

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

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| In re WELLBUTRIN XL ANTITRUST LITIGATION |) | |
| |) | |

Civil Action No.: 2:08-cv-2433

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| THIS DOCUMENT RELATES TO: |) | |
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Honorable Mary A. McLaughlin

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| INDIRECT PURCHASER ACTION |) | |
| |) | |

**SUPPLEMENTAL APPLICATION FOR AWARDS OF INCENTIVE PAYMENTS,
FEES AND REIMBURSEMENT OF EXPENSES FROM THE
PROPOSED CLASS ACTION SETTLEMENT**

In connection with Plaintiffs’ Application for Awards of Incentive Payments, Fees and Reimbursement of Expenses, submitted to Your Honor on May 15, 2013 (Docket No. 459), Co-Lead Class Counsel requested reimbursement of \$1,279,514.86 in expenses advanced on behalf of the Class. These expenses, as detailed in Ex. U to the supporting Declaration of Peter D. St. Phillip, Jr. (“*Second St. Phillip Decl.*”) filed in connection with the Application, represent amounts paid for expert witnesses, the cost of travel, deposition transcripts and other matters reasonably incurred in Class Counsel’s efforts to prosecute this case.

It has just come to our attention that we inadvertently omitted Plaintiffs’ share of the cost of issuing notice to the Class from the requested expense reimbursement. See Supplemental Declaration of Peter St. Phillip (“*Supp. Decl.*”), attached hereto as Exhibit A, at ¶4. Per the Settlement Agreement, Biovail agreed to pay half of the notice costs, up to \$500,000. Accordingly, Plaintiffs’ share of the total notice costs (\$326,966.24) is \$163,483.12. Id. ¶5. This includes the initial direct mailing, all publication notice, and the second round of direct notice outlined in the Supplemental Affidavit of Christopher M. Walsh, Esq. (Dkt. No. 463).

These expenses have already been incurred, but Plaintiffs' payment is not due until July. Id. This Supplemental Motion and Declaration will promptly be posted on the settlement website, www.WXLclassaction.com. Id. ¶6.

Accordingly, Plaintiffs respectfully request the reimbursement of expenses totaling \$1,442,997.98.

Dated: June 25, 2013

Respectfully submitted,

By: /s/ Kenneth A. Wexler.

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By: /s/ Peter St. Phillip, Jr. (w/consent)

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By: /s/ James G. Stranch, III (w/consent)

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Plaintiffs' Co-Lead Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2013, I electronically filed the foregoing using the Court's Case Management and Electronic Case Filing system, which will send notification of such filing to counsel of record in this action registered with the Court's system. Those counsel not registered with the Court's system will receive service via electronic and U.S. Mail.

/s/ Kenneth A. Wexler

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

In re WELLBUTRIN XL
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:
INDIRECT PURCHASER ACTIONS

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) Civil Action No.: 2:08-cv-2433
)
)

) Honorable Mary A. McLaughlin
)
)

**SUPPLEMENTAL DECLARATION OF PETER ST. PHILLIP, JR. IN SUPPORT
OF INDIRECT PURCHASER PLAINTIFFS' APPLICATION FOR AWARDS OF
INCENTIVE PAYMENTS, FEES AND REIMBURSEMENT OF EXPENSES FROM
THE PROPOSED CLASS ACTION SETTLEMENT**

I, Peter D. St. Phillip, Jr., hereby declare under 28 U.S.C § 1746, that:

1. I am an attorney in good standing, duly licensed and admitted to the Bar of the Commonwealth of Pennsylvania, and the states of New York and New Jersey. I am a shareholder in the law firm of Lowey Dannenberg Cohen & Hart, P.C. I have personal knowledge of the facts stated in this declaration and, if called as a witness, I could and would testify competently to them. I make this Declaration in support of my firm's request for attorneys' fees and reimbursement of litigation expenses, as set forth in Plaintiffs' Application for Attorneys' Fees, Expenses and Incentive Awards.

2. My firm is counsel of record in this case, and represents Aetna Health of California. This Court appointed my firm as Co-Lead Class Counsel in its Class Certification Order entered August 15, 2011 (Dkt. No. 354).

3. In connection with Plaintiffs' Application for Awards of Incentive Payments, Fees and Reimbursement of Expenses, submitted to Your Honor on May 15, 2013 (Docket No. 459), Co-Lead Class Counsel requested reimbursement of \$1,279,514.86 in expenses advanced on behalf of the Class.

