

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NOTICE OF CLASS CERTIFICATION AND PARTIAL PROPOSED BIOVAIL SETTLEMENT

**If You Bought Wellbutrin XL<sup>®</sup> or its Generic Equivalent, You May Be a Member of a Certified Class and Entitled to Money from a Partial Settlement**

*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.*

A lawsuit is pending in the United States District Court for the Eastern District of Pennsylvania ("the Court") against two defendants: GlaxoSmithKline ("GSK") and Valeant Pharmaceuticals International, Inc. ("Valeant") (collectively, "Defendants").<sup>1</sup> These companies manufactured and marketed the antidepressant Wellbutrin XL. Plaintiffs in the lawsuit claim that GSK and Biovail hurt competition and violated state laws in California, Florida, Nevada, New York, Tennessee, and Wisconsin by unlawfully delaying the availability of less expensive generic versions of the drug. As a result, the lawsuit claims, certain consumers and third-party payers (defined below) paid too much for the products in these states. Defendants deny any wrongdoing.

*This lawsuit does not claim that Wellbutrin XL or its generic equivalents are unsafe or ineffective.*

**This Notice Is to Advise You of Two Important Pieces of Information:**

**A CLASS HAS BEEN CERTIFIED.** The Court has decided that this lawsuit should proceed as a class action on behalf of a "Class," or a group of people and entities, that could include you. You are a member of the Class if:

- As a Third-Party Payer ("TPP"), you:
  - Purchased an AB-rated generic equivalent of Wellbutrin XL<sup>®</sup> ("Generic XL") in California, Florida, Nevada, New York, Tennessee and/or Wisconsin; and/or
  - Purchased 150 mg or 300 mg Wellbutrin XL in California, Florida, Nevada, New York, Tennessee and/or Wisconsin *before* Generic XL was available for such dosages *and* purchased Generic XL in the same state after it became available.
- As a Consumer, you may be included if you paid all or part of the purchase price for the 150mg and/or 300mg dosage of Generic XL for purchases made in California, Florida, Nevada, New York, Tennessee and/or Wisconsin. Consumers whose insurance plans require them to make a flat co-payment (e.g. \$5 for a generic drug prescription) are not included in the Class, while consumers who are obligated to pay a percentage of the purchase price (e.g. 20% of the price for a generic prescription) are included.
- Only TPPs and consumers that made these purchases during the Class Period are included in the Class.
- ***The Class period begins on November 14, 2005 and ends on April 29, 2011.***

**A PROPOSED PARTIAL SETTLEMENT HAS BEEN REACHED WITH VALEANT ONLY:** A proposed settlement has been reached with Valeant. The litigation against GSK is continuing.

The settlement with Valeant provides a cash payment of **\$11.75 million** and resolves all claims against Valeant only ("Valeant Settlement"). Valeant has also agreed to pay 50% of the cost of providing notice to the Class, up to a maximum payment of \$500,000. Class Members who do not opt out of the Class and who submit valid and timely claims will be entitled to their *pro rata* share of the net Valeant Settlement Fund after payment of attorneys' fees, expenses, costs, and incentive awards based on the amount you paid out of pocket for Wellbutrin XL and/or Generic XL as outlined above. More information about the Valeant Settlement is below in Question 7.

<sup>1</sup> Defendant Valeant includes Valeant Pharmaceuticals International, Inc. (f/k/a Biovail Corp.) and Valeant International Bermuda f/k/a Valeant International (Barbados) SRL (f/k/a Biovail Laboratories SRL and successor-in-interest to Biovail Laboratories, Inc.). These companies are collectively referred to as "Valeant." Defendant GSK includes SmithKline Beecham Corporation doing business as GlaxoSmithKline and GlaxoSmithKline plc. These companies are collectively referred to as "GlaxoSmithKline" or "GSK".

