IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: Seroquel XR (Extended Release Quetiapine Fumarate) Antitrust Litig.	Master Dkt. No. 20-1076-CFC
This Document Relates To: All Direct Purchaser Class Actions	

DIRECT PURCHASER CLASS PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR FINAL APPROVAL OF PROPOSED SETTLEMENTS

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Direct Purchaser Class Plaintiffs J M Smith Corporation ("Smith Drug"), and KPH Healthcare Services, Inc. ("KPH" and, together with Smith Drug, "Class Representatives"), on behalf of the certified direct purchaser class,[1] respectfully submit this brief in support of their Motion for Final Approval of Proposed Settlements.

I. INTRODUCTION

The settlements with AstraZeneca Pharmaceuticals LP and AstraZeneca UK Limited (together, "AstraZeneca") and Handa Pharmaceuticals, LLC ("Handa" and, with AstraZeneca, the "Settling Defendants") totaling $51,419,000 (the "Settlements") — agreed to in principle after pain-staking negotiations days before trial was to commence — are the product of nearly six years of hard-fought litigation by Plaintiffs and their counsel. While Plaintiffs were fully prepared to go

[1] The Court previously certified the following class:

> All persons or entities in the United States, including its territories, possessions, and the Commonwealth of Puerto Rico, who purchased 50mg, 150mg, 200mg, and/or 300mg strength of brand or generic Seroquel XR directly from any of the Defendants at any time from August 2, 2015 until April 30, 2017 (the "Class Period").
>
> Excluded from the Class are Defendants and their officers, directors, management and employees, predecessors, subsidiaries and affiliates, and all federal governmental entities.

D.I. 582 ¶1. Also excluded from the Class for purposes of the Settlement Agreements are the following entities that previously opted out of the Class: Walgreen Co., The Kroger Co., Albertsons Companies, Inc., H-E-B, L.P., Hy-Vee, Inc., CVS Pharmacy, Inc., Rite Aid Corp., and Rite Aid Hdqtrs. Corp (the "Retailer Plaintiffs").

to trial, the Settlements provide a substantial and immediate cash recovery while eliminating the risks of trial and appeals, and thus represent an outstanding result for the Class.

Class members had until August 12, 2025 to object to the Settlements or Class Counsel's request for attorneys' fees, reimbursement of expenses and service awards to the Class Representatives (D.I. 915) (the "Fee Submission").[2] There have been no objections.

As discussed below, the fairness, reasonableness, and adequacy of the Settlements are strongly supported by the application of Rule 23 and the "*Girsh/Prudential*" factors derived from *Girsh v. Jepson*, 521 F.2d 153 (3d Cir. 1975) and *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283 (3d Cir. 1998), which Third Circuit courts use to determine whether to approve class action settlements.

For the reasons detailed herein, Plaintiffs respectfully request that the Court enter the accompanying proposed Order which, *inter alia*: (a) grants final approval to the Settlements; (b) approves the plan of allocation, which constitutes a fair and reasonable method of determining each Class member's recovery based on their respective purchases; and (c) grants Class Counsel's Fee Submission with respect to attorneys' fees, reimbursement of costs, and service awards (D.I. 915).

[2] The Court granted Class Counsel's request to extend the objection deadline from July 24, 2025 (D.I. 911) to August 12, 2025 (D.I. 919).

II. RELEVANT BACKGROUND

For the Court's convenience, Plaintiffs incorporate the procedural history of this litigation, including the negotiations that led to the Settlements, described in the Brief and Declaration of Jonathan M. Gerstein supporting the Fee Submission. D.I. 916 and 917, respectively.

On May 1, 2025, just four days before trial was set to commence, Plaintiffs and AstraZeneca reached an agreement-in-principle, at which point Plaintiffs had settled with all Settling Defendants. Under the Settlements, AstraZeneca has paid $50,925,000[3] and Handa has paid $494,000[4] for the benefit of all Class members. Handa also committed to provide material, substantial cooperation to Plaintiffs, including by providing sworn statements and making Handa's CEO available to testify at trial.[5] Each of the Settling Defendants received dismissal of the litigation with prejudice and certain releases.

