subject to appeal.

7. **Full Satisfaction; Limitation of Interest and Liability.** Members of the Class shall look solely to the Settlement Fund for settlement and satisfaction against Teva of all claims that are released hereunder. In the event that the Settlement becomes final pursuant to paragraph 4 herein, the Settlement Fund will fully satisfy any and all Released Claims as defined in paragraph 9 herein. Except as provided by order of the Court, no Plaintiff shall have any interest in the Settlement Fund or any portion thereof. Teva shall have no liability with respect to disbursements from the Settlement Fund pursuant to any Court-approved plan of allocation.

8. **Reimbursement of Costs and Expenses.** The Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs will be reimbursed solely out of the Settlement Fund for the court-approved costs and expenses incurred in the MDL Action (including, but not limited to, the costs of notice of this Settlement to the members of the classes and administration of the Settlement Fund). Teva shall not be liable for any costs or expenses of any of Plaintiffs' experts, advisors, agents and representatives, or for any costs, fees or expenses for notice, administration or other costs of implementing this Settlement, but all such costs, fees and expenses as approved by the Court shall be paid out of the Settlement Fund.

9. **Releases.** (a) Upon this Settlement Agreement becoming final in accordance with paragraph 4 hereof, the Plaintiffs shall unconditionally, fully and finally release and forever discharge Teva and its past, present and future parents, subsidiaries, divisions,

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affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the "Released Parties") from any and all manner of claims, rights, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, including costs, expenses, penalties and attorneys' fees, accrued in whole or in part, in law or equity, that Plaintiffs or any member or members of the Direct Purchaser Class (including any of their past, present or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting in their capacity as such) (the "Releasers"), whether or not they object to the Settlement, ever had, now has, or hereafter can, shall or may have, directly, representatively, derivatively or in any other capacity, arising out of or relating in any way to the alleged delayed entry of generic versions of Nexium (esomeprazole magnesium), including but not limited to any and all claims asserted or that could have been asserted against Teva in the MDL Action prior to the date of this Settlement, except as provided for in paragraph 9 herein (the "Released Claims").

(b) In addition, Plaintiffs on behalf of themselves and all other Releasers, hereby expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and benefits conferred by §1542 of the California Civil Code, which reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her

favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor;

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Each Plaintiff may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of this paragraph 9, but each Plaintiff hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement becoming final, any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Each Plaintiff also hereby expressly waives and fully, finally and forever settles, releases and discharges any and all claims it may have against any Released Party under § 17200, *et seq.*, of the California Business and Professions Code or any similar comparable or equivalent provision of the law of any other state or territory of the United States or other jurisdiction, which claims are expressly incorporated into the definition of Released Claims.

10. **Reservation of Claims.** Teva represents and warrants that it has assumed no contractual obligation that would, in fact or at law, in the event Plaintiffs prevailed against any other defendant on the claims made in the Litigation, obligate Teva to indemnify, pay, contribute to, be liable over to, or share in a judgment entered in favor of Plaintiffs against any other defendant. Teva agrees that Plaintiffs justifiably rely upon this representation and warranty and that it is material to Plaintiffs' decision to enter into this Settlement with Teva. This partial settlement as to Teva only is not intended to release any claims under Article 2 of the Uniform

Commercial Code (pertaining to Sales), the laws of negligence or product liability or implied warranty, breach of contract, breach of express warranty, or personal injury, or other claims unrelated to the Nexium antitrust allegations in this MDL Action.

11. **Dismissal of the Litigation as to Teva Only.** Upon this Settlement Agreement becoming final in accordance with paragraph 4 hereof, all claims asserted against Teva in the MDL Action shall be dismissed with prejudice. No non-Teva defendant is intended to be, or is, included within the scope of the release contained herein. For the avoidance of doubt, neither AstraZeneca, nor Ranbaxy is intended to be, or is, included within the scope of the release set forth in paragraph 9. This partial settlement as to Teva only is not intended to release any claims other than those specified in paragraph 9, hereof and no other claims unrelated to the Nexium antitrust allegations in this MDL Action.

12. **Incentive Awards to Direct Purchaser Class Plaintiffs.** Direct Purchaser Class Counsel intend to seek, solely from the Direct Purchaser Class' portion of the Settlement Fund, an incentive award of Fifty-Thousand Dollars and no/100 (\$50,000.00) for each of ASC, Meijer, Value, Burlington, and RDC in the Direct Purchaser Class Action. Teva agrees to take no position with respect to Direct Purchaser Class Plaintiffs' application for incentive awards.

13. **Expenses and Costs.** Plaintiffs' counsel intend to seek, solely from the Settlement Fund, the reimbursement and payment of the reasonable costs and expenses incurred, and to be incurred, in the prosecution of the MDL Action as set forth in paragraph 5(c), and Teva agrees to take no position with respect to Plaintiffs' application for such costs and expenses. Teva agrees that any Plaintiffs' costs and expenses awarded by the Court shall be disbursed by the Escrow Agent only to Garwin Gerstein & Fisher LLP, for allocation among the three Plaintiffs groups in this MDL Action, as provided herein. Teva also agrees that subject to any order of the Court, the

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Escrow Agent shall pay to Plaintiffs' counsel any Court-approved expenses within five (5) business days after this Settlement becomes final pursuant to paragraph 4 of this Settlement Agreement. Any attorneys' expenses and/or costs shall be payable solely out of the Settlement Fund, and Plaintiffs and their respective counsel shall not seek payment of any attorneys' expenses and/or costs from any source other than the Settlement Fund. The Released Parties (as defined in paragraph 9 hereof) shall have no responsibility for, and no liability whatsoever with respect to any allocation of attorneys' expenses and/or costs among Plaintiffs' counsel and/or Plaintiffs, or with respect to any allocation of expenses and/or costs to any other person or entity who may assert any claim thereto.

14. **Stay of Proceedings.** Pending Court approval of the Settlement embodied in this Settlement Agreement, the parties agree to stay any and all proceedings against Teva in the Class Action other than those incident to the settlement process, and agree to extensions of time with respect to any court filings necessary to effectuate such stays.

15. **Effect of Disapproval.** If the Court declines to finally approve this Settlement, or if such approval is set aside on appeal or materially modified, or if there is a material change in the composition of the Direct Purchaser Class, or if the Court does not enter the Final Judgment and Order in substantially the form provided for in paragraph 3 and Exhibit C, or if the Court enters the Final Judgment and Order and appellate review is sought, and on such review, the Final Judgment and Order is not affirmed or is affirmed with material modification, then this Settlement Agreement and the Settlement shall be terminated upon the election of any of Teva or Direct Purchaser Class Lead Counsel (Garwin Gerstein & Fisher LLP; Hagens, Berman, Sobol Shapiro LLP; and Berger & Montague, PC) by providing written notice to the parties designated to receive such notice hereunder in accordance with paragraph 21 hereof and the Escrow Agent within ten

(10) business days following the occurrence of any such event. A modification or reversal on appeal of any amount of Plaintiffs' counsel's fees and expenses awarded by the Court from the Settlement Fund, or the amount of incentive awards from the Settlement Fund to Plaintiffs in the Class Action, shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or the Final Judgment and Order and shall not give rise to any right of termination.

16. **Termination.** In the event that for any reason the Settlement does not become final in accordance with the terms of paragraph 4 hereof, then (a) this Settlement Agreement shall be of no force or effect, (b) any amount of the Settlement Fund attributable to this Settlement, including any and all interest earned thereon, but less fifty percent (50%) of the costs for notice of the Settlement, shall be paid to Teva, as soon as practicable after the Escrow Agent receives notice of termination as provided for in paragraph 15 hereof, and (c) any release pursuant to paragraph 9 above shall be of no force or effect.

17. **Preservation of Rights.** The parties hereto agree that this Settlement Agreement, whether or not it shall become final, and any and all negotiations, documents and discussions associated with it shall be without prejudice to the rights of any party; shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by Teva, or of the truth of any of the claims or allegations contained in the complaint or any other pleading or document; and evidence thereof shall not be discoverable, admissible, or otherwise used directly or indirectly, in any way (except in accordance with the terms of this Settlement; and that the provisions of this Settlement Agreement can be used by the parties to enforce the provisions of the Settlement Agreement), whether in the Class Action or in any other action or proceeding. The parties expressly reserve all of their rights if the Settlement does not become final in accordance with the terms of this Settlement Agreement. Upon the Settlement

becoming final, nothing in this paragraph shall prevent Teva from asserting any release or using this Settlement Agreement to offset any liability to any other parties.

18. **Resumption of Litigation.** The parties agree, subject to approval of the Court, that in the event that the Settlement Agreement is not approved by the Court or the Settlement does not become final pursuant to paragraph 4, litigation of the Class Action against Teva will resume in a reasonable manner to be approved by the Court upon joint application by the parties hereto.

19. **Confidentiality.** Neither Teva nor any counsel or other agent for or representative of Plaintiffs or the Class will make or cause to be made any public statement or comment regarding this litigation or this Settlement until after the earlier of (a) the Court's preliminary approval of the Settlement and (b) any public disclosures by Teva regarding this litigation or its settlement. This provision does not apply to statements made in judicial filings necessary to obtain preliminary Court approval of the Settlement. Defendants shall be entitled to make such disclosures of the Settlement Agreement as they, in their sole discretion, determine are appropriate under the securities laws.