**DECISIONS YOU MUST MAKE:**

**(1) Stay in the Class.** If you stay in the Class, you will be permitted to participate in the Valeant Settlement and file a claim for your *pro rata* share of the recovery. By doing so, you will release (and thereby have no further rights concerning) all claims you have against Biovail in connection with this lawsuit. You will also be bound by past and any future court rulings on, or settlement of, the claims against GSK, and cannot pursue your own claims against either Valeant or GSK. You can object to the Valeant Settlement.

**OR**

**(2) Opt out of the Class.** If you opt out of the class (meaning you say in writing that you don't want to be in the Class), you will **NOT** be entitled to participate in the Valeant Settlement or share in the recovery. You also will not release any claims you have against Valeant and are free to pursue them if you wish. You will also not be bound by any past or future rulings against GSK, and you will not be able to participate in any future jury verdict against or settlement with GSK. You will not be not entitled to object to the Valeant Settlement. Once you opt out, you are no longer a member of the Class affected by this Class Action and you may pursue your own claims against either GSK or Valeant.

**A Summary of Your Rights and Choices:**

***Your Legal Rights Are Affected Even If You Do Not Act. Read This Notice Carefully.***

You May:	Brief Explanation:	Due Date:
<b>1. Do Nothing</b>	You are automatically part of the Class Action if you fit the Class description. However, if you do not file a timely claim (see immediately below), you will not receive any payment from the Valeant Settlement. You will be bound by any future judgment or settlement of the remaining claims asserted against GSK. <b>See Below for More Information</b>	<u>N/A</u>
<b>2. File a Claim</b>	<b>Submit a Claim Form</b> This is the only way you will receive any payment from the Valeant Settlement. <b>See Question 8</b>	<u>May 31, 2013</u>
<b>3. Opt Out</b>	<b>Get out of the Class and Settlement(s)</b> You may exclude yourself from the Class and keep your right to sue both Valeant and GSK for these claims at your own expense. If you do so, you will not receive any payment from the Valeant Settlement or any future GSK settlement or damages award which may occur in this Class Action. <b>See Question 12</b>	<u>May 31, 2013</u>
<b>4. Object to the Biovail Settlement</b>	<b>Object or comment on the Valeant Settlement.</b> If you do not opt out of the Class, you may object to or comment on the Valeant Settlement at a hearing to determine whether the Court should approve the Valeant Settlement as fair to the Class. <b>See Question 14</b>	<u>May 31, 2013</u>

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

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## BASIC INFORMATION ABOUT THE LAWSUIT

### 1. Why Did I Get This Notice?

You received this Notice because you requested it or records indicate that you may be a Class Member. If you are a Class Member, you have important decisions to make, and you may be entitled to money as part of the proposed Valeant Settlement. The lawsuit against the remaining Defendant, GSK, on behalf of the Class is still ongoing. GSK denies any wrongdoing. You are not being sued.

### 2. What is the Lawsuit About?

The lawsuit is about the price of brand and generic Wellbutrin XL and whether its manufacturer and marketer tried to and did delay the availability of a less expensive generic version. Plaintiffs (those who brought the suit) allege that Defendants did this through filing baseless patent infringement lawsuits, a baseless request to the Food and Drug Administration (called a Citizen Petition) and unlawful agreements resolving the patent lawsuits. Plaintiffs claim that these actions denied uninsured consumers, those with percentage co-payments, and TPPs who paid for Wellbutrin XL (also known as bupropion hydrochloride extended-release and Budeprion XL), the benefits of competition and caused them to pay higher prices for Wellbutrin XL in certain states than they otherwise would have.

GSK denies these claims, and denies that it did anything wrong. GSK states that Defendants filed meritorious lawsuits and Valeant filed a meritorious citizen petition with the FDA, all of which are entitled to First Amendment protection. GSK further asserts that the settlement of the lawsuits did not violate the antitrust laws. GSK asserts that Defendants' conduct did not delay the entry of generic versions of Wellbutrin XL into the market. GSK also denies that it had monopoly power. No court or other authority has found that GSK engaged in any wrongdoing.

