

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE: NEXIUM ANTITRUST LITIGATION	MDL No. 2409
This Document Relates To:  All Direct Purchaser Class Actions	Civil Action No. 1:12-md-2409-WGY

**JOINT DECLARATION OF LEAD COUNSEL FOR THE DIRECT  
PURCHASER CLASS, BRUCE E. GERSTEIN, THOMAS M. SOBOL  
AND DAVID F. SORENSEN IN SUPPORT OF PLAINTIFFS' MOTION FOR  
REIMBURSEMENT OF EXPENSES, PAYMENT OF ADMINISTRATION AND  
NOTICE COSTS, AND AWARDED INCENTIVE AWARDS TO THE CLASS  
REPRESENTATIVES FOR THE DIRECT PURCHASER CLASS**

Bruce E. Gerstein, Thomas M. Sobol and David F. Sorensen being duly sworn depose and say as follows:

1. Bruce E. Gerstein, managing partner at Garwin Gerstein & Fisher, LLP (“Garwin”), Thomas M. Sobol, managing partner of the Cambridge, MA office of Hagens Berman Sobol Shapiro, LLP (“Hagens”), and David F. Sorensen, managing shareholder of Berger & Montague, PC (“Berger”), the three firms appointed by the Court as Co-Lead Counsel for the Direct Purchaser Class Plaintiffs, respectfully submit this declaration in support of Direct Purchaser Class Plaintiffs’ application for reimbursement of expenses of three million six hundred fifty-five thousand eighty-three dollars and thirty-one cents (\$3,655,083.31) that were incurred in the prosecution of this case, payment of administration and notice expenses incurred by the Direct Purchaser Class in connection with the Teva Settlement, and awarding incentive awards of fifty-thousand dollars (\$50,000.00) to each of the five Direct Purchaser Class Representatives: American Sales Company, LLC (“ASC”); Meijer, Inc. and Meijer Distribution,

Inc. (collectively “Meijer”); Value Drug Company (“Value”); Burlington Drug Company Inc. (“Burlington”); and Rochester Drug Co-Operative, Inc. (“RDC”) (collectively, the “Class Representatives”), from the proceeds of the Teva<sup>1</sup> Settlement Fund allocated to the Direct Purchaser Class. Garwin, Hagens, and Berger have led this litigation from its inception to settlement, and we are therefore fully familiar with the facts set forth below.

2. We incorporate by reference the Joint Declaration of Bruce E. Gerstein, David F. Sorensen and Thomas M. Sobol in Support of Final Approval of the Direct Purchaser Class Plaintiffs’ Settlements with Teva and DRL. ECF No. 1560.

**A. Class Counsel’s Expenses in Detail**

3. Annexed hereto as Exhibit 1 is the Second Declaration of Thomas M. Sobol in Support of Plaintiffs’ Motion for Reimbursement of Expenses and Creation of a Fund for Future Litigation Expenses (“Second Sobol Declaration”).

4. Exhibits 2-14 are the sworn declarations of each firm representing the Direct Purchaser Class specifying the amounts advanced for litigation expenses by category of expense.

5. Each Class Counsel’s total expenses are reflected on each firm’s books and records, which are prepared from expense vouchers, receipts and other source materials, and represent an accurate accounting of the expenses incurred. Each Class Counsel’s detailed time and expense records are available for review should the Court wish to examine them. A large part of the individual firms’ reimbursable expenses include contributions to the Direct Purchaser Class and Individual Retailer Plaintiffs’ Joint Litigation Fund. The Litigation Fund was used to pay joint litigation expenses as detailed in the Second Sobol Declaration at ¶¶2-3.

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<sup>1</sup> “Teva” refers collectively to Teva Pharmaceutical Industries Ltd. and Teva Pharmaceuticals USA, Inc.

6. The court-approved notice administrator for the Direct Purchaser Class sent direct notice of the Teva settlement to each member of the Direct Purchaser Class. Direct Purchaser Class Plaintiffs incurred \$4,443.80 in unpaid bills to the notice administrator. The court-approved escrow agent has charged \$1,500.00 for its services in connection with the Teva Settlement Fund. *See* Exhibit 15-A (Consolidated Invoice of Outstanding Charges from Rust Consulting; Invoice from Berdon Claims Administration LLC).

**B. Named Direct Purchaser Class Plaintiff's Participation and Efforts as Class Representatives Provided a Substantial Benefit to the Class**

7. While serving as class representative, the named Direct Purchaser Class Plaintiffs actively assisted in the preparation and prosecution of the case by collecting and producing records, preparing for and giving depositions and agreeing to participate and participating in what turned out to be a six week trial, turning their attention away from their businesses of working as a wholesaler of pharmaceutical products, as fully set forth in Exhibits 15-B to 15-E (Class Representative Declarations).

8. In recognition of the named Direct Purchaser Class Plaintiffs' role and efforts in obtaining the recovery on behalf of the Direct Purchaser Class, and the risks they took, co-lead Counsel request an incentive award of fifty thousand dollars (\$50,000.00) to be paid to each named Plaintiff.

Dated: September 28, 2015

/s/ Bruce E. Gerstein  
Bruce E. Gerstein

/s/ Thomas M. Sobol  
Thomas M. Sobol

/s/ David F. Sorensen  
David F. Sorensen

**CERTIFICATE OF SERVICE**

I, Bruce E. Gerstein, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: September 28, 2015

/s/ Bruce E. Gerstein  
Bruce E. Gerstein