On May 29, 2025, Plaintiffs filed a motion seeking, *inter alia*, preliminary approval of the Settlements. *See* D.I. 908. On June 9, 2025, the Court granted the motion and found that "the proposed Settlement Agreements have no obvious deficiencies and are within the range of possible approval[]" and that "[p]ursuant to Rule 23(e)(1)(B)(i), the Court finds that it will likely be able to approve the

[3] D.I. 910-1.

[4] D.I. 910-2.

[5] *Id*.

Settlement under Rule 23(e)(2).” D.I. 911 ¶¶ 7, 10. The Court further directed that notice of same be given to the Class. *Id.* ¶ 16.

On June 9, 2025, the Settling Defendants filed submissions on the docket confirming that they had timely served the required notices pursuant to the Class Action Fairness Act of 2005. *See* D.I. 912 and 913. As of the date of this filing, Class Counsel is not aware of any CAFA notice recipient objecting to the Settlements.

Handa’s and AstraZeneca’s settlement amounts were deposited into a Court-approved escrow account that has been earning interest for the benefit of the Class. *See* Declaration of Jonathan M. Gerstein (“Gerstein Decl.), ¶ 2.

On June 23, 2025, Class Counsel, through the Court-appointed claims administrator, caused notice to be served on Class members via first-class mail. The notice detailed, *inter alia*: (a) the terms of the Settlements; (b) the procedures and deadline for objecting to either the Settlements and/or Fee Submission;[6] (c) the procedures and deadlines for submitting claim forms; and (d) the location, date and time of the Court’s final fairness hearing. *See* Gerstein Decl. at Ex. 5 (Declaration of Tina Chiango, RG/2 Claims Administration LLC, Regarding Notice to the Direct Purchaser Class (“Chiango Decl.”)) at Ex. A thereto (Notice). With the

[6] Pursuant to the Court’s order to extend the objection deadline until August 12, 2025 [D.I. 919], Class Counsel sent a supplemental notice to Class members advising of same on July 29, 2025. Chiango Decl., ¶ 6.

notice, each Class member received a pre-populated claim form listing the amounts of their respective purchases of brand and generic Seroquel XR tablets, with Class members having the option to either submit their own purchase data for review or verify that the provided numbers were correct. *Id.* at ¶¶ 4-5, Ex. B (Claim Form). Both the notice and an exemplar claim form were posted on the website of Lead Class Counsel. *See* Gerstein Decl., ¶ 3.

On July 10, 2025, Class Counsel filed their Fee Submission seeking attorneys' fees, reimbursement of costs, and service awards to the Class Representatives. *See* D.I. 915-917. The Fee Submission was posted on Lead Class Counsel's website on July 23, 2025. *See* Gerstein Decl., ¶ 4.

The deadline for Class members to object to the Settlements or Fee Submission expired on August 12, 2025. No objections to either have been received. *See* Gerstein Decl. at Ex. 5 (Chiango Decl.), ¶ 7.

III. ARGUMENT

A. THE SETTLEMENTS ARE ENTITLED TO AN INITIAL PRESUMPTION OF FAIRNESS

"In evaluating a class action settlement under Rule 23(e), a district court determines whether the settlement is fundamentally fair, reasonable, and adequate." *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 592 (3d Cir. 2010) (citing Fed. R. Civ. P. 23(e)(2)). *See also Moon v. Nemours*, 2023 U.S. Dist. LEXIS 19471, at *5 (D. Del. Feb. 3, 2023); *In re Suboxone (Buprenorphine Hydrochloride*

& Naloxone) Antitrust Litig., 2024 U.S. Dist. LEXIS 33018, at *8 (E.D. Pa. Feb. 27, 2024).

Third Circuit courts afford an "especially strong" presumption in favor of class action settlements. *Ehrheart*, 609 F.3d at 594-95. To further the policy of favoring settlement, a class-action settlement is entitled to a presumption of fairness when: (1) the negotiations occurred at arm's length; (2) sufficient discovery was conducted; (3) the settlement proponents are experienced in similar litigation; and (4) only a small fraction of the class objected. *In re Google Inc. Cookie Placement Consumer Priv. Litig.*, 934 F.3d 316, 326 (3d Cir. 2019); *see also In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 535 (3d Cir. 2004)); *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *10.