### 3. What Has Happened in the Lawsuit?

In August 2011, the Court approved, or “certified,” this as a class action lawsuit. In a class action, one or more people called “class representatives” sue on behalf of themselves and other people who have similar claims. The people together are a “class” or “class members,” and the Court’s rulings apply to the class as a whole. A full description of the consumers and TPPs who are part of the certified Class in this lawsuit is provided in Questions 5 and 6 below. If a trial takes place, it will decide the lawsuit for everyone in the Class.

On May 11, 2012, the Court granted in part Defendants’ motions for summary judgment. This means that the Court found, as a matter of law, that Defendants prevailed against Plaintiffs’ claims that the patent lawsuits and the Citizen Petition were objectively baseless and used to unlawfully delay generic entry. *In re Wellbutrin XL Antitrust Litig.*, CIV.A. 08-2431, 2012 WL 1657734 (E.D. Pa. May 11, 2012) found at <http://www.paed.uscourts.gov/documents/opinions/12d0491p.pdf>). That judgment is not final yet so there has not been an appeal as of this time.

Despite granting Defendants summary judgment on the baselessness of the patent litigations and Citizen Petition, the Court has deferred its decision on another portion of the case, which concerns whether the agreements between Defendants and the generic manufacturers that resolved the patent litigations were unlawful. This issue will be considered by the Court in the Summer of 2013 or later.

### 4. What is the Current Status of the Lawsuit?

After the May 11, 2012 ruling, Plaintiffs and Valeant reached the Valeant Settlement, which resolves the Class’s claims against Valeant for \$11.75 million. If the Valeant Settlement is finally approved, Valeant will no longer be a Defendant in the case, and the Court’s decision on whether the agreements resolving the patent litigations were or were not unlawful will have no impact on what can be recovered from Valeant

If the Valeant Settlement is approved, GSK will be the only Defendant affected by the Court's decision concerning whether the agreements between Defendants and the generic manufacturers that resolved the patent litigations were or were not unlawful. This decision is expected in 2013 or later. If Plaintiffs prevail against GSK and/or there is no settlement with GSK, the remainder of the case will be tried only against GSK before a jury. GSK will also be the only defendant who may be a party to an appeal.

## DETERMINING IF YOU ARE A MEMBER OF THE CLASS

### 5. I am an Individual Who Took Wellbutrin XL or AB-rated generic equivalent of Wellbutrin XL ("Generic XL"). How Do I Know if I am a Member of the Class?

As a **Consumer**, you are a member of the Class if you:

- Paid the full purchase price for Generic XL (either the 150mg and/or 300mg dosage) at a pharmacy (including a mail order pharmacy) in California, Florida, Nevada, New York, Tennessee and/or Wisconsin; **or**
- Made a percentage co-payment (e.g. 20% of the total price) for Generic XL (either the 150mg and/or 300mg dosage) at a pharmacy (including a mail order pharmacy) in California, Florida, Nevada, New York, Tennessee and/or Wisconsin.
- You are **NOT** part of the Class if you only purchased brand name Wellbutrin XL and not the generic version.
- You are also **NOT** a Class Member if you have a "flat co-payment" as part of your insurance coverage, which means that your health insurance requires you to pay the same amount for a generic prescription regardless of the retail purchase price (e.g. \$5 for any generic prescription).

Time Period: Only consumers that made these purchases during the Class Period, which begins December 15, 2006 for purchases of the 300 mg dosage of Generic XL, and begins May 29, 2008 for purchases of the 150 mg dosage of Generic XL, are a part of the class. The Class Period ends on April 29, 2011 for both dosages.