4. It has just come to our attention that we inadvertently omitted Plaintiffs' share of the cost of issuing notice to the Class from the requested expense reimbursement. These expenses have already been incurred, but payment is not due until July.

5. Including the initial notice plan (direct mailing and publication) and the second round of direct notice sent to certain Class members, as outlined in the Supplemental Affidavit of Christopher M. Walsh, Esq. (Dkt. No. 463), Plaintiffs' owe \$163,483.12. A final invoice from Heffler Claims Administration is attached as Exhibit A. Accordingly, Plaintiffs respectfully request the reimbursement of expenses totaling \$1,442,997.98. This constitutes half of the total notice costs incurred, with Biovail paying the other half (up to \$500,000) as required by the settlement agreement.

6. Plaintiffs will post this Declaration and Supplemental Motion on the Settlement website, www.WXLclassaction.com.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on: June 25, 2013
White Plains, New York

/s/ Peter D. St. Phillip, Jr
PETER D. ST. PHILLIP, JR.

EXHIBIT A



Heffler Claims
Group

June 24, 2013

Amber M. Nesbitt, Esq.
Wexler Wallace, LLP
55 W. Monroe Street, Suite 3300
Chicago, IL, 60603

Re: Wellbutrin XL Antitrust Litigation

For services rendered and expenses incurred for the administration of the Wellbutrin XL Antitrust Litigation.

The following represent items that are billed on a per item basis:

1. Purchase of third party payer list (related to Initial Notice Mailing);
2. Process mailing lists (Initial Notice Mailing and Second Mailing);
3. Purchase of AIS Directory (related to Second Notice Mailing);
4. Print and mail Notice-Initial Mailing and Second Mailing;
5. Set-up, maintain and monitor on a monthly basis the website www.wxlcassaction.com;
6. Pick-up of mail at P.O. Box 58787 on an as needed basis. Sort the returned Notices received;
7. Process returned/undeliverable Notices. Scan all documents received. Re-mail those with updated addresses; send all others to Lexis/Nexis to search for an updated address. Re-mail all returned by Lexis/Nexis with updated address;
8. Update database for all change of address notifications received;
9. Publication of Notice of Class Action Settlement, Electronic and Print.



The following represent items that are billed at our standard hourly rates:

1. Management Fee-Preparation of Affidavit, Conferences with Counsel;
2. Revisions to website based on issues or requests, as required.

INVOICE

I. PER ITEM:

A. NOTIFICATION

| | |
|---|------------|
| • Process Mailing Lists | \$625.00 |
| • Purchase of third party payer list | 5,620.00 |
| • Purchase of AIS Directory | 1,740.00 |
| • Research for second mailing list | 820.00 |
| • NCOA for Mailing | 159.86 |
| • Printing of Postcard Notices (36,000 x \$0.07) | 2,520.00 |
| • Printing of Postcard Notices, second mailing (828 x \$0.74) | 612.72 |
| • Undeliverable Notices (4,643 x \$0.10) | 464.30 |
| • Rемаiled Notices to new address (286 x \$0.80) | 228.80 |
| • Publication Costs-Print and Electronic | 296,463.00 |

B. WEBSITE MAINTENANCE

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| • Establish site | 2,500.00 |
| • Monthly maintenance (3 months @\$175.00/mth) | 525.00 |
| • Update to website | 1,150.00 |

C. PROCESSING of RETURNED NOTICES

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|--------------------------------|----------|
| • Processing of Undeliverables | 1,105.00 |
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D. MANAGEMENT FEE

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|--|----------|
| • Includes preparation of Affidavit and Supplemental Affidavit, Conferences with Counsel | 3,000.00 |
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E. OTHER OUT-OF POCKET COSTS

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|------------------------------------|------------------------------|
| • Lexis/Nexis | 437.50 |
| • Postage Initial Mailing | 8,493.40 |
| • Postage Second Mailing | 237.00 |
| • Postage Re-mails | 99.66 |
| • Post Office Post (6 months) | <u>165.00</u> |
| TOTAL | \$326,966.24 |
| LESS PUBLICATION COSTS PAID | <u>(\$148,375.50)</u> |
| TOTAL DUE | <u>\$178,590.74</u> |