

**If you purchased brand or generic Opana ER® (oxymorphone hydrochloride extended-release) 5, 10, 20, 30, and/or 40 mg tablets directly from Endo Health Solutions Inc., Endo Pharmaceuticals Inc., Penwest Pharmaceuticals Co., or Impax Laboratories, Inc., a class action lawsuit could affect your rights.**

*A federal court authorized this notice. It is not a solicitation from a lawyer.*

A Class has been certified in a class action lawsuit alleging claims against certain manufacturers of brand and generic Opana ER. The manufacturers are Endo Health Solutions Inc., Endo Pharmaceuticals Inc., Penwest Pharmaceuticals Co., and Impax Laboratories, Inc. (collectively referred to as “Defendants”). You may be a member of the Class described below, and a class action lawsuit could affect your rights if you:

- purchased brand name Opana ER 5, 10, 20, 30, and/or 40 mg tablets directly from Endo Health Solutions Inc., Endo Pharmaceuticals Inc., or Penwest Pharmaceuticals Co. (collectively, “Endo”) at any time during the period from April 1, 2011 to August 31, 2017; or
- purchased generic Opana ER (oxymorphone hydrochloride extended-release) 5, 10, 20, 30, and/or 40 mg tablets directly from Impax Laboratories, Inc. (“Impax”) at any time during the period from April 1, 2011 and August 31, 2017.

This notice describes a class action lawsuit, pending in the United States District Court for the Northern District of Illinois, in which the Plaintiffs allege that Endo and Impax entered into an agreement to delay and impair generic competition for branded Opana ER (oxymorphone hydrochloride extended-release) in violation of federal antitrust law.

The lawsuit alleges that, as a result of the Defendants’ conduct, the prices paid by entities that purchased Opana ER and/or generic Opana ER directly from the Defendants were higher than they otherwise would have been. The lawsuit seeks to recover overcharge damages, attorneys’ fees and costs from the Defendants. The Defendants deny that any of their conduct was unlawful. The Court has not yet heard or resolved the merits of the Plaintiffs’ claims or determined whether the Plaintiffs’ or the Defendants’ contentions are true. Trial is currently scheduled to begin on June 7, 2022.

**TO DETERMINE WHETHER YOU ARE AFFECTED BY THE PENDING CLASS ACTION LAWSUIT, PLEASE SEE SECTION 8 ON PAGE 6 OF THIS NOTICE.**

Your rights and options – **and the deadlines to exercise them** – are explained in this notice.

**DO NOT CONTACT THE COURT OR DEFENDANTS  
IF YOU HAVE QUESTIONS REGARDING THIS NOTICE**

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>	
<b>DO NOTHING</b>	If you are a member of the Class, by doing nothing you will remain in the Class and may be entitled to share in any recovery that may come from a trial or settlement with the Defendants. All of the Court's orders will apply to you and legally bind you.
<b>EXCLUDE YOURSELF FROM THE CLASS</b>	This is the only option that allows you to file or be part of another lawsuit against the Defendants relating to the claims in this case. If you exclude yourself from the Class, you will not be bound by any of the Court's orders in this case as to the claims against the Defendants, nor will you be entitled to participate in and benefit from a recovery in this case, if any. Any dispute about your request to be excluded will be resolved by the Court.
<b>GET MORE INFORMATION</b>	If you would like more information about the lawsuit, you can review this notice and send questions to the lawyers identified below.

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

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## WHY THIS NOTICE HAS BEEN ISSUED

### 1. Why did I get this notice?

This notice explains your legal rights and options regarding the pending class action lawsuit against Endo and Impax.

You received this notice because, according to sales data produced by the Defendants, you may have purchased brand Opana ER 5, 10, 20, 30, and/or 40 mg tablets directly from Endo and/or generic Opana ER 5, 10, 20, 30, and/or 40 mg tablets directly from Impax during the period from April 1, 2011 through August 31, 2017.

This notice explains that the Court has allowed, or “certified,” a class action lawsuit that may affect you. You have legal rights and options you may exercise. Judge Harry D. Leinenweber of the United States District Court for the Northern District of Illinois is overseeing this class action.