### 6. As a Third-Party Payer, am I a Class Member?

As a **Third-Party Payer**, you are a member of the Class if you:

- Purchased Generic XL in California, Florida, Nevada, New York, Tennessee and/or Wisconsin.
- Purchased 150 mg or 300 mg Wellbutrin XL in California, Florida, Nevada, New York, Tennessee and/or Wisconsin before Generic XL was available for such dosages and purchased Generic XL in the same state after it became available

TPPs are all health insurance companies, third-party administrators, health maintenance organizations, health and welfare plans that make payments from their own funds, and other health benefit providers and entities with self-funded plans that contract with a health insurer or administrator to administer their prescription drug benefits. These payers include such private entities that may provide prescription drug benefits for current or former public employees and/or public benefits programs, but only to the extent that such private entity was at risk for the cost of the payment(s). For purposes of this definition, an entity "paid for" Wellbutrin XL or its AB-rated equivalent if it paid some or all of the purchase price.

Time Period: Only TPPs that made these purchases during the Class Period, which begins on **November 14, 2005 and ends on April 29, 2011**, are included in the Class.

## WHAT THE BIOVAIL SETTLEMENT PROVIDES

### 7. What does the proposed Valeant Settlement provide?

The Valeant Settlement provides for the creation of an \$11.75 million Settlement Fund ("Settlement Fund") from which eligible consumers and TPPs may receive payments. See Question 10 for more information on how this Settlement Fund will be distributed to Class Members.

The Valeant Settlement provides for a release of all claims against Valeant by Class Members. This means that if you remain in the Class you cannot sue Valeant in another lawsuit relating to the claims in this lawsuit. The full release language is found in the Claim Form at the end of this Notice Package. Attorneys' fees, litigation costs and expenses, any incentive awards to class representatives, and a portion of the cost of notice and administration will be paid from the Settlement Fund before distribution to Class Members.

Class Counsel conducted a thorough investigation of the law and facts in the Class Action. The Valeant Settlement is a result of careful arms-length negotiations among the parties after this investigation took place and the Court issued its ruling in Defendants' favor on the majority of Plaintiffs' claims. Class Counsel compared the benefits of the Biovail Settlement to the risks of further litigation with Valeant and concluded that the Valeant Settlement is fair, reasonable, adequate, and in the best interests of the Class.

Complete details are found in the full Valeant Settlement Agreement, which is available at [www.wxclassaction.com](http://www.wxclassaction.com). It is also on file with the Clerk, United States District Court for the Eastern District of Pennsylvania, 601 Market St., Room 2609, Philadelphia, PA 19106.

#### **8. How do I know if I am included in the Valeant Settlement being proposed?**

You are automatically included in the Valeant Settlement if you are a Class Member and do not opt out of the Class. To determine if you are a Class Member, see Question 5 or 6. **You must, however, timely submit a claim form as described below to share in any of the settlement proceeds.**

If you qualify as a Class Member and do not want to be included in the Class, you must exclude yourself by opting out. Details on how to do this are found in Question 15. If you opt out of the Class, you will not be able to participate in the Valeant Settlement, and you will not be bound by any future court rulings involving the remaining defendant, GSK. You will also not be able to participate in any future judgment against or settlement with GSK.

#### **9. What do I need to do to get a payment?**

To receive payment, you must submit a valid claim form postmarked by **May 31, 2013** to the claims administrator at the following address:

Wellbutrin XL Indirect Purchaser Claims Administrator  
P.O. Box 973  
London, KY 40743-0973

A claim form is included with this Notice, and additional copies can be printed from the website, [www.wxclassaction.com](http://www.wxclassaction.com). The claim form provides complete instructions for submitting a valid claim.

#### **10. How are payments determined?**

The Settlement Fund amount available is \$11.75 million. The Settlement Fund will be divided into two parts: 10% of the total available settlement funds for consumers and 90% of the total available settlement funds for TPPs. This breakdown was reached after arms-length negotiations between attorneys advocating for consumers and TPPs.