20. **Binding Effect.** This Settlement Agreement shall be binding upon, and inure to the benefit of, the parties hereto, the Released Parties, the Releasers, and the successors and assigns of each of them. Without limiting the generality of the foregoing, each and every covenant and agreement herein by the Plaintiffs and their counsel shall be binding upon all members of the Class and the Releasers and their respective successors and assigns

21. **Notice.** Any and all notices, requests, consents, directives, or communications by any party intended for any other party shall be in writing and shall, unless expressly provided otherwise herein, be given personally, or by express courier, or by facsimile transmission followed by postage prepaid mail, to the following persons, and shall be addressed as follows:

To Plaintiffs and the Class:

Bruce E. Gerstein, Esq.
Garwin Gerstein & Fisher LLP
88 Pine Street, 10th Floor
New York, NY 10005
Tel.: 212-398-0055
Fax: 212-764-6620

Thomas M. Sobol, Esq.
Hagens Berman Sobol Shapiro LLP
55 Cambridge Parkway, Suite 301
Cambridge MA 02142
Tel: 617-482-3700
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David F. Sorensen, Esq.
Berger & Montague, P.C.
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Philadelphia, PA 19103
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Co-lead Counsel for Direct Purchaser Class

To Teva:

Jay P. Lefkowitz, P.C.
Kirkland & Ellis
601 Lexington Avenue
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Kevin T. Van Wart, P.C.
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
Tel: 312-862-2130
kevin.vanwart@kirkland.com

Counsel for Teva

Any of the parties may, from time to time, change the address to which such notices, requests, consents, directives, or communications are to be delivered, by giving the other parties prior

written notice of the changed address, in the manner hereinabove provided, ten (10) calendar days before the change is effective.

22. **Integrated Agreement.** This Settlement Agreement (including the exhibits hereto) contains an entire, complete, and integrated statement of each and every term and provision agreed to, by and among the parties. This Settlement Agreement shall not be modified in any respect except by a writing executed by all the parties hereto.

23. **Headings.** The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

24. **No Party is the Drafter.** None of the parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

25. **Choice of Law.** All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of the Commonwealth of Massachusetts without regard to its choice of law or conflict of laws principles.

26. **Consent to Jurisdiction.** Teva and each member of the Class hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the District of Massachusetts, for any suit, action, proceeding or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement. Notwithstanding any language in this paragraph 26 to the contrary, nothing in this paragraph 26 shall prohibit (a) the assertion in any forum in which a claim is brought that any release herein is a defense, in whole or in part, to such claim or (b) in the event that such a defense is asserted in such forum, the

determination of its merits in that forum.

27. **No Admission.** Nothing in this Settlement Agreement shall be construed as an admission in any action or proceeding of any kind whatsoever, civil, criminal or otherwise, before any court, administrative agency, regulatory body or any other body or authority, present or future, by Defendants including, without limitation, that Defendants have engaged in any conduct or practices that violate any antitrust statute or other law. This Settlement Agreement shall not be admissible for any purpose except in an action to enforce its terms or as otherwise provided in paragraphs 16 and 26 hereof.

28. **Execution in Counterparts.** This Settlement Agreement may be executed in counterparts. Facsimile signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Settlement Agreement and filed with the Court.

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IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Settlement Agreement as of April 1, 2015.

GARWIN GERSTEIN & FISHER LLP

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Co-Lead Counsel for the Direct Purchaser Class

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Co-Lead Counsel for Plaintiffs and the Direct Purchaser Class

IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Settlement Agreement as of April 1, 2015.

GARWIN GERSTEIN & FISHER LLP

KIRKLAND & ELLIS LLP

By: _____
Bruce E. Gerstein, Esq.
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By: _____
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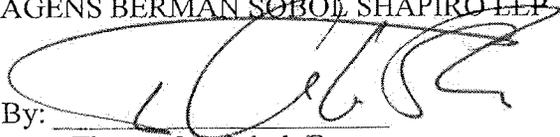
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Co-Lead Counsel for Plaintiffs and the Direct Purchaser Class

EXHIBIT A

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re: NEXIUM (ESOMEPRAZOLE)
ANTITRUST LITIGATION

MDL No. 2409

Civil Action No. 1:12-md-02409-WGY

This Document Relates To:

All Direct Purchaser Class Actions

**[PROPOSED] ORDER PRELIMINARILY APPROVING DIRECT
PURCHASER CLASS SETTLEMENT WITH TEVA
PHARMACEUTICAL INDUSTRIES, LTD. AND TEVA
PHARMACEUTICALS USA, INC. (“TEVA”),
AUTHORIZING NOTICE TO THE CLASS, AND SETTING HEARING**

Upon review and consideration of the Settlement Agreement with Teva dated April 1, 2015 and the exhibits thereto (collectively, the “Teva Settlement Documents”), Direct Purchaser Class Plaintiffs’ (“Plaintiffs” or the “Class”) Motion for Preliminary Approval of Proposed Settlement with Teva and for Approval of the Form and Manner of Notice to the Class, the attachments to such motion, Declaration of the Notice Administrator, Rebecca A. Blake of Rust Consulting, Inc. (“Blake Declaration”); and the Proposed Notice to the Direct Purchaser Class (substantially in the form attached as Exhibit A to the Blake Declaration), IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. Upon review of the record, the Court finds that the proposed settlement is sufficiently fair, reasonable, and adequate, and in the best interests of the members of the Class, and within a range that responsible and highly experienced counsel could accept considering all relevant risks and factors of litigation, and is hereby **PRELIMINARILY APPROVED**, subject to a final determination following a hearing, after notice to the Class, to be scheduled at a later date.

2. The proposed settlement is on behalf of:

All persons or entities in the United States, including U.S. territories, who purchased Nexium directly from AstraZeneca at any time during the period from August 27, 2008 through December 11, 2013 (the “Direct Purchaser Class”). Excluded from the Direct Purchaser Class are the Defendants, their officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities.

Also excluded from the Class are:

CVS Pharmacy Inc., Rite Aid Corporation and Rite Aid Hdqtrs Corp., The Jean Coutu Group (PJC) USA, Inc., Maxi Drug, Inc., d/b/a Brooks Pharmacy and Eckerd Corporation, Walgreen Co., HEB Grocery Company LP, Safeway Inc., SuperValu, Inc., The Kroger Co., and Giant Eagle, Inc. in their own right as direct purchasers of Nexium from AstraZeneca, and as assignees limited to their purchases of Nexium from Class members.

3. The Court has found that the Class meets all the requirements of FED. R. CIV. P. 23.

The Class, made up of sophisticated business entities, had a full and fair opportunity to request exclusion at the time of class certification and therefore, the Court finds that a discretionary second opt-out period pursuant to recently-amended Rule 23(e)(3) is unnecessary.¹

4. Upon review of the record, the Court finds that the proposed Settlement between the Plaintiffs, the Class and Defendants, which was arrived at by arm’s-length negotiations by highly experienced counsel, falls within the range of possible approval and is hereby preliminarily approved, subject to further consideration at the Fairness Hearing provided for below.

5. All proceedings in the Direct Purchaser Class Action against Teva are hereby stayed until such time as the Court renders a final decision regarding the approval of the Settlement

¹ Pursuant to this Court’s Order dated December 27, 2013, a “Notice of Pendency of Class Action” in a form approved by the Court, was sent to putative class members. Opt-out elections were required to be postmarked by February 2, 2014. No parties/entities elected to opt-out of the class other than those prosecuting the *Walgreen* (No. 13-cv-10337-WGY), *Giant Eagle* (No. 13-cv-11305-WGY), and *Rite Aid* (No. 13-cv-12074-WGY) actions. See ECF No. 862.

and, if it approves the Settlement, enters final judgment and dismisses the action against Teva with prejudice.

6. In the event that the Settlement does not become final pursuant to paragraph 4 of the Settlement, then, subject to approval of the Court, litigation of the Class Action will resume in a reasonable manner to be approved by the Court upon joint application by the parties hereto.

7. In the event the Settlement Agreement and the Settlement is terminated in accordance with the provisions of the Settlement Agreement, the Settlement Agreement, the Settlement, and all related proceedings shall, except as expressly provided to the contrary in the Settlement Agreement, become null and void, shall have no further force and effect, and Plaintiffs shall retain full rights to assert any and all causes of action Teva, and Teva shall retain any defenses thereto.

8. Neither this order nor the Settlement Agreement nor any other Settlement-related document or anything contained herein or therein or contemplated hereby or thereby nor any proceedings undertaken in accordance with the terms set forth in the Settlement Agreement or herein, shall constitute, be construed as or be deemed to be evidence of or an admission or concession by Teva as to the validity of any claim that has been or could have been asserted against Teva or as to any liability Teva or as to any matter set forth in this Order.

9. The proposed form of Notice to the Direct Purchaser Class Members, substantially in the form of Exhibit A to the Blake Declaration, and the proposed method of dissemination thereof (direct mail) satisfy the requirements of Rule 23(e) of the Federal Rules of Civil Procedure and due process, are otherwise fair and reasonable, and therefore are **APPROVED**.

10. The Notice Administrator shall complete mailing of the Settlement Notice to the Class by the later of _____, 2015 or fourteen (14) days after the Court grants preliminary approval of the proposed Settlement.