Here, all four factors are readily met. As to the first three, in granting Plaintiffs' motion for preliminary approval, this Court previously determined that the Settlements were "arrived at by arm's-length negotiations" and "that the proceedings that occurred before the parties entered into the Settlement Agreements afforded counsel the opportunity to adequately assess the claims and defenses in the action as well as the relative positions, strengths, weaknesses, risks, and benefits to each party, and, as such, to negotiate individual Settlement Agreements that are fair, reasonable, and adequate and reflect those considerations." D.I. 911 ¶¶ 8-9. *See also* D.I. 916 (Brief in Supp. of Fee

Submission) and 917 (Decl. of Jonathan M. Gerstein in Supp. of Fee Submission) (detailing the extensive procedural and substantive history of the litigation and settlement negotiations). Counsel for both Plaintiffs and the Settling Defendants are highly experienced litigators, and Class Counsel have close to three decades of experience litigating and settling Hatch-Waxman class action cases. D.I. 916 at 8 (detailing the experience and skill of Class Counsel). As to the fourth and final factor, there have been no objections to the Settlements by any Class member.

Accordingly, the Court should apply an initial presumption of fairness to the Settlements. When the presumption is found to apply, it "does not obviate the need for scrupulous analysis under the *Girsh*, *Prudential*, and *Baby Product*[7] factors, [but] it does skew the analysis in favor of approving [a] [s]ettlement." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *15.

B. THE SETTLEMENTS ARE FAIR, REASONABLE, AND ADEQUATE UNDER THE *GIRSH/PRUDENTIAL* FACTORS

Federal Rule 23(e)(2), as amended in 2018, lists four factors that courts must consider in determining whether a settlement is fair, reasonable, and adequate and, therefore, warrants final approval. As courts in this Circuit recognize, these four factors largely overlap with the "traditional" *Girsh/Prudential* factors utilized within the Third Circuit for evaluating the fairness of a proposed settlement for

[7] Referring to the factors articulated in *In re Baby Products Antitrust Litig.*, 708 F.3d 163 (3d Cir. 2013). *See infra* at Section III.C.

final approval purposes. *See O'Hern v. Vida Longevity Fund, LP*, 2023 U.S. Dist. LEXIS 76789, at *13 (D. Del. May 2, 2023) ("Courts in the Third Circuit also continue to apply the *Girsh* factors, which include procedural and substantive considerations similar to those in the 2018 amendments to Rule 23(e).").

In *Girsh*, the Third Circuit "identified certain factors which district courts may employ in informing their discretion before granting final approval to a class action settlement." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *10 (internal quotation omitted). Subsequently, in *Prudential*, the Third Circuit "advised that it may be useful to expand the traditional *Girsh* factors" and articulated additional factors for district courts to consider. *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *11-12 (internal quotation omitted). *See also McIntyre v. Realpage, Inc.*, 2023 U.S. Dist. LEXIS 53732, at *4 n.4 (E.D. Pa. Mar. 24, 2023). "Only the *Prudential* factors relevant to the litigation in question need be addressed." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *24.

Analysis of each of the *Girsh/Prudential* factors strongly supports final approval of the Settlements.

1. ***Girsh* Factor 1: The Complexity, Expense, and Likely Duration of the Litigation[8]**

"The first factor captures the probable costs, in both time and money, of continued litigation." *Warfarin*, 391 F.3d 535-36 (internal quotation omitted).

[8] *See also* FRCP 23(e)(2)(C)(1).

Antitrust cases are expensive to litigate due to their inherent complexity. *See In re Linerboard Antitrust Litig.*, 296 F. Supp. 2d 568, 577 (E.D. Pa. 2003) ("An antitrust class action is arguably the most complex action to prosecute . . ."). Here, continued litigation would have entailed incurring the costs of a multi-week jury trial (including numerous expert witnesses' fees) and an inevitable appeal, regardless of which side prevailed. The Settlements eliminated these costs while providing a substantial and immediate recovery to the Class. *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *15-16 (settlement reduced expense of continued litigation, including trial costs); *McIntyre*, 2023 U.S. Dist. LEXIS 53732, at *4 n.4 (avoiding costs of summary judgment briefing, trial preparation, trial and appeal weighed in favor of approving settlement).

Accordingly, this factor strongly supports final approval of the Settlements.