The Court-approved attorneys' fees, litigation costs and expenses, and the cost of notice and administration will be deducted from this amount. Valeant has agreed to pay 50% of the notice costs of the Valeant Settlement, up to a maximum amount of \$500,000. The remaining amount will be distributed to Class Members based on the amount they paid for products in proportion to what was paid by all Class Members who submit claims.

### 11. When will the Valeant Settlement Fund be distributed to eligible claimants?

Because the lawsuit against GSK is ongoing and because the costs of settlement administration reduce the funds available to the Class, the Valeant Settlement funds will not be distributed at this time. Claims submitted by Class Members will be preserved by the Administrator until either: (1) a settlement is reached with GSK, or (2) the litigation with GSK is concluded, whether with or without a further recovery from GSK. If a settlement is reached with GSK or a jury awards the Class damages against GSK, those funds will be distributed to the Class at the same time as the Valeant Settlement Fund. The Class may be notified if one of these events occurs in the future, with further instruction and information on your rights and any additional Settlement claims processes. At their discretion, to avoid excessive delays in distributing the Valeant Settlement Fund, Class Counsel may seek permission from the Court to distribute the Valeant Settlement before one of these events occurs. Class Counsel may request that the Court approve payment for Class Counsel's fees and expenses upon final approval of the settlement.

However, it is still important to submit your claim for the Valeant Settlement by May 31, 2013.

## YOUR OPTIONS AS A CLASS MEMBER

### 12. What Must I Decide as a Class Member?

You must decide whether to stay in the Class, or opt out of the Class.

### 13. What Does it Mean to Stay In the Class or Opt Out?

If you stay in the Class, you will be eligible to receive a share of the Valeant Settlement and you will be bound by any future Court rulings and judgments in favor of or against, or settlements with, GSK.

If you "opt out" of the Class, you will no longer be a Class Member. This means that you will not receive any money from the Valeant Settlement and you will not be bound by any past or future court rulings in favor of or against GSK, and will not be a party to any future settlement with GSK. You will no longer be represented by Class Counsel, and you will have the option of filing your own lawsuit against Defendants for conduct related to Wellbutrin XL at your own expense.

### 14. How do I stay in the Class?

To stay in the Class, **you do not need to do anything**. As a Class Member, you will be bound by any past or future court rulings or settlement of the claims against GSK, and you cannot pursue your own claims against either Valeant or GSK. By staying in the Class, you will also be able to participate in the Valeant Settlement and any future judgment against or settlement with GSK. **To be eligible to receive any money in the Valeant Settlement, you must submit a claim form by May 31, 2013.** If you wish to object to any portion of the Valeant Settlement, you must remain in the Class.

### 15. How do I Opt Out?

If you do not wish to remain a member of the Class, **you must send** a written "Request to Opt Out" to the Claims Administrator so that it is postmarked no later than **May 31, 2013**. Your written request should include:

- Your name, address, telephone number, and the statement that you want to opt out of the Class, and
- The case name and number: *In re Wellbutrin XL Antitrust Litigation*, Civil Action No. 08-2431 (MAM).

Opt Out Requests must be sent to the following address:

Wellbutrin XL Indirect Purchaser Claims Administrator  
P.O. Box 973



By opting you, you will not be bound by any past or future rulings of the Court, and you may pursue your own claims against GSK and/or Valeant. You will not be entitled to participate in the Valeant Settlement, or any future settlement that may be reached with GSK. You may not object to the Valeant Settlement or any future settlement with GSK.

#### REMAINING IN THE CLASS

##### **16. What happens if I do nothing?**

If you do nothing, you will automatically be considered part of the Class and will be automatically bound by the Valeant Settlement, any past and future rulings from the Court or a jury in favor of or against GSK, and any future settlement with GSK.

However, to participate in the Valeant Settlement, you must send a claim form postmarked by May 31, 2013 to the claims administrator to be eligible to receive any money from the Valeant Settlement Fund. If you do not want to remain in the Class, see details on how to opt out in Question 15.