11. Class members who wish to object or otherwise be heard with respect to the proposed Settlement must do so in writing to the Clerk of the U.S. District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, MA 02210, with copies to the following counsel:

On behalf of the Direct Purchaser Class Counsel, Direct Purchaser Plaintiffs, and the Direct Purchaser Class:

Bruce E. Gerstein, Esq.
Garwin Gerstein & Fisher LLP
88 Pine Street, 10th Floor
New York, NY 10005
Tel.: 212-398-0055
Fax: 212-764-6620

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David F. Sorensen, Esq.
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Tel: 215-875-5705
Fax: 215-875-4604

On behalf of Teva:

Jay P. Lefkowitz, P.C.
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300 North LaSalle
Chicago, IL 60654
Tel: 312-862-2130
kevin.vanwart@kirkland.com

To be valid, any such Objection to the Settlement and/or Notice of Intention to Appear and Summary Statement must be postmarked no later than the later of _____, 2015 or 45 days following mailing of the Settlement Notice to the Direct Purchaser Class. Except as herein provided, no person or entity shall be entitled to contest the terms of the proposed Settlement. All persons and entities who fail to file a Notice of Intention to Appear as well as a Summary Statement as provided above shall be deemed to have waived any such objections by appeal, collateral attack or otherwise, and will not be heard at the Fairness Hearing.

12. Direct Purchaser Class Plaintiffs shall move for Final Approval of the Settlement no later than the later of _____, 2015 or 30 days after the deadline for Class Members to Object to the Settlement.

13. A hearing on final approval (the "Fairness Hearing") shall be held before this Court on _____, 2015 (a date no earlier than the later of _____, 2015 or 90 days after mailing of the Settlement Notice is complete), at _____ .m Eastern Time, in Courtroom 18 of the United States District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, MA 02210. At the Fairness Hearing, the Court will consider, *inter alia*, (a) the fairness, reasonableness and adequacy of the Settlement and whether the Settlement should be finally approved, and (b) whether entry of a final judgment terminating the litigation against Teva should be entered. The Fairness hearing may be rescheduled or continued; in this event, the Court will furnish all counsel with appropriate notice. Plaintiffs' counsel shall be responsible for

communicating any such notice promptly to the Direct Purchaser Class by posting conspicuous notice on its website.

SO ORDERED this day _____ day of _____, 2015.

William G. Young
United States District Judge
U.S. District Court for the District of Massachusetts

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**If you purchased Nexium directly from
AstraZeneca in the United States, a class action
lawsuit may affect your rights.**

*This Notice is being provided by Order of the U.S. District Court.
It is not a solicitation from a lawyer. You are not being sued.*

- You were previously notified, through a notice sent to you by first class mail on or about January 3, 2014, of the existence of a class action lawsuit (the “lawsuit”) brought by direct purchasers of Nexium against defendants AstraZeneca AB, Aktiebolaget Hassle, AstraZeneca LP (collectively, “AstraZeneca”), Ranbaxy Pharmaceuticals, Inc., Ranbaxy Inc., and Ranbaxy Laboratories Ltd. (collectively, “Ranbaxy”), Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals USA, Inc. (collectively, “Teva”), Dr. Reddy’s Laboratories Ltd., and Dr. Reddy’s Laboratories, Inc. (collectively, “DRL”) (all together, “defendants”). The lawsuit asserts that the defendants violated antitrust laws relating to the sale of the prescription pharmaceutical Nexium. Defendants have denied any wrongdoing. You were previously notified that the Court certified a class of entities that purchased Nexium directly from AstraZeneca between August 27, 2008 and December 11, 2013 (the “class” or the “Direct Purchaser Class”) for purposes of the lawsuit.
- The purpose of this notice is to inform you that proposed settlements with two of the four defendants, DRL and Teva, in this lawsuit have been reached.
- The Court has preliminarily approved the proposed settlements with DRL and Teva. The DRL Settlement was reached before the trial began and the Teva Settlement was agreed to during the trial but before the jury verdict. Under the DRL settlement agreement, DRL agreed to provide various forms of cooperation to Plaintiffs during the trial against its co-defendants. The Teva settlement provides for the payment of \$24,000,000.00 (twenty-four million dollars) into an escrow account (the “Settlement Fund”) for the benefit of the Direct Purchaser Class and two other groups of plaintiffs, the Individual Retailer Plaintiffs and the End-Payor Class, which litigated this action alongside the Direct Purchaser Class. The details of how the Settlement Fund will be allocated among the three plaintiffs groups are described in response to question 7. The portion of the Settlement Fund allocated to the Direct Purchaser Class, if any, will be distributed to the members of the Class after payment of any incentive awards to the Direct Purchaser Class Representatives, as approved by the Court.
- The Court has scheduled a hearing on final approval of the settlements with DRL and Teva, the plan for allocating the Settlement Fund (described in response to question 8), Plaintiffs’ application for payment and reimbursement of costs and expenses, and for incentive awards to the Direct Purchaser Class Representatives. That hearing, before United States District

Judge William G. Young has been scheduled for _____, 2015 at _____.m. in Courtroom 18 at the United States District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210.

- This Notice contains summary information with respect to the Settlements with DRL and Teva. The terms and conditions of the Settlements are set forth in the DRL Settlement Agreement dated October 17, 2014 and Teva Settlement Agreement dated April 1, 2015. Complete copies of these Settlement Agreements are available through the methods listed in response to questions 11 and 18 below.

**YOUR LEGAL RIGHTS WILL BE AFFECTED
WHETHER YOU ACT OR NOT. PLEASE READ
THIS NOTICE CAREFULLY.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
Do Nothing	By doing nothing, all of the Court’s orders will apply to you and legally bind you. If the Teva Settlement is approved by the Court and you are a Class Member, you will not need to do anything right now to receive a payment. In a few months, a claim form will be mailed to all members of the Class setting out each Class Member’s recovery from the Settlement Fund. The portion, if any, of the Settlement Fund to be allocated to you will be calculated on a <i>pro rata</i> basis based on your combined Class Purchases of Nexium from AstraZeneca in units during the Class Period as part of the implementation of the Settlement. To receive your share, you will need to sign and return the claim form as directed.
Object to one or both of the Settlements	If you object to the DRL Settlement and/or the Teva Settlement, or any part of one or both of them, you may (as discussed below) submit a written objection to the Court and counsel about why you do not approve of the Settlements.
Getting More Information	If you would like to obtain more information about the DRL Settlement and/or Teva Settlement, you can send questions to the lawyers identified in this notice.
Go To a Hearing	If you have submitted a written objection to the DRL Settlement and/or Teva Settlement, you may (but do not have to) attend the Court hearing about the Settlements and present your objection to the Court. You may attend the hearing even if you do not file a written objection, but you will only be allowed to speak at the hearing if you file written comments in advance of the hearing.

**THESE RIGHTS AND OPTIONS
– AND THE DEADLINES TO EXERCISE THEM –
ARE EXPLAINED IN THIS NOTICE.**

*The Court in charge of this case still has to decide
whether to approve the settlements with DRL and Teva.*

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THE DIRECT PURCHASER CLASS

The certified Direct Purchaser Class is defined as follows: All persons or entities in the United States, including U.S. territories, who purchased branded Nexium directly from AstraZeneca at any time during the period August 27, 2008 through December 11, 2013 (the “Class”). Excluded from the Class are the Defendants, their officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities. Also excluded from the class are CVS Pharmacy Inc., Rite Aid Corporation and Rite Aid Hdqtrs Corp., The Jean Coutu Group (PJC) USA, Inc., Maxi Drug, Inc., d/b/a Brooks Pharmacy and Eckerd Corporation, Walgreen Co., HEB Grocery Company LP, Safeway Inc., SuperValu, Inc., The Kroger Co., and Giant Eagle, Inc. (“Individual Retail Plaintiffs”) in their own right as direct purchasers of Nexium from AstraZeneca, and as assignees limited to their purchases of Nexium from Class members.

SUMMARY OF SETTLEMENTS

Direct Purchaser Class Plaintiffs entered the settlement agreements with two of the four defendants in this case, DRL and Teva. The DRL settlement was reached before the trial began and the Teva settlement was agreed to during the trial but before the jury verdict. Subsequent to Plaintiffs’ settlements with DRL and Teva to resolve their antitrust claims, the jury hearing the trial proceedings in the United States District Court for the District of Massachusetts against DRL and Teva’s co-defendants, AstraZeneca and Ranbaxy (the “Non-Settling Defendants”), for allegedly wrongfully delaying the introduction of generic versions of Nexium (the “Nexium trial”) found that AstraZeneca exercised market power in the relevant market, the settlement of the AstraZeneca-Ranbaxy patent litigation included a large and unjustified payment by AstraZeneca to Ranbaxy, and AstraZeneca’s Nexium settlement with Ranbaxy was unreasonably

anticompetitive, *i.e.* the anticompetitive effects of that settlement outweighed the pro-competitive justifications, but had it not been for the unreasonably anticompetitive settlement, AstraZeneca would not have agreed with Ranbaxy that Ranbaxy might launch a generic version of Nexium before May 27, 2014. Plaintiffs have moved for a new trial against AstraZeneca and Ranbaxy under Fed. R. Civ. P. 59, and regardless of which party prevails before the district court, there is a high likelihood of an appeal by the non-prevailing party.

Summary of the DRL Settlement. Under the DRL Settlement, DRL agreed to provide valuable forms of cooperation to Plaintiffs in the trial against its co-defendants.