2. *Girsh* Factor 2: The Reaction of the Class to the Settlements

This factor "attempts to gauge whether members of the class support the settlement." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *16 (quoting *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 254 (D. Del. 2002)). In examining this factor, courts look to how many class members have opted out of a settlement and whether any class members objected to the settlement. *Id.* at *16 (as here, no objections to settlement and no opt outs); *McIntyre,* 2023 U.S. Dist. LEXIS 53732, at *4 n.4 (only one opt out and one objection out of thousands of

class members). Here, despite the opportunity to do so, not a single Class member has objected to the Settlements.[9] To the contrary, several Class members have submitted letters or declarations supporting the Settlements and Fee Submission. *See* Gerstein Decl., Exs. 1-4.

Accordingly, this factor strongly supports final approval of the Settlements.

3. ***Girsh* Factor 3: The Stage of the Proceedings and the Amount of Discovery Completed**

By examining the stage of the proceedings and the amount of discovery completed, courts seek to determine "whether counsel had an adequate appreciation of the merits of the case before negotiating." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *16-17 (internal quotation omitted). Because the agreement in principle with AstraZeneca was reached just days prior to the commencement of trial after nearly six years of extensive litigation, there can be no question that Class Counsel had a comprehensive understanding of the nature of Plaintiffs' claims and the Settling Defendants' defenses. *Id.* at *17 ("the parties had a well-developed appreciation of the merits" after ten-year litigation with "extensive discovery," "vigorous motion practice" and rulings on class certification, *Daubert* motions, and summary judgment); *McIntyre*, 2023 U.S. Dist. LEXIS 53732, at *4

[9] No analysis of how many Class members elected to opt out of the Settlements is necessary since the Court previously determined that a second opt out period was not needed due to Class members' prior notice of class certification containing an opt out period. *See* D.I. 911 ¶ 17.

n.4 (four-year litigation with substantial discovery and briefing on merits issues allowed parties to appreciate merits of case before negotiating settlement).

Accordingly, this factor strongly supports final approval of the Settlements.

4. *Girsh* Factors 4 and 5: The Risks of Establishing Liability and Damages

These two factors "'survey the potential risks and rewards of proceeding to litigation in order to weigh the likelihood of success against the benefits of an immediate settlement.'" *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *17 (quoting *Warfarin,* 391 F.3d at 537). Here, absent the Settlements, the case was just four days away from trial. While Class Counsel was confident in the Class's claims, a favorable jury verdict in the face of the Settling Defendants' numerous defenses was hardly guaranteed (nor was a favorable result upon an inevitable appeal). *See id.* at *18 (settlement provided the class an "immediate recovery without subjecting the DPPs to the rigors of a difficult trial."); *McIntyre*, 2023 U.S. Dist. LEXIS 53732, at *4 n.4 (cash payments to class members versus risks of defense verdict or inability to prove damages favored settlement). The Settlements provide the Class with a substantial and immediate recovery without the risks of litigating the case through a jury trial and appeals.

Accordingly, these factors strongly support final approval of the Settlements.

5. *Girsh* Factor 6: The Risks of Maintaining the Class Action Through Trial

This factor "'measures the likelihood of obtaining and keeping a class certification if the action were to proceed to trial' in light of the fact that 'the prospects for obtaining certification [purportedly] have a great impact on the range of recovery one can expect to reap from the class action.'" *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *18 (quoting *Warfarin*, 391 F.3d at 537). Though "there is always some risk of full or partial decertification" in any class action (*McIntyre*, 2023 U.S. Dist. LEXIS 53732 at *4 n.4), the Court's grant of class certification in this case was made on an unopposed motion. D.I. 582. Thus, "there is no reason to assume that this case would not proceed as a viable class action through trial." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *19.

Accordingly, this factor is neutral.

6. *Girsh* Factor 7: The Ability of the Defendants to Withstand a Greater Judgment

"This factor is most relevant when a settlement is less than would ordinarily be awarded but the defendant's financial circumstances do not permit a greater settlement." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *19 (internal quotations omitted). This factor does not apply to AstraZeneca, but is applicable to Handa, as it provided Class Counsel with documentation and a sworn statement demonstrating Handa's inability to pay more than the settlement amount. D.I. 909

at 6 and 910-2, ¶ 33. Although Plaintiffs could not independently verify Handa's claimed inability to pay, Class Counsel considered Handa's proffer and strenuous assertions in negotiations. Moreover, while Handa was unable to substantially compensate Plaintiffs in cash, Plaintiffs did obtain alternate consideration from Handa in the form of cooperation (D.I. 910-2, ¶ 35) that would have been of enormous value to the Class had the case proceeded to trial and which presented a risk to AstraZeneca before it settled.

Accordingly, this factor strongly supports final approval of the Settlements.

7. *Girsh* Factors 8 and 9: The Range of Reasonableness of the Settlements in Light of the Best Possible Recovery and in Light of the Risks of Litigation

"The last two *Girsh* factors evaluate whether the settlement represents a good value for a weak case or a poor value for a strong case. The factors test two sides of the same coin: reasonableness in light of the best possible recovery and reasonableness in light of the risks the parties would face if the case went to trial." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *20 (citing *Warfarin*, 391 F.3d at 538). Courts compare the amount of a settlement with "the present value of the damages plaintiffs would likely recover if successful, appropriately discounted for the risk of not prevailing[.]" *Id.* at *20-21 (internal quotation omitted). In performing this comparison, courts recognize that a settlement is a compromise, and even if the settlement "may only amount to a fraction of the potential recovery [that] does not,

in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved. The percentage recovery, rather, must represent a material percentage recovery to plaintiff in light of all the risks considered under *Girsh*." *Id.* at *21.

Plaintiffs' expert economist, Dr. Russell L. Lamb, estimated the Class's aggregate damages. Plaintiffs' ultimate recovery was premised not only on Plaintiffs prevailing on liability at trial (which was uncertain) but was also dependent upon certain critical variables and jury determinations, including the timing of generic Seroquel XR market entry and the number of market entrants. Nevertheless, the Settlements represent more than 10% of the single damages calculated by Dr. Lamb, and are reasonable in the context of the risks Plaintiffs faced with respect to both continued litigation and considering Handa's financial condition at the time of settlement. *See generally* Sections III.B.4 and III.B.6, *supra*. *See also Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *21-23.

Accordingly, these factors strongly support final approval of the Settlements.

8. *Prudential* Factor 1: The Maturity of the Underlying Substantive Issues

The first *Prudential* factor — "the maturity of the underlying substantive issues, as measured by experience in adjudicating individual actions, the development of scientific knowledge, the extent of discovery on the merits, and other factors that bear on the ability to assess the probable outcome of a trial on the

merits of liability and individual damages" (*Prudential*, 148 F.3d at 323) — "substantially mirrors *Girsh* factor three, the stage of the proceedings." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *24. For the reasons detailed above with respect to *Girsh* factor three, "the advanced development of the record weighs in favor of approval." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *24. *See generally* Section III.B.3, *supra*.

Accordingly, this factor strongly supports final approval of the Settlements.

9. *Prudential* Factors 2 and 3: The Existence and Probable Outcome of Claims by Other Classes and a Comparison Between the Results Achieved by the Settlements to Results of Other Claimants

Prudential factors two and three "look at the outcomes of claims by other classes and other claimants." *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *25. Other claimants (the End Payor Plaintiffs ($5,475,000 in settlements) and Health Care Service Corporation) previously settled with the Settling Defendants and the Retailer Plaintiffs settled contemporaneously with Plaintiffs here. Plaintiffs submit that the Settlements at issue on this motion compare favorably to the preceding ones and no disparities in success exist. Though the claims asserted by the earlier-settling plaintiffs stemmed from the same conduct of Defendants concerning Seroquel XR, the various cases and claims faced issues that were distinct. Ultimately, Plaintiffs believe that the Settlements represent an outstanding resolution of the Direct Purchaser Class Plaintiffs' claims.

Accordingly, these factors strongly support final approval of the Settlements.

10. *Prudential* Factor 4: The Right of Class Members to Opt Out of the Settlements

For the reasons discussed above, this factor need not be considered. *See* n.9, *supra*; *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *24 ("Only the *Prudential* factors relevant to the litigation in question need be addressed").

11. *Prudential* Factor 5: The Reasonableness of Requested Attorneys' Fees[10]

This factor examines whether Class members were given reasonable notice of the attorney fees and costs that would be sought. Here, pursuant to the Court's preliminary approval order, Class Counsel disseminated notice to Class members advising them that Class Counsel "intends to seek attorneys' fees of up to thirty-six percent (36%) of the Settlement Fund, including a proportionate share of accrued interest, plus reimbursement of reasonable litigation expenses they incurred litigating the case." *See* Gerstein Decl. at Ex. 5 (Chiango Decl.) at Ex. A thereto (Notice) at Question 11.[11] The notice also informed Class members that any request for attorneys' fees would be filed with the Court and posted on the website of Lead Counsel. Class Counsel timely filed the Fee Submission with the Court, and it has been publicly available on PACER for over a month. While Class

[10] *See also* FRCP 23(e)(2)(C)(iii).

[11] As described in Plaintiffs' Fee Submission, Class Counsel's requested fee award of 36% of the settlement amount is net of reimbursed expenses and service awards to the Class Representatives. See D.I. 916 at 1-2.

Counsel inadvertently did not immediately post the Fee Submission to Lead Counsel's website, the error was rectified through a supplemental notice and deadline extension affording Class members a full opportunity to object. D.I. 919. Accordingly, notice to Class members about the requested attorneys' fees was reasonable. *See Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *26-27 (finding that notice sent to class members specifically advising class members what fees would be requested was reasonable).

Concerning the substantive reasonableness of the requested fees, Class Counsel's Fee Submission demonstrates their reasonableness. As noted herein, no Class member objected to the requested attorneys' fees, and several have submitted statements of support. *See* Gerstein Decl., Exs. 1-4.

Accordingly, this factor strongly supports final approval of the Settlements.

12. *Prudential* Factor 6: The Reasonableness of the Procedure for Processing Claims Under the Settlements[12]

The final *Prudential* factor examines whether the procedure for processing claims under the Settlements is reasonable. *Suboxone*, 2024 U.S. Dist. LEXIS 33018, at *27. Here, with their motion for preliminary approval, Plaintiffs submitted a proposed Plan of Allocation describing the method for processing claims that is consistent with allocation plans that have been previously approved

[12] *See also* FRCP 23(e)(2)(C)(ii).

in similar cases. *See* D.I. 910-6 (Plan of Allocation). The Court preliminarily approved the Plan of Allocation as fair and reasonable. *See* D.I. 911 ¶ 21.

Under the Plan of Allocation, Class members will be compensated based on their respective *pro rata* share of weighted combined net units of direct purchases of branded and generic Seroquel XR. *See* D.I. 910-6 at 2-5, 8-12. Using data produced by Defendants during discovery, Plaintiffs' expert economist performed preliminary computations, which were inserted into individualized, pre-populated claim forms mailed to Class members on June 23, 2025, with Class members having the option of either accepting the numbers in those forms or submitting their own purchase data. *Id.* at 6-7. Consequently, there was little to no burden on Class members, who needed only to complete and return their claim forms by the August 12, 2025 deadline. *See* Gerstein Decl. at Ex. 5 (Chiango Decl.) ¶¶ 6-7 and Ex. A thereto (Notice) at p. 2 and Question 8; D.I. 919 (extending deadline to August 12, 2025).

The claims process is ongoing as of this filing; the claims administrator and Plaintiffs' expert economist will review all of the claim forms submitted and finalize each claimants' *pro rata* share of the Net Settlement Fund (*i.e.*, the Settlement Fund (including any interest earned) net of Court-approved attorneys' fees, expenses (including settlement-related costs and expenses) and service awards to the Class Representatives), after which the claims administrator will

prepare a final report for the Court's review and approval, pursuant to a motion for distribution. *See generally* D.I. 910-6 at 14-16. Upon Court approval, the claims administrator will issue payment to claimants. *Id.* at 16. To the extent any monies remain unclaimed and it is economically feasible to do so, Plaintiffs will seek court approval concerning the distribution of any such unclaimed funds. *Id.* at 16-17. In sum, the Plan of Allocation is straightforward and non-burdensome to Class members and will ensure timely processing of claims and distribution of settlement funds.

Accordingly, this factor strongly supports final approval of the Settlements.

C. THE SETTLEMENTS PROVIDE A SUBSTANTIAL AND IMMEDIATE DIRECT FINANCIAL BENEFIT TO CLASS MEMBERS

In *In re Baby Products*, the Third Circuit stated that "one of the additional inquires for a thorough analysis of settlement terms is the degree of direct benefit provided to the class." 708 F.3d at 174. As the Third Circuit explained, "[i]n making this determination, a district court may consider, among other things, the number of individual awards compared to both the number of claims and the estimated number of class members, the size of the individual awards compared to claimants' estimated damages, and the claims process used to determine individual awards." *Baby Products*, 708 F.3d at 174.

The first *Baby Products* consideration is not relevant where, as here, "each class member who submit[s] a valid claim is eligible to receive an individual award." *Ward v. Flagship Credit Acceptance LLC*, 2020 U.S. Dist. LEXIS 25612, at *65 (E.D. Pa. Feb. 13, 2020).

The second *Baby Products* consideration favors approval of the Settlements. While the Settlements represent a compromise of the full amount of the Class's damages and thus necessarily represent a discounted value of those damages, there can be no question that the Settlements allow Class members to receive a substantial economic recovery — *i.e.*, a substantial direct benefit — while avoiding the risks of trial and appeals. *See generally id.* at *66-67.

Finally, the third *Baby Products* consideration also demonstrates direct benefit to Class members. As detailed above, the claims process outlined in the Plan of Allocation will ensure that each Class member's recovery will be based on their eligible direct purchases of brand and generic Seroquel XR tablets, meaning that each Class member's recovery will fairly track the type and extent of their respective damages. *See also* Section III.D, *infra*.

Accordingly, this factor strongly supports final approval of the Settlements.

D. THE PLAN OF ALLOCATION SHOULD BE APPROVED

In assessing plans of allocation, the same standards of review applicable to the Court's review of the Settlements themselves apply: courts consider whether an

allocation plan is fair, reasonable, and adequate. *See In re Remicade Antitrust Litig.*, 2022 U.S. Dist. LEXIS 136774, at *36 (E.D. Pa. Aug. 2, 2022).[13]

The Plan of Allocation (D.I. 910-6), which was preliminarily approved by this Court as complying with Rule 23(e) and "otherwise fair, reasonable, and adequate" (*see* D.I. 911, ¶ 21), meets this standard. As set forth more fully in the Plan of Allocation and the Declaration of Dr. Russell L. Lamb that accompanied Plaintiffs' preliminary approval papers (D.I. 910-7), Plaintiffs will allocate the Net Settlement Fund in proportion to each claimant's[14] respective eligible direct purchases of branded and generic Seroquel XR. *See* D.I. 910-6. This method of allocation, which reimburses claimants based on the type and extent of their injuries, is plainly reasonable. *See* D.I. 909 at 15-17. *See also O'Hern*, 2023 U.S. Dist. LEXIS 76789, at *20 (where allocation plan provided each class member would receive a *pro rata* share of the net settlement "based on the relative losses they sustained," there "can be no dispute that the settlement treats all class members equitably"). Further, as detailed above, the submission of claims by Class members is a simple matter of verifying the purchase totals provided to each Class member in pre-populated, individualized claim forms (or submitting their own purchase data with their claim form, if they wish). Similar plans of allocation have

[13] *See also* FRCP 23(e)(2)(D).

[14] Claimants are Class members or Class members' assignees that timely submitted completed claim forms. *See* Plan of Allocation (D.I. 910-6) at 3 n.4.

been approved in similar pharmaceutical antitrust actions. *See* D.I. 909 at 15, n.29 (listing cases). Finally, Class Counsel highly recommend the Plan of Allocation, which further supports approval. *See In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, 2021 U.S. Dist. LEXIS 18894, at *35 (D.N.J. Feb. 1, 2021) ("In determining whether a plan of allocation is fair, reasonable and adequate, courts give great weight to the opinion of qualified counsel."). No Class member objected to the Plan of Allocation.

Accordingly, the Plan of Allocation should be approved as fair, reasonable and adequate.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter the accompanying proposed Order.

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Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re: Seroquel XR (Extended Release Quetiapine Fumarate) Antitrust Litigation	
This Document Relates To: All Actions	Master Dkt. No. 20-1076-CFC

WORD COUNT CERTFICATION

I hereby certify that this brief complies with the type, font, and word limitations of the Court's Standing Order Regarding Briefing In All Cases, because it contains 4,954 words, and it uses 14-point Times New Roman typeface.

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