##### **17. If I remain in the Class, what claims am I settling?**

If the Court approves the Valeant Settlement, all claims against Valeant will be dismissed. Class Members may not sue Valeant again for the same claims. You and all other Class Members will release all claims against Valeant concerning the conduct challenged in this lawsuit in exchange for participating in the Valeant Settlement. The full release is included in the Claim Form at the end of this Notice.

By staying in the Class, you will not be settling any claims against GSK. The lawsuit against GSK is still ongoing. By remaining in the Class, you will be bound by any past and future rulings from the Court or a jury on GSK's liability. If GSK should settle the claims against it in the future, as a Class Member you will be eligible to participate in that settlement.

#### OBJECTING TO THE VALEANT SETTLEMENT

##### **18. May I object to the Valeant Settlement?**

Yes. If you are a member of the Class, and have not requested to opt out of the Class, you may object to any aspect of the Valeant Settlement, the fairness or adequacy of Class Counsel's representation, or the requests for attorneys' fees, incentive awards and reimbursement of expenses.

##### **19. How do I object to the Valeant Settlement?**

To object to the Valeant Settlement, you (or your lawyer if you have one) must file a written objection with the Clerk of the Court, United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106. This must be filed by **May 31, 2013**. Your written objection can include any supporting materials, papers or briefs that you want the Court to consider. Your written objection must include:

- Your name, address, telephone number, and, if applicable, the name, address, and telephone number of the attorney representing you in the objection;
- An explanation of your objection, including any supporting papers; and
- The case name and number *In re Wellbutrin XL Antitrust Litigation*, Civil Action No. 08-2431 (MAM)
- Identification of any lawyer who represents you or assisted you in the preparation of your objection

Any documentation that you file with the Court must also be mailed on or before **June 3, 2013** to the following:

Kenneth A. Wexler <b>WEXLER WALLACE LLP</b> 55 W. Monroe Street, Suite 3300 Chicago, IL 60603	Richard W. Cohen <b>LOWEY DANNENBERG COHEN &amp; HART, PC</b> One North Broadway White Plains, NY 10601	James G. Stranch III <b>Branstetter, Stranch &amp; Jennings PLLC</b> 227 Second Avenue North Fourth Floor Nashville, TN 37201
<b>COUNSEL FOR THE CLASS</b>		
Andrew D. Lazerow <b>COVINGTON &amp; BURLING LLP</b> 1201 Pennsylvania Ave NW Washington DC 20004		
<b>COUNSEL FOR VALEANT</b>		

Objections filed with the Court *after* May 31, 2013 will *not* be considered.

Any lawyer representing a Class Member for the purpose of making an objection must file a Notice of Appearance with the Clerk of the Court no later than **May 31, 2013**, and must also serve copies by mail to counsel listed above. **The filing of an objection submits the objector to the jurisdiction of the Court and may subject the objector to appropriate discovery and/or a request by Class Counsel to have the objector appear in person to testify concerning the objections at the Fairness Hearing. Rule 11 of the Federal Rules of Civil Procedure requires any filing with the Court to have a reasonable basis, and the failure to comply with that Rule may subject the person signing the filing to sanctions.**

**20. What is the difference between objecting to the Valeant Settlement and excluding myself from the Class?**

To object to the Valeant Settlement, you must remain a member of the Class. An objection allows your views on the Valeant Settlement to be heard in Court. You will be bound by the terms and conditions of the Valeant Settlement if it is approved, even if the Court rules against your objection.

When you exclude yourself, or opt out, you are no longer a member of the Class. You will not be subject to the terms and conditions of the Valeant Settlement, and will not be bound by any past or future rulings made by the Court or a jury with respect to the remaining claims against GSK. You lose the right to object to the Valeant Settlement and any future settlement with GSK, and you will not receive any payment from any settlement or judgment in this lawsuit. However, you keep your right to sue the Defendants for the same claims in another lawsuit at your own expense.