Summary of the Teva Settlement. Three groups of plaintiffs, the Direct Purchaser Class (to which this notice is directed), the Individual Retailer Plaintiffs, and the End-Payor Class, have agreed to settle their claims against Teva for a single payment of \$24 million (the “Settlement Fund”). The parties have proposed that the Settlement Fund be used to defray the expenses and costs of the trial, and the expenses and costs of a future retrial and/or appeal against the Non-Settling Defendants, with the remainder of the Settlement Fund, if any, to be allocated among the three plaintiffs groups as described in paragraph 7. The attorneys representing the Direct Purchaser Class (“Direct Purchaser Class Counsel”) will not seek attorneys’ fees from the Teva Settlement Fund. Thus, the portion of the remainder of net Settlement Fund, if any, allocated to the Direct Purchaser Class will be distributed *pro rata* to the members of the Direct Purchaser Class after payment of any court-approved incentive awards to the Direct Purchaser Class Representatives.

Class Counsel have determined that the settlements with DRL and Teva are in the best interests of the class. As with any litigated case, Plaintiffs faced an uncertain outcome if this case continued through a jury verdict and/or appeals against DRL and Teva. The Plaintiffs are

continuing their litigation against the Non-Settling Defendants, who are jointly and severally liable to Plaintiffs for the damages arising from their alleged conspiracy to delay the introduction of generic versions of Nexium, in violation of the Sherman Act, 15 U.S.C. § 1, in the event Plaintiffs are successful during a retrial or appeal. Notably, the two other plaintiffs groups litigating alongside the Direct Purchaser Class Plaintiffs in this trial (the End-Payor Class and Individual Retail Plaintiffs) have made a similar assessment and have also agreed to settle with DRL and Teva.

BASIC INFORMATION

1. *Why did I receive this notice?*

You received this notice because according to available records, you purchased Nexium directly from AstraZeneca from August 27, 2008 through December 11, 2013. You were previously notified that the Court has allowed, or “certified,” a class action lawsuit that may affect you. You are receiving this notice because pursuant to the terms of the proposed settlements with DRL and Teva, you have legal rights and options that you may exercise. Judge William G. Young of the United States District Court for the District of Massachusetts is overseeing this class action. The lawsuit is known as *In re Nexium (Esomeprazole) Antitrust Litigation*, Civil Action No. 12-md-02409-WGY (D. Mass.).

2. *What is the lawsuit about?*

The lawsuit claims that DRL, Teva, and the Non-Settling Defendants violated federal antitrust laws by unlawfully delaying the introduction of generic versions of the prescription drug Nexium into the United States market, causing injury to Plaintiffs and members of the Direct Purchaser Class by causing them to pay higher prices for Nexium. DRL and Teva deny these claims and deny that they did anything wrong. DRL and Teva dispute that the agreements

were anticompetitive. DRL and Teva also deny that the challenged agreements delayed the entry of generic versions of Nexium.

3. *What is a class action?*

In a class action lawsuit, one or more persons or entities (called “plaintiffs” or “class representatives”) sues on behalf of others who have similar claims. Together, they are typically called a “class” or “class members.” Accordingly, companies that purchased Nexium directly from AstraZeneca during the relevant time period are members of the Direct Purchaser Class. The entities that brought the Class Action on behalf of the Direct Purchaser Class are called the Plaintiffs or the Class Representatives. The companies that were sued by the Class Representatives are called the defendants. In this case, the defendants are AstraZeneca, Ranbaxy, Teva, and DRL.

4. *Why is this lawsuit a class action?*

The Court decided that this lawsuit can proceed as a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. Specifically, the Court found that:

- The class is so numerous and geographically dispersed and the matter sufficiently complex such that joinder of all members is impracticable;
- There are factual or legal questions that are common to the members of the class;
- The claims of the class representatives are typical of the claims of the class they represent;
- The class representatives, and the lawyers representing the class, will fairly and adequately represent the interests of the members of the class;
- The common facts or legal questions predominate over any questions that may affect only individual members of the class; and
- This class action will be more efficient than having many individual lawsuits.

5. *Why are there settlements with DRL and Teva?*

Plaintiffs, DRL, and Teva were preparing to proceed with the litigation through appeal, but they have now agreed to settlements. By settling, Plaintiffs, DRL, and Teva avoided the risks and costs of continued litigation. Class Counsel have determined that the cooperation from DRL and remuneration from Teva provided for in the Settlements will assist the Plaintiffs and Class in the further litigation of this action against the Non-Settling Defendants.

The Class Representatives and Class Counsel believe that the proposed settlements are fair, adequate, reasonable, and in the best interests of the class.

WHO IS IN THE CLASS AND SETTLEMENT

To see if you are in the class that is settling with DRL and Teva, you first have to decide if you are a class member.

6. *Am I part of the class and the settlement with DRL and Teva?*

Prior notice of the Court's December 11, 2013 Order certifying a class was disseminated by first class mail on or about January 3, 2014. If you are not sure whether you are included, you may call or write to the lawyers in this case at the telephone numbers or addresses listed in Question 9 below.

THE SETTLEMENT BENEFITS – WHAT YOU GET

7. *What do the settlements with DRL and Teva provide?*

The DRL Settlement. Under the DRL Settlement, DRL agreed to provide valuable forms of cooperation at trial. In particular, DRL cooperated with Plaintiffs in the trial against its co-defendants, by stipulating to facts, authenticating documents, and agreeing to use its best efforts to provide witness testimony, if called upon to do so.

The Teva Settlement. Three groups of plaintiffs, the Direct Purchaser Class (to which this notice is directed), the Individual Retailer Plaintiffs, and the End-Payor Class, have agreed to settle their claims against Teva for a single payment of \$24 million, which will be paid into an escrow account for the benefit of the three groups of plaintiffs. The parties have proposed that the Settlement Fund be allocated as follows: (1) to cover the costs and expenses incurred by counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs in the MDL Action, as approved by the Court, through trial; (2) to pay any costs and expenses, not in excess of Two Million Dollars and no/100 (\$2,000,000.00), incurred by counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs in continuing their litigation against AstraZeneca and Ranbaxy, including, *inter alia*, any costs incurred during retrial of Plaintiffs' claims against AstraZeneca and Ranbaxy, in the event the Court grants a retrial against AstraZeneca and Ranbaxy; and/or for an appeal of the judgment (or any part thereof) of Plaintiffs' claims against AstraZeneca and Ranbaxy; (3) any taxable costs; (4) to cover any taxes payable on the Settlement Fund; (5) to pay any and all administrative and notice expenses associated with this litigation or the Settlement; and (6) the remainder of the Settlement Fund, if any, shall be allocated (a) in the amount of One Million Dollars and no/100 (\$1,000,000.00) to the End-Payor Class, (b) with 61% of the remainder of the Settlement Fund to be allocated to the Direct Purchaser Class and 39% to the Individual Retailer Plaintiffs. The foregoing proposed allocation is subject to court-approval. Direct Purchaser Class Counsel will not seek attorneys' fees from the proceeds of the Teva Settlement. Class Counsel will ask the Court to permit the portion of the remainder of Settlement Fund, if any, allocated to the Direct Purchaser Class to be allocated to Direct Purchaser Class Members according to the Plan of Allocation, after payment of any incentive awards to the Direct Purchaser Class Representatives.

Generally, the Class Representatives and the Class members will release DRL and Teva and their past, present and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the "Released Parties") from any and all manner of claims, rights, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, including costs, expenses, penalties and attorneys' fees, accrued in whole or in part, in law or equity, that Plaintiffs or any member or members of the Direct Purchaser Class (including any of their past, present or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting in their capacity as such) (the "Releasers"), whether or not they object to the Settlement, ever had, now has, or hereafter can, shall or may have, directly, representatively, derivatively or in any other capacity, arising out of or relating in any way to any conduct prior to the date of this Settlement concerning the alleged delay in the sale, pricing, or purchase of generic Nexium (esomeprazole magnesium), or to any conduct that was alleged or could have been alleged in any of the complaints or amended complaints in the Direct Purchaser Class Action.

In addition, Plaintiffs and the Class will expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and benefits conferred by §1542 of the California Civil Code, which reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor;

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code.

The releases set forth above apply to DRL and Teva only, and are not intended to release any claims against the Non-Settling Defendants. The releases as to DRL and Teva do not release any claims arising between Plaintiffs, Class Members, and the Released Parties under Article 2 of the Uniform Commercial Code (pertaining to Sales), the laws of negligence or product liability or implied warranty, breach of contract, breach of express warranty, or personal injury, or other claims unrelated to the Nexium antitrust allegations in this Action.

The costs and expenses related to this litigation (which are set forth above) will be paid solely out of the proceeds of the Settlement Fund. Class Counsel plan to ask the court for an incentive award of \$50,000 (fifty-thousand dollars) for each of ASC, Meijer, Value, Burlington, and RDC, to compensate them for their participation in, and prosecution of, this case on behalf of the Class, which has included, among other things, production of documents and electronic data, providing written discovery responses, appearing for depositions, and regular communication with counsel. Class Counsel will file their application for the payment and reimbursement of expenses and costs, and for incentive awards for the Class Representatives with the Clerk of the United States District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210 on or before _____,

2015. Class Counsel will post their application on www.garwingerstein.com; www.bergermontague.com; and www.hbsslaw.com shortly after filing.

This is only a summary of the proposed Settlement and is qualified in its entirety by the terms of the actual Settlement Agreement. A copy of the Settlement Agreement, which includes the releases, is on public file with the United States District Court for the District of Massachusetts at the above address during normal business hours and is also available for viewing at the following websites maintained by Class Counsel: on www.garwingerstein.com; www.bergermontague.com; and www.hbsslaw.com.

The Court has scheduled a Fairness Hearing in order to determine whether the proposed DRL Settlement and Teva Settlement, request for payment and reimbursement of expenses and costs, and Class Representative incentive awards should be finally approved. If the Court finally approves the Settlement, the Court will also establish a Plan of Allocation that will be followed to distribute the portion of the Settlement Fund allocated to the Direct Purchaser Class to Class Members, following payment and reimbursement of expenses, costs, taxes, and any incentive awards for the Class Representatives, as described in question 8 below.

8. *How much will my payment be?*

Each Class Member's proportionate, pro-rata, recovery will be determined by using a Court-approved Plan of Allocation. Under the proposed Plan of Allocation, your share of the portion of the Teva Settlement Fund allocated to the Direct Purchaser Class, if any, will depend on the total amount of Nexium that you purchased directly from AstraZeneca during the Class Period (August 27, 2008 through December 11, 2013) ("Class Purchases"). Those who had more Class Purchases will get more money than those who had fewer Class Purchases. Specifically, all Class Members will receive a *pro rata* share of the portion of the Teva

Settlement Fund allocated to the Direct Purchaser Class, if any, after payment of the of expenses, costs, taxes, and any incentive awards for the Class Representatives described in question 7 (“net Teva Settlement Fund”). You are not responsible for calculating the amount you may be entitled to receive under the Teva Settlement. This calculation will be done using electronic sales data provided by AstraZeneca during the Lawsuit as part of the implementation of the Teva Settlement.

Money from the net Teva Settlement Fund will only be distributed to Direct Purchaser Class Members if the Court grants final approval of the Teva Settlement.

9. *How can I get a payment?*

If the Teva Settlement is approved by the Court, all Class Members will receive a Claim Form to request a *pro rata* share of the net Teva Settlement Fund. Class Members will be asked to verify the accuracy of the information in the Claim Form, and to sign and return the form according to the direct of the Form, which will include a release of claims against Teva.

10. *When would I get my payment?*

Payment from the net Teva Settlement Fund is conditioned on several matters, including the Court’s approval of the Settlement and such approval being final and no longer subject to any appeals to any court. Upon satisfaction of various conditions, the net Teva Settlement Fund will be allocated to Class Members on a *pro rata* basis pursuant to the Plan of Allocation as soon as possible after final approval has been obtained for the Teva Settlement. Any appeal of the final approval could take several years. Any accrued interest on the net Teva Settlement Fund will be included, *pro rata*, in the amount paid to the Direct Purchaser Class Members. The Teva Settlement Agreement may be terminated on several grounds, including if the Court does not approve or if it materially modifies the Teva Settlement. Should the Teva Settlement Agreement

be terminated, the Teva Settlement will be terminated and the Lawsuit against Teva will proceed as if the Teva Settlement had not been reached.

THE LAWYERS REPRESENTING YOU

11. *Do I have a lawyer in this case?*

The Court appointed several law firms to serve as counsel to represent you and all class members. Their contact information is as follows:

Thomas M. Sobol
HAGENS BERMAN SOBOL SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Tel: (617) 482-3700
Fax: (617) 482-3003

David F. Sorensen
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
Tel: (215) 875-3000
Fax: (215) 875-4604

Co-Lead Counsel for the Direct Purchaser Class

Co-Lead Counsel for the Direct Purchaser Class

Bruce E. Gerstein
GARWIN GERSTEIN & FISHER LLP
88 Pine Street, 10th Floor
New York, NY 10005
Tel: (212) 398-0055
Fax: (212) 764-6620

Co-Lead Counsel for the Direct Purchaser Class

12. *Should I get my own lawyer?*

You do not need to hire your own lawyer if you remain in the Class because the lawyers appointed by the Court are working on your behalf. You may hire a lawyer and enter an appearance through your lawyer at your own expense if you so desire.

OBJECTING TO THE SETTLEMENT

13. *How do I tell the Court that I don't like the DRL Settlement and/or Teva Settlement?*

You can tell the Court that you do not agree with the DRL Settlement and/or Teva Settlement. If you previously excluded yourself from the Direct Purchaser Class, however, you cannot object to the DRL Settlement or Teva Settlement.

If you are a Direct Purchaser Class Member (and have not excluded yourself), you can object to the DRL Settlement and/or Teva Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve one or both of these settlements. The Court will consider your views. To object, you must send a letter via first class mail saying that you object to the DRL Settlement and/or Teva Settlement in the Direct Purchaser Class Action as *In re Nexium (Esomeprazole) Antitrust Litigation*, Civil Action No. 12-md-02409-WGY (D. Mass.). Your letter must be post-marked by _____, 2015. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the DRL Settlement and/or Teva Settlement. Mail the objection to the Clerk for the United States District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210, with copies to all of the following:

Thomas M. Sobol
HAGENS BERMAN SOBOL SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Tel: (617) 482-3700
Fax: (617) 482-3003

*Co-Lead Counsel for the Direct
Purchaser Class*

David F. Sorensen
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
Tel: (215) 875-3000
Fax: (215) 875-4604

Co-Lead Counsel for the Direct Purchaser Class

Bruce E. Gerstein
GARWIN GERSTEIN & FISHER LLP
88 Pine Street, 10th Floor
New York, NY 10005
Tel: (212) 398-0055
Fax: (212) 764-6620

*Co-Lead Counsel for the Direct
Purchaser Class*

Kevin D. McDonald
Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001
Tel: (202) 879-3939
Fax: (202) 626-1700

Counsel for DRL

Kevin T. Van Wart, P.C.
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
Tel: (312) 862-2130
Fax: (312) 862-2200

Counsel for Teva

THE COURT'S FAIRNESS HEARING

14. *When and where will the Court decide whether to approve the settlements?*

The Court will hold a Fairness Hearing at ____ .m on _____, 2015, in Courtroom 18 at the United States District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210. At this hearing, the Court will consider whether the DRL Settlement and Teva Settlement are fair, reasonable and adequate. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlements. We do not know how long this decision will take.

15. *Do I have to come to the hearing?*

No. Class Counsel will answer questions that Judge Young may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection on time, the Court will consider it. You may also have your own lawyer attend, but it is not necessary.

16. *May I speak at the hearing?*

You may ask the Court for permission to speak at the fairness hearing. To do so, you must send a letter via first class mail saying that it is your notice of intention to appear in *In re Nexium (Esomeprazole) Antitrust Litigation*, Civil Action No. 12-md-02409-WGY (D. Mass.). Be sure to include your name, address, telephone number, and your signature. Your notice of intention to appear must be postmarked no later than _____, 2015, and must be sent to the Clerk of the Court, Class Counsel, counsel for DRL, and counsel for Teva, at the addresses set forth in the response to question 13. You cannot speak at the hearing if you previously excluded yourself as a class member by the opt-out deadline of February 2, 2014.

IF YOU DO NOTHING

17. *What happens if I do nothing at all?*

If you are a Class Member and you do nothing, you will participate in the DRL Settlement and Teva Settlement as described in this notice, if the settlements are approved.

GETTING MORE INFORMATION

18. *Are more details available?*

For more detailed information about this litigation, please refer to the papers on file in this litigation, including copies of the DRL Settlement and Teva Settlement, which may be inspected at the Office of the Clerk, United States District Court for the District of Massachusetts, United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210 during regular business hours of each business day. You may also get additional information by calling or writing to class counsel as indicated above.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE REGARDING THIS NOTICE. INSTEAD, PLEASE DIRECT ANY INQUIRIES TO ANY OF THE CLASS COUNSEL LISTED ABOVE.

Dated: _____, 2015

BY THE COURT

Hon. William G. Young
UNITED STATES DISTRICT JUDGE

EXHIBIT C

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re: NEXIUM (ESOMEPRAZOLE)
ANTITRUST LITIGATION

MDL No. 2409

Civil Action No. 1:12-md-02409-WGY

This Document Relates To:

All Direct Purchaser Class Actions

**[PROPOSED] ORDER GRANTING FINAL JUDGMENT AND ORDER
OF DISMISSAL APPROVING DIRECT PURCHASER CLASS
SETTLEMENT AND DISMISSING DIRECT PURCHASER
CLASS CLAIMS TEVA PHARMACEUTICAL INDUSTRIES LTD.
AND TEVA PHARMACEUTICALS USA, INC.**

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, and in accordance with the terms of the Direct Purchaser Class Settlement Agreement with Teva Pharmaceutical Industries Ltd. and Teva Pharmaceuticals USA, Inc. (“Teva”), dated April 1, 2015, it is hereby ORDERED as follows:

1. This Final Judgment and Order of Dismissal hereby incorporates by reference the definitions in the Settlement Agreement among the parties to these actions on file with the Court, and all capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Settlement Agreement.
2. The Court has jurisdiction over these actions, each of the parties, and all members of the Class for all manifestations of this case, including this Settlement.
3. The notice of settlement (in the form presented to this Court as Exhibit B to the Settlement Agreement) (the “Notice”) directed to the members of the Class, constituted the best notice practicable under the circumstances. In making this determination, the Court finds that the Notice provided for individual notice to all Class members who were identified through

reasonable efforts. Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, the Court hereby finds that the Notice provided Class members due and adequate notice of the Settlement, the Settlement Agreement, these proceedings and the rights of Class members to object to the Settlement.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the Settlement, and finds that the Settlement is, in all respects, fair, reasonable and adequate to Class members. Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

5. The Court hereby approves the Plan of Allocation of the Settlement Fund as proposed by Class Counsel (the "Plan"), which was summarized in the Notice of Proposed Settlement. The Claims Administrator is directed to distribute the net Settlement Fund as provided in the Plan.

6. On December 11, 2013, this Court certified a class of: "[a]ll persons or entities in the United States, including U.S. territories, who purchased Nexium directly from AstraZeneca at any time during the period from August 27, 2008 through December 11, 2013 (the "Direct Purchaser Class"). Excluded from the Direct Purchaser Class are the Defendants, their officers, directors, management, employees, subsidiaries, and affiliates, and all federal governmental entities."

7. Also excluded from the class are CVS Pharmacy Inc., Rite Aid Corporation and Rite Aid Hdqtrs Corp., The Jean Coutu Group (PJC) USA, Inc., Maxi Drug, Inc., d/b/a Brooks Pharmacy and Eckerd Corporation, Walgreen Co., HEB Grocery Company LP, Safeway Inc., SuperValu, Inc., The Kroger Co., and Giant Eagle, Inc. in their own right as direct purchasers of Nexium from AstraZeneca, and as assignees limited to their purchases of Nexium from Class members.

8. The Court has found that the Class meets all the requirements of Fed. R. Civ. P. 23. The Class, made up of sophisticated business entities, had a full and fair opportunity to request exclusion at the time of class certification and, therefore, there is no reason for the Court to afford a new opportunity to individual Class members to request exclusion who had an earlier opportunity to request exclusion but did not do so.

9. The Court has appointed American Sales Company, LLC (“ASC”), Meijer, Inc. and Meijer Distribution, Inc. (together, “Meijer”), Value Drug Company (“Value”), Burlington Drug Company Inc. (“Burlington”), and Rochester Drug Co-Operative, Inc. (“RDC”) as class representatives (the “Class Representatives”).

10. The Court has found that Co-Lead Counsel, listed below, along with other Class Counsel, have fairly and adequately represented the interests of the Class and satisfied the requirements of Fed. R. Civ. P. 23(g):

Bruce E. Gerstein, Esq.
Garwin Gerstein & Fisher LLP
88 Pine Street, 10th Floor
New York, NY 10005
Tel.: 212-398-0055
Fax: 212-764-6620

Thomas M. Sobol, Esq
55 Cambridge Parkway, Suite 301
Cambridge MA 02142
Tel: 617-482-3700
Fax: 617-482-3003

David F. Sorensen, Esq.
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103
Tel: 215-875-5705
Fax: 215-875-4604

11. All claims against Teva in the following actions are hereby dismissed with prejudice,

as provided in the Settlement Agreement, and without costs, except as provided for herein and in the Settlement Agreement:

In re: Nexium (Esomeprazole) Antitrust Litigation, No. 1:12-md-02409-WGY (D. Mass.)

Value Drug Company, et al. v. AstraZeneca et al., No. 1:12-cv-12293 (D. Mass.)

Rochester Drug Co-Operative, Inc. v. AstraZeneca, et al., No. 12-cv-12299 (D. Mass.)

Meijer, Inc., et al. v. AstraZeneca, et al., No. 12-cv-12291 (D. Mass.)

American Sales Company, LLC., et al. v. AstraZeneca, et al., No. 12-cv-11711 (D. Mass.)

12. All claims against Teva in the foregoing cases shall be dismissed effective upon the date the Settlement becomes final in accordance with paragraph 4 of the Settlement Agreement.

13. Upon this Settlement becoming final in accordance with paragraph 4 of the Settlement Agreement, Plaintiffs shall unconditionally, fully and finally release and forever discharge Teva and its past, present and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the "Released Parties") from any and all manner of claims, rights, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, including costs, expenses, penalties and attorneys' fees, accrued in whole or in part, in law or equity, that Plaintiffs or any member or members of the Direct Purchaser Class (including any of their past, present or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators,

predecessors, successors and assigns, acting in their capacity as such) (the "Releasers"), whether or not they object to the Settlement, ever had, now has, or hereafter can, shall or may have, directly, representatively, derivatively or in any other capacity, arising out of or relating in any way to the alleged delayed entry of generic versions of Nexium (esomeprazole magnesium), including but not limited to any and all claims asserted or that could have been asserted against Teva in the MDL Action prior to the date of this Settlement (the "Released Claims").

14. In addition, Plaintiffs and each Class member, on behalf of themselves and all other Releasers, hereby expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and benefits conferred by § 1542 of the California Civil Code, which reads:

Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor;

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Each Class member may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of this paragraph 14, but each Class member hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement becoming final, any known or unknown, suspected or unsuspected, asserted or un-asserted, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Each Class member also hereby expressly waives and fully, finally and forever settles, releases

and discharges any and all claims it may have against any Released Party under § 17200, *et seq.*, of the California Business and Professions Code or any similar, comparable or equivalent provision of the law of any other state or territory of the United States or other jurisdiction, which claims are expressly incorporated into the definition of Released Claims.

15. The releases set forth in paragraphs 13 and 14 of this Order shall not release any claims between Plaintiffs, Class members and the Released Parties under Article 2 of the Uniform Commercial Code (pertaining to Sales), the laws of negligence or product liability or implied warranty, breach of contract, breach of express warranty, or personal injury, or other claims unrelated to the Nexium antitrust allegations in this MDL Action.

16. Upon consideration of the petition by counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs for (1) reimbursement of costs and expenses incurred by counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs in the MDL Action; (2) cost and expenses, not in excess of \$2 million (two million dollars) incurred by counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs in continuing their litigation against AstraZeneca and Ranbaxy, including, *inter alia*, any costs incurred during retrial of Plaintiffs' claims against AstraZeneca and Ranbaxy, in the event the Court grants a retrial against AstraZeneca and Ranbaxy; and/or for an appeal of the judgment (or any part thereof) of Plaintiffs' claims against AstraZeneca and Ranbaxy; (3) any taxable costs; (4) taxes payable on the Settlement Fund; and (5) any and all administrative and notice expenses associated with this litigation or the Settlement, counsel for the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs are hereby awarded costs and expenses totaling _____, (_____ dollars), to be paid solely from the Settlement Fund and only if and after the Settlement becomes final in accordance with

paragraph 4 of the Settlement Agreement. The aforementioned costs and expenses shall be disbursed by the Escrow Agent only to Garwin Gerstein & Fisher for allocation among the Direct Purchaser Class, End-Payor Class, and Individual Retailer Plaintiffs.

17. The remainder of the Settlement Fund shall be allocated as follows: (a) in the amount of One Million Dollars and no/100 (\$1,000,000.00) to the End-Payor Class, (b) with 61% of the remainder of the Settlement Fund, which is \$_____, to be allocated to the Direct Purchaser Class and 39%, which is \$_____, to the Individual Retailer Plaintiffs.

18. Upon consideration of Direct Purchaser Class Counsel's petition for incentive awards to the named Direct Purchaser Class Representatives each of (a) American Sales Co, LLC; (b) Value Drug Company; (c) Burlington Drug Company Inc., (d) Rochester Drug Co-Operative, Inc., and (e) Meijer, Inc. are hereby awarded an incentive award in the amount of \$_____ each, to be paid solely from the Direct Purchaser Class Plaintiffs' share of the remainder of the Settlement Fund, only if and after the Settlement becomes final in accordance with paragraph 4 of the Settlement Agreement. Co-Lead Counsel shall distribute such incentive awards to the Direct Purchaser Class Representatives as provided herein. The Released Parties (as defined in paragraph 10 of the Settlement Agreement) shall have no responsibility for, and no liability whatsoever with respect to, any payment or disbursement of expenses, costs or incentive awards among Class Counsel and/or Direct Purchaser Class Representatives, or with respect to any allocation of expenses, costs or incentive awards to any other person or entity who may assert any claim thereto. The costs and expenses, and incentive awards authorized and approved by this Final Judgment and Order shall be paid to Co-Lead Counsel within five (5) business days after this Settlement becomes final pursuant to paragraph 4 of the Settlement Agreement and in accordance with the terms of the Settlement Agreement and the Escrow Agreement. The costs

and expenses, and incentive awards authorized and approved by this Final Judgment and Order shall constitute full and final satisfaction of any and all claims that Plaintiffs and any Class member, and their respective counsel, may have or assert for reimbursement of fees, costs, and expenses, and incentive awards, and Plaintiffs and members of the Class, and their respective counsel, shall not seek or demand payment of any fees and/or costs and/or expenses and/or incentive awards from any source other than the Settlement Fund. The Court retains exclusive jurisdiction over the Settlement and the Settlement Agreement as described therein, including the payment and reimbursement of costs and expenses, the award of incentive payments to Direct Purchaser Class Representatives, and the administration and consummation of the Settlement, and over this Final Judgment and Order.

19. The Court finds that this Final Judgment and order adjudicates all of the claims, rights and liabilities of the parties to the Settlement Agreement (including the members of the Class), and is final and shall be immediately appealable. Neither this Order nor the Settlement Agreement nor any other Settlement-related document shall constitute any evidence or admission of liability by Teva or any other Released Party, nor shall either the Settlement Agreement or this Order or any other Settlement-related document be offered in evidence or used for any other purpose in this or any other matter or proceeding except as may be necessary to consummate or enforce the Settlement Agreement of the terms of this Order or if offered by any Released Party in responding to any action purporting to assert Released Claims.

IT IS SO ORDERED.

Dated: _____, 2015

The Honorable William G. Young
United States District Judge
U.S. District Court for the District of Massachusetts

EXHIBIT D

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**In re: NEXIUM (ESOMEPRAZOLE)
ANTITRUST LITIGATION**

MDL No. 2409

Civil Action No. 1:12-md-02409-WGY

This Document Relates To:

All Actions

ESCROW AGREEMENT

This escrow agreement (the “Escrow Agreement”) by and among (a) American Sales Company, LLC, Meijer, Inc. and Meijer Distribution, Inc., Value Drug Company, Burlington Drug Company Inc., and Rochester Drug Co-Operative, Inc. (collectively, the “Direct Purchaser Class Plaintiffs”) on behalf of all members of the Direct Purchaser Class (the “Direct Purchaser Class”); (b) United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund, Allied Services Division Welfare Fund, Fraternal Order of Police Miami Lodge 20 Insurance Trust Fund, New York Hotel Trades Council & Hotel Assoc. of New York City, Inc. Health Benefits Fund, Laborers International Union of North America Local 35 Health Care Fund, International Brotherhood of Electrical Workers Local 595 Health and Welfare Fund, Laborers International Union of North America Local 17 Health Care Fund, International Union of Machinists and Aerospace Workers District No. 15 Health Fund, Michigan Regional Council of Carpenters Employee Benefits Fund, and A.F. of L-A.G.C. Building Trades Welfare Plan, (collectively, the “End-Payor Class Plaintiffs”) on behalf of all members of the End-Payor Class (the “End-Payor Class”); (c) CVS Pharmacy Inc., Rite Aid Corporation and Rite Aid Hdqtrs Corp., The Jean Coutu Group (PJC) USA, Inc., Maxi Drug, Inc., d/b/a Brooks Pharmacy and Eckerd Corporation, Walgreen Co., HEB Grocery Company LP, Safeway Inc., SuperValu, Inc., The Kroger Co., and Giant Eagle, Inc. (collectively, the “Individual Retailer Plaintiffs”) in *In re*

Nexium (Esomeprazole) Antitrust Litigation, Civil Action No. 1:12-md-2409-WGY (D. Mass.) (the “MDL Action”) ((a), (b), and (c) are collectively, “Plaintiffs”), (d) Teva Pharmaceutical Industries Ltd. and Teva Pharmaceuticals USA, Inc. (collectively “Teva”); and (e) Berdon Claims Administration LLC, as escrow agent (the “Escrow Agent”) is entered into on April 1, 2015, in connection with Teva’s Settlement Agreements with each of the Plaintiffs, dated April 1, 2015 (the “Settlement Agreements”). Capitalized terms not defined herein shall have the meanings specified in the Settlement Agreements.

1. Plaintiffs and Teva, by and through their respective counsel, have entered into Settlement Agreements wherein they agreed, subject to the final approval of the Court with respect to the Settlements involving the Direct Purchaser and End-Payor Class Plaintiffs, that the MDL Action be dismissed with prejudice as to Teva in exchange for payment by Teva of the Settlement Fund, consisting of \$24,000,000.00 (twenty four million dollars and no/100) in cash.

2. The parties hereto are entering into this Escrow Agreement in order to effectuate certain of the terms of the Settlement Agreements.

3. NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and considerations herein, the parties agree as follows:

(a) Pursuant to and in accordance with the Settlement Agreements, Teva will deposit with the Escrow Agent the Settlement Fund.

(b) The Escrow Agent shall cause the Settlement Fund to be invested and reinvested in United States Treasury Bills or other similar United States government obligations or federally insured bank certificates of deposit, until any of the Settlements become Final by their terms (“Final”). For the sake of clarity, the Settlements involving the Direct Purchaser Class Plaintiffs and End-Payor Class Plaintiffs will become “Final” pursuant to paragraph 4 of

each respective Settlement Agreement with Teva. The Settlement involving the Individual Retailer Plaintiffs will become “Final” pursuant to paragraph 7 of their Settlement Agreement with Teva. As designated Escrow Agent, Berdon Claims Administration LLC is not a U.S. broker-dealer and in the event that any contemplated investments are required to be made which may only be completed through a U.S. broker-dealer, Berdon Claims Administration LLC, as Escrow Agent would be precluded from executing such instructions. Subsequent to any of the Direct Purchaser Class Settlement, the End-Payor Class Settlement or the Individual Retailer Settlement becoming Final, the Settlement Fund shall be invested as directed in writing by a representative of Plaintiffs’ counsel who are signatories to this Agreement (“Authorized Plaintiffs’ Counsel”). If the Direct Purchaser Settlement becomes Final, Authorized Plaintiffs’ Counsel shall be co-lead Counsel for the Direct Purchaser Class (Bruce E. Gerstein, Esq., Garwin Gerstein & Fisher LLP, 88 Pine Street 10th Floor, New York, NY 10005). If the Direct Purchaser Settlement does not become Final, substitute Authorized Plaintiffs’ Counsel shall be selected by the signatories to this Agreement representing the plaintiff groups whose settlements have become Final. The term of any such investment by Authorized Plaintiffs’ Counsel shall not exceed ninety (90) days. All interest earned on the Settlement Fund shall become part of the Settlement Fund. Any losses on the Settlement Fund shall be borne by the Settlement Fund and shall not be recoverable from Teva. Teva shall have no liability, obligation, or responsibility of any kind in connection with the investment, disbursement, or other oversight of the Settlement Fund.

(c) Upon written authorization as described below in this paragraph, the Escrow Agent may withdraw from the Settlement Fund disbursements sufficient for the Claims Administrator to pay costs associated with notice to the Classes and taxes or estimated taxes

payable by the Claims Administrator on behalf of the Settlement Fund and related expenses in accordance with paragraph 3(d)(4) herein, except that such withdrawals for notice to the Classes and administration of the Settlement, before the Settlements become Final, may not exceed fifty thousand dollars (\$50,000.00). Before the Settlements become Final, the written authorization required by this paragraph shall be granted by Authorized Plaintiffs' Counsel and Kevin T. Van Wart, P.C. of Kirkland and Ellis LLP, 300 North LaSalle, Chicago, IL 60654 ("Teva's Counsel") acting jointly, with notice to the undersigned counsel for the Individual Retailer Plaintiffs and End-Payor Class Plaintiffs. After any of the Settlements becomes final, the written authorization required by this paragraph shall be granted by Authorized Plaintiffs' Counsel alone, with notice to the undersigned counsel for the Individual Retailer Plaintiffs and End-Payor Class Plaintiffs. The Escrow Agent shall not be responsible for the notices, nor the costs associated with such notices as set forth above. It is the responsibility of either Authorized Plaintiffs' Counsel or the Claims Administrator to provide any required notices, and the costs associated with such notices shall be incurred by the Settlement Fund. Authorized Plaintiffs' Counsel is authorized, after obtaining approval of Teva's Counsel, to appoint an administrator (and any successors) for the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3) (the "Claims Administrator"). Authorized Plaintiffs' Counsel shall be responsible for assuring that the Claims Administrator qualifies as an "administrator" of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3) and is performing its duties hereunder. Teva shall have no responsibility for any fees or the performance of the Claims Administrator.

(d) Provided the Court preliminarily approves the Direct Purchaser or End Payor Class settlements, the Claims Administrator shall, within thirty (30) days after the date thereof, take all steps necessary for qualifying the Settlement Fund as a "Qualified Settlement

Fund” within the meaning of Section 1.468B-1 of the Treasury Regulations. These obligations include, without limitation, the following:

(1) The Claims Administrator will prepare a “Regulation Section 1.468B-3 Statement” pursuant to Treasury Regulation Section 1.468B-3(e) on behalf of Teva and provide copies to Teva’s Counsel for review and approval.

(2) The Claims Administrator will prepare and attach to the Settlement Fund’s first income tax return a “Regulation Section 1.468B-1 Relation Back Election” pursuant to Treasury Regulation Section 1.468B-1(j) for execution by Teva and the Claims Administrator. The Claims Administrator will promptly forward a copy of the “Regulation Section 1.468B-1 Relation Back Election” to Teva’s Counsel within thirty (30) days after the date hereof.

(3) The Claims Administrator will timely prepare and file on behalf of the Settlement Fund (i) federal tax returns in accordance with Section 1.468B-2 of the Treasury Regulations and the other provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) all necessary state, local and foreign tax returns.

(4) Notwithstanding any effort, or failure, of the Claims Administrator and the parties hereto to treat the Settlement Fund as a “Qualified Settlement Fund” within the meaning of Section 1.468B-1 of the Treasury Regulations effective as of the date hereof, any additional tax liability or penalties incurred by Teva resulting from income earned by the Settlement Fund (or the receipt of any payment under this paragraph 3(d)(4)) shall be reimbursed from the Settlement Fund in the amount of such additional tax liability or penalties upon Teva’s written request to the Escrow Agent. The Escrow Agent shall withdraw from the Settlement Fund (i) at the request of the Claims Administrator, monies to pay all applicable federal, state, local and foreign taxes which the Settlement Fund owes or is estimated to owe, as well as related

expenses, and (ii) monies to pay any reimbursements to Teva as described in this subparagraph (4).

(e) The Escrow Agent shall be reimbursed for all its reasonable out-of-pocket expenses, including attorneys' fees, travel expenses, telephone and facsimile transmission costs, postage (including express mail and overnight delivery charges), copying charges and the like. All such fees and expenses shall constitute a direct charge against the Settlement Fund.

The Escrow Agent is authorized to, and may, disburse to itself, from the Settlement Fund, from time to time, the amount of reimbursement of out-of-pocket expenses due and payable hereunder. Prior to any of the Settlements becoming Final, the Escrow Agent shall notify, and obtain approval from, Authorized Plaintiffs' Counsel and Teva's Counsel of any disbursement from the Settlement Fund to itself and shall furnish the undersigned counsel copies of all related invoices and other statements. After any of the Settlements becomes Final, such notification need be provided to, and approval obtained from, only Authorized Plaintiffs' Counsel, with copies of all related invoices and other statements provided to undersigned Plaintiffs' counsel.

(f) Upon authorization as described below in this paragraph, the Escrow Agent may sell or present for redemption any investment described in paragraph 3(b) above, whenever it shall be necessary in order to provide funds to meet any payment required pursuant to this Escrow Agreement or the Settlement Agreements. Before any of the Settlements become Final, the authorization required by this paragraph shall be granted by Authorized Plaintiffs' Counsel and Teva's Counsel acting jointly, with notice to the undersigned counsel for the Individual Retailer Plaintiffs and End-Payor Class Plaintiffs. After any of the Settlements become Final, the authorization required by this paragraph shall be granted by Authorized Plaintiffs' Counsel

alone, with notice to the undersigned counsel for the Individual Retailer Plaintiffs and End-Payor Class Plaintiffs.

(g) Only upon any of the Settlements becoming Final by their terms, may distributions (other than those contemplated herein to pay taxes and costs of notice and administration) be made as authorized by Court order. In addition, upon any of the Settlements becoming Final, Authorized Plaintiffs' Counsel shall have the authority to appoint a Successor Escrow Agent and direct that all funds be transferred to the Successor Escrow Agent, which Successor Escrow Agent shall not be Teva or an affiliate of Teva. Upon any of the Settlements becoming Final, Teva's interest in the Settlement Fund shall cease in its entirety.

(h) In the event of any of the following: the Settlements involving the Direct Purchaser Class Plaintiffs and/or End-Payor Class Plaintiffs are not preliminarily approved; the Settlements contemplated in the Settlement Agreements are terminated; the Settlements involving the Direct Purchaser Class Plaintiffs and/or End-Payor Class Plaintiffs are not approved after a fairness hearing, or are approved but materially changed, including with respect to the composition of either the Direct Purchaser Class or End-Payor Class, and one of the parties elects to terminate the Settlement Agreement(s) on that basis; the Settlements involving the Direct Purchaser Class Plaintiffs and/or End-Payor Class Plaintiffs are approved but that approval is reversed, vacated, or otherwise materially modified on appeal; or the Settlement Agreements do not become Final for any reason; the Escrow Agent shall, subject only to the expiration of any time deposit investment(s) not to exceed ninety (90) days, return the remaining Settlement Fund including all interest thereon, less any costs and expenses referred to in ¶¶ 3(c), 3(d)(4) and 3(e) and less fifty percent (50%) of the costs for notice of the Settlement, to Teva as soon as practicable after the Escrow Agent receives notice. This paragraph is subject to

paragraph 3(i) which provides for the return of only a portion of the Settlement Fund in the event that Teva elects to effectuate one or more of the settlements in the event that all of them do not become Final.

(i) In the event that any of the settlements is not effectuated (including, for example, because the Settlement with the Direct Purchaser Class Plaintiffs or the Settlement with the End-Payor Class Plaintiffs does not receive Final Approval), and Teva elects to effectuate one or more of the Settlements, the Escrow Agent shall, subject to authorization granted by Authorized Plaintiffs' Counsel and Teva's Counsel acting jointly or pursuant to order of the Court, return to Teva from the Settlement Fund the amounts attributable to the Settlements that have not been effectuated as soon as practicable after the Escrow Agent received such authorization or notice of court order.

(j) The Escrow Agent may rely upon any notice, certificate, instrument, request, paper or other documents reasonably believed by it to be genuine and to have been made, sent or signed by counsel for the respective party or parties in accordance with this Escrow Agreement, and shall not be liable for any action taken or omitted by it, consistent with the terms hereof, in connection with the performance by it of its duties pursuant to the provisions of this Escrow Agreement, except for its own default, negligence or breach of the terms of this Escrow Agreement.

(k) The Escrow Agent's acceptance and administration of the Settlement Fund shall constitute the submission of the Escrow Agent to the jurisdiction of the Court in the above-described litigation for the purpose of carrying out this Escrow Agreement pursuant to the Settlement Agreement.

(l) The Escrow Agent has been appointed in compliance with the Settlement

Agreements and is subject to the orders of the Court.

(m) This Escrow Agreement shall be governed by and interpreted according to the substantive laws of the State of Massachusetts, without reference to choice-of-law principles.

(n) The Escrow Agent is and shall be independent, provided that as parties hereto, Direct Purchaser Class Plaintiffs, End-Payor Class Plaintiffs, Individual Retailer Plaintiffs and Teva shall be entitled to institute actions to compel or require performance by the Escrow Agent of its obligations hereunder. The Escrow Agent hereby agrees to submit to the jurisdiction and venue of the Court with respect to issues relating to the Settlement Fund for purposes of enforcement, clarification, or amendment of the provisions of this Escrow Agreement, and to comply with all directions given by that Court.

(o) Upon sixty (60) days' prior written notice to Authorized Plaintiffs' Counsel and, only if such prior written notice is sent prior to any of the Settlements becoming Final, Teva's Counsel, the Escrow Agent may resign and be discharged from its duties and responsibilities under this Agreement, and shall promptly deposit the Escrow Amount (Redemption Value) with a successor escrow agent pursuant to and in accordance with written instructions from Authorized Plaintiffs' Counsel and, only if prior to any of the Settlements becoming Final, Teva's Counsel. If no successor escrow agent shall have been appointed by the effective date of the Escrow Agent's resignation, the Escrow Agent's sole responsibility shall thereafter be to hold the Escrow Amount (Redemption Value), invested until receipt of designation of a successor escrow agent or the disbursement of the Escrow Amount (Redemption Value) in accordance with written instructions from Authorized Plaintiffs' Counsel and, only if prior to any of the Settlements becoming Final, Teva's Counsel; provided, however, that the Escrow Agent may petition the Court to name a successor, or may deposit the Escrow Amount

(Redemption Value) in the registry of the Court having general jurisdiction.

(p) The Escrow Agent may be removed from this Escrow Agreement at any time and thereby become discharged from the obligations hereby created subsequent to the date of discharge, by notice in writing given to the Escrow Agent not less than thirty (30) days before such removal is to take effect. Prior to any of the Settlements becoming Final, such notice must be given by Authorized Plaintiffs' Counsel and Teva's Counsel acting jointly; after any of the Settlements becomes Final, such notice may be given by Authorized Plaintiffs' Counsel alone. Upon approval of the Court, and subject to arrangements being made for a replacement Escrow Agent as specified in the next sentence, the Escrow Agent may terminate this Escrow Agreement, by notice in writing given to the undersigned counsel not less than thirty (30) days before such termination is to take effect, and thereby become discharged from the obligations hereby created subsequent to the date of termination. In the event that the Escrow Agent is removed or terminates this Escrow Agreement, arrangements shall be made for a replacement Escrow Agent, who shall assume the Escrow Agent's duties hereunder as of the date and time that the replacement is to take effect. Prior to any of the Settlements becoming Final, such arrangements must be made by Authorized Plaintiffs' Counsel and Teva's Counsel acting jointly; after any of the Settlements becomes Final, such arrangements may be made by Authorized Plaintiffs' Counsel alone.

(q) Copies of all notices and correspondence sent pursuant to this Escrow Agreement shall be served by mail upon all undersigned counsel and the Escrow Agent. After any of the Settlements becomes Final, such notices and correspondence need only be provided to all undersigned counsel for plaintiffs.

(r) The Escrow Agent shall, upon request as described below in this

paragraph, advise counsel for the parties of any maturities, conversion privileges, and other matters of a like manner concerning the investments held in accordance with this Escrow Agreement. Before any of the Settlements become Final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel and Teva's Counsel acting jointly. After any of the Settlements becomes final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel alone.

(s) The Escrow Agent shall, upon request as described below in this paragraph, furnish to undersigned counsel the monthly Escrow Account statements or confirmations of transactions. Before any of the Settlements become Final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel and Teva's Counsel acting jointly. After any of the Settlements become Final, the request required by this paragraph shall be made by Authorized Plaintiffs' Counsel alone.

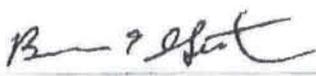
(t) The parties reserve the right to modify this Escrow Agreement upon written agreement of all parties other than the Escrow Agent, subject to approval of the Court, except any modification which shall affect the duties or responsibilities of the Escrow Agent may be made only upon agreement of all parties including the Escrow Agent.

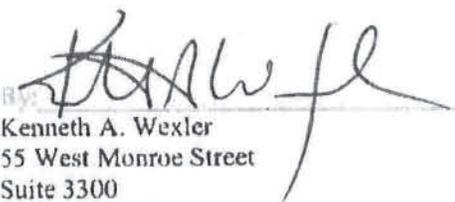
(u) The Escrow Agent shall treat the fact of the Settlements and Settlement Agreements referred to herein, as well as all facts or other information pertaining to the Settlements and the Settlement Agreements, as confidential and shall not disclose or use such information in any way other than as necessary to fulfill its role as Escrow Agent.

(v) This Escrow Agreement may be signed by all parties on separate copies, including facsimile copies, and shall have full force and effect when all parties have signed one of the copies.

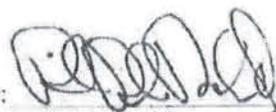
IN WITNESS WHEREOF, the undersigned have executed and delivered this Escrow Agreement
as of the date first written above.

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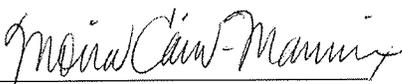
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