### 2. What is this lawsuit about?

Value Drug Company, Meijer, Inc., and Meijer Distribution, Inc. (together, the “Plaintiffs”) filed lawsuits individually and as representatives of all persons or entities in the U.S. and its territories, including Puerto Rico, who purchased brand or generic Opana ER 5, 10, 20, 30, and/or 40 mg tablets directly from Defendants at any time during the period from April 1, 2011 until August 31, 2017 (the “Class”). Excluded from the Class are the Defendants and their officers, directors, management, employees, subsidiaries, or affiliates, and all federal governmental entities. The lawsuit asserts that, as a result of the Defendants’ alleged unlawful conduct, the prices paid for brand Opana ER and generic Opana ER (oxymorphone hydrochloride extended-release) were higher than they otherwise would have been. The Plaintiffs seek to recover damages in the form of overcharges on direct purchases of brand and generic Opana ER 5, 10, 20, 30, and/or 40 mg tablets from the Defendants. Plaintiffs allege the overcharges were caused by Defendants’ conduct. Under federal antitrust law, any damages awarded at trial are automatically trebled (that is, tripled). Plaintiffs also seek to recover attorneys’ fees and costs.

The lawsuit alleges that the Defendants violated federal antitrust laws by unlawfully impairing and delaying the introduction of generic versions of the prescription drug Opana ER into the United States market. The Plaintiffs allege that in June 2010, the manufacturer of brand Opana ER, Endo, and a generic pharmaceutical company, Impax, entered into a “pay for delay” or “reverse payment” agreement in violation of the federal antitrust laws. A “pay for delay” or “reverse payment” agreement, generally speaking, is an agreement in which a brand name drug company provides compensation to a generic competitor, and in return, the generic competitor agrees to stop challenging, or stop trying to invent around, the brand company’s patent and agrees to delay launching its generic product. Absent the alleged “pay for delay” agreement, the Plaintiffs claim, Impax would have launched generic Opana ER earlier than January 2013, the date on which Impax actually launched generic Opana ER. The Plaintiffs also claim that Endo would have launched their own competing generic version of Opana ER, an “authorized generic,” at or about the same time. The Plaintiffs allege that the prices for Opana ER and generic Opana ER were higher than they would have been absent the Defendants’ alleged unlawful conduct.

The Defendants deny all these allegations, including that the Plaintiffs or Class members are entitled to damages or other relief.

### **3. Why is this lawsuit a class action?**

In a class action lawsuit, one or more persons or entities sue on behalf of others who have similar claims. Together, all these entities make up the “Class” and are called “Class members.” The companies that filed suit are called the “Plaintiffs” (or “Class Representatives”). The companies that are sued are called the “Defendants.”

In a class action lawsuit, one court resolves the issues for everyone in the class, except for those class members who exclude themselves from the class.

In allowing this lawsuit to proceed as a class action, Judge Leinenweber certified the following Class:

All persons or entities in the U.S. and its territories, including Puerto Rico, who purchased brand or generic Opana ER 5, 10, 20, 30, and/or 40 mg tablets directly from Defendants at any time during the period from April 1, 2011 until August 31, 2017 (the “Class”). Excluded from the Class are the Defendants and their officers, directors, management, employees, subsidiaries, or affiliates, and all federal governmental entities.

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. The common legal and factual questions include:

- Whether the Defendants conspired to suppress generic competition to Opana ER;
- Whether the Defendants’ conduct caused the Plaintiffs and members of the Class to pay higher prices than they otherwise would have; and
- Whether the alleged reverse payment agreement is illegal under the antitrust laws.

A copy of the Court’s order is available at <https://www.garwingerstein.com> and <https://www.bergermontague.com>.

## **THE STATUS OF THE CASE**

### **4. What is the current status of the lawsuit?**

The Court granted the Plaintiffs’ motion for class certification on June 4, 2021, certifying the Class for all purposes, including trial and any future settlements, and appointing the Class Representatives and their attorneys to represent the Class.

The case against the Defendants is ongoing. There has been no determination by the Court or a jury that the allegations against the Defendants have been proven. Trial is currently scheduled to begin on June 7, 2022.

### **5. Has the Court decided who is right?**

No. The Court has not decided in favor of the Plaintiffs or the Defendants with respect to the pending claims. By issuing this notice, the Court is not suggesting that the Plaintiffs will win or lose this case. If the claims against the Defendants are not resolved by a settlement or otherwise, the Plaintiffs must prove their claims at trial.

**6. What are the Plaintiffs asking for?**

The Plaintiffs are seeking to recover the overcharges they claim the Class paid on direct purchases of brand or generic Opana ER 5, 10, 20, 30, and/or 40 mg tablets from the Defendants as a result of the Defendants' anticompetitive conduct. If the Plaintiffs prevail at trial, they will be entitled to recover triple the amount of damages that a jury awards. The Plaintiffs also seek attorneys' fees and litigation costs.

**7. Is there any money available now?**

No. The Court has not yet decided whether the Defendants did anything wrong, and the Plaintiffs have not settled their claims against any of the Defendants. There is no guarantee that money or benefits will ever be obtained from the Defendants. If they are, Class members will be notified regarding how to obtain a share.

**WHO IS IN THE CLASS?**

*You need to decide whether you are affected by this lawsuit.*

**8. Am I part of the Class?**

The Class of direct purchasers certified by the Court includes persons or entities in the United States and its territories who purchased brand Opana ER 5, 10, 20, 30, and/or 40 mg tablets directly from Endo and/or generic Opana ER (oxymorphone hydrochloride extended-release) 5, 10, 20, 30, and/or 40 mg tablets directly from Impax at any time during the period April 1, 2011 through August 31, 2017.

Even if you meet these requirements, you are not a member of the Class if you are a Defendant or one of the Defendants' officers, directors, management, employees, subsidiaries, or affiliates, or if you are a federal government entity.

If you fit within the definition of the Class, you will be considered a member of the Class unless you timely and fully comply with the instructions for excluding yourself from the Class as set forth below.

**YOUR RIGHTS AND OPTIONS**

**9. What are my legal rights and options in this case?**

If you fit within the definition of the Class, you have to decide whether to stay in the Class or ask to be excluded. **You have to decide this now.**

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>	
<b>REMAIN A CLASS MEMBER BY DOING NOTHING</b>	If you are a member of the Class, by doing nothing you will remain in the Class and may be entitled to share in any recovery that may come from a trial or settlement with the Defendants. All of the Court’s orders will apply to you and legally bind you.
<b>EXCLUDE YOURSELF FROM THE CLASS</b>	This is the only option that allows you to file or be part of another lawsuit against the Defendants relating to the claims in this case. If you exclude yourself from the Class, you will not be bound by any of the Court’s orders in this case as to the claims against the Defendants, nor will you be entitled to participate in and benefit from a recovery in this case, if any. Any dispute about your request to be excluded will be resolved by the Court.
<b>HIRE YOUR OWN LAWYER</b>	You may, but are not required to, hire your own lawyer at your expense to advise you of your rights in this class action lawsuit. You have the right to enter an appearance in the case through your lawyer if you wish.

## **IF YOU DO NOTHING**

### **10. What happens if I do nothing at all?**

If you fit within the definition of the Class and you do nothing, then you will remain in the Class. You will keep the right to potentially share in any recovery that may come from a trial or settlement with the Defendants in this litigation. You will not be able to start your own lawsuit against any of the Defendants relating to the legal issues or claims in this case. All of the Court’s orders will apply to you and legally bind you. **If you wish to remain in the litigation class, you do not need to do anything at this time.**

## **EXCLUDING YOURSELF FROM THE CLASS**

### **11. Can I get out of the Class?**

Yes, if you exclude yourself from the Class (i.e., “opt out” of the Class of direct purchasers) on or before November 22, 2021. To exclude yourself, you must send a letter via first class U.S. mail saying that you want to exclude yourself from the Class of direct purchasers in *In re Opana ER Antitrust Litigation*, MDL No. 2580, Case No. 14 C 10150 (N.D. Ill.). Be sure to include your name, address, telephone number, and your signature. Mail the exclusion to the notice administrator with a copy to one of the lawyers listed in Question 12 below. Your letter requesting exclusion must be postmarked no later than November 22, 2021. The notice administrator’s address is:

Opana ER Direct Purchaser Antitrust Litigation  
c/o RG/2 Claims Administration  
P.O. Box 59479  
Philadelphia, PA 19102-9479

If you exclude yourself from the Class, you will not be legally bound by anything that happens in the lawsuit between Plaintiffs and Defendants and you may be able to file a lawsuit against (or continue to sue) Defendants in the future about the legal issues in this case. If you exclude yourself from the Class so that you can start, or continue, your own lawsuit against the Defendants, you should talk to your own lawyer soon, because your claims will be subject to a statute of limitations, which means that your claims may expire or decrease in value if you do not take timely action. You need to contact your own lawyer about this issue.

If you do not exclude yourself from the Class, you will keep the right to a share of any recovery that may come from a trial or settlement of this lawsuit against the Defendants. You will not be able to start another lawsuit, continue another lawsuit, or be part of any other lawsuit against the Defendants about the legal issues in this case. All of the Court's orders in the class action case by the Plaintiffs against the Defendants will apply to you and legally bind you. You will also be bound by any judgment in the lawsuit for or against the Defendants.

## **THE LAWYERS REPRESENTING THE CLASS**

### **12. Do I have a lawyer in this case?**

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

David F. Sorensen  
Andrew C. Curley  
BERGER MONTAGUE PC  
1818 Market Street  
Suite 3600  
Philadelphia, PA 19103  
T: (215) 875-3000  
F: (215) 875-4604  
dsorensen@bm.net  
acurley@bm.net

Bruce E. Gerstein  
Jonathan M. Gerstein  
GARWIN GERSTEIN & FISHER, LLP  
Wall Street Plaza  
88 Pine Street, 10th Floor  
New York, NY 10005  
T: (212) 398-0055  
F: (212) 764-6620  
bgerstein@garwingerstein.com  
jgerstein@garwingerstein.com

### **13. 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.

### **14. How will the lawyers be paid?**

If class counsel achieves a recovery for the Class, the Court will be asked to approve reasonable fees for the lawyers who worked on the case and reimbursement for the reasonable litigation expenses they have advanced on behalf of the Class. If the Court grants class counsel's requests, fees and expenses would



either be deducted from any money obtained for the Class or paid separately by the Defendants. Members of the Class will not have to pay any attorneys' fees or expenses.

## THE TRIAL

### 15. How and when will the Court decide who is right?

If the claims against the Defendants are not resolved by a settlement or otherwise, Plaintiffs and class counsel will have to prove the claims at a trial by jury. The jury trial is scheduled to start on June 7, 2022. During the trial, the jury will hear evidence about whether the Plaintiffs are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win, or that the Plaintiffs will get any money for the Class. Any judgment will be binding on all Class members who have not opted out, regardless of who wins.

### 16. Do I have to come to the trial?

No, you do not need to attend the trial. Class counsel will present the case for the Plaintiffs and the Class, and counsel for the Defendants will present the defenses. You and/or your own lawyer may attend the trial at your own expense.

### 17. Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of the trial or a settlement, you will be notified about how to participate. We do not know if or when this will occur or how long this will take.

## 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, which may be inspected at the Office of the Clerk, United States District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, IL 60604 during regular business hours of each business day. You may also get additional information by calling or writing to class counsel as indicated above, or by writing to the notice administrator, RG/2 Claims Administration, at the following address:

Opana ER Direct Purchaser Antitrust Litigation  
RG/2 Claims Administration LLC  
P.O. Box 59479  
Philadelphia, PA 19102-9479

**PLEASE DO NOT WRITE TO OR CALL THE COURT OR THE CLERK'S OFFICE FOR INFORMATION. INSTEAD, PLEASE DIRECT ANY INQUIRIES TO ANY OF THE CLASS COUNSEL LISTED ABOVE OR TO RG/2 CLAIMS ADMINISTRATION LLC.**

DATE: October 7, 2021

BY THE COURT  
Honorable Harry D. Leinenweber  
United States District Judge