**THE LAWYERS REPRESENTING YOU**

**21. Do I have a lawyer representing my interests in this Class Action?**

Yes. The Court has appointed lawyers to represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged individually for these lawyers. They will ask the Court to approve an award for fees and expenses. The following lawyers represent the Class:

Kenneth A. Wexler <b>WEXLER WALLACE LLP</b> 55 W. Monroe Street, Suite 3300 Chicago, IL 60603 312-346-2222	Richard W. Cohen <b>LOWEY DANNENBERG COHEN &amp;  HART, PC</b> One North Broadway White Plains, NY 10601 914-997-0500	James G. Stranch III <b>Branstetter, Stranch &amp;  Jennings PLLC</b> 227 Second Avenue North Fourth Floor Nashville, TN 37201 615-254-8801
<b><i>Counsel for the Class</i></b>		

**22. How will the lawyers be compensated, and will the named plaintiffs receive an incentive award?**

Class Counsel will request an award from the Court for attorneys' fees and expenses not to exceed one-third of the Valeant Settlement Fund and reimbursement of costs and expenses. Class Counsel can make a further request for additional attorneys' fees and expenses incurred as a result of administration of the Valeant Settlement. All awards for attorneys' fees and expenses shall be paid from the Valeant Settlement Fund after the Court approves them. Class Counsel will also ask the Court to approve reasonable incentive awards for the named plaintiffs, not to exceed \$60,000 in total. Class Counsel may also seek additional attorneys' fees from GSK as part of any future settlement with GSK. To receive more detailed information about Class Counsel's request for fees and expenses, please contact Class Counsel.

**23. Should I get my own lawyer?**

You do not need to hire your own lawyer, but if you hire a lawyer to speak for you or appear in Court, your lawyer must file a Notice of Appearance (see Question 19 above). If you hire your own lawyer, you will have to pay for that lawyer on your own.

**THE FAIRNESS HEARING**

**24. When and where will the Court decide whether to grant final approval of the Biovail Settlement?**

The Court will hold a Fairness Hearing on **June 18, 2013, at 9:30 A.M.**, at the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 13614, Philadelphia, PA 19106. The Court may reschedule the Fairness Hearing without further notice to the Class.

The Fairness Hearing only relates to the Valeant Settlement. The purpose of the Fairness Hearing is to:

- Decide if the Valeant Settlement is fair, reasonable and adequate and in the best interests of the Class, if it should be approved, and if a judgment should be entered;
- Decide if the Class has been fairly and adequately represented by the Plaintiffs who brought the Class Action and by Class Counsel, who have represented the Plaintiffs in the Class Action;
- Approve the plan of allocation of the Valeant Settlement Fund;
- Consider Class Counsel's requests for an award of attorneys' fees and reimbursement of expenses from the Valeant Settlement;
- Consider any requests for reasonable incentive awards from the Valeant Settlement for the Class Action plaintiffs who represented the TPP Class;
- Consider all comments or objections on the Valeant Settlement; and
- Consider any other issues relating to the Valeant Settlement the Court thinks are necessary.

**25. Must I attend the Fairness Hearing?**

No. Attendance is not required, even if you mail a written objection. Class Counsel is prepared to answer questions on your behalf. Class Members who filed and served a written objection may appear at the Fairness Hearing, in person or through an attorney hired at their own expense, and may be required to appear by the Court if Class Counsel determines and the Court agrees it is in the interest of the Class for such Class members to testify in court.

**26. Can I attend the Fairness Hearing?**

Yes, anyone can attend the Fairness Hearing and watch. If you want to appear at the Fairness Hearing and object to the Valeant Settlement, in person or through an attorney hired at your own expense, you need to file and serve a written objection with the Court no later than **May 31, 2013**. See Question 15 for more information.

If you do not file and serve a Notice of Intent to Object by **May 31, 2013**, you cannot object at the Fairness Hearing.

**GETTING MORE INFORMATION**

**27. Where do I get more information?**

This Notice contains a summary of relevant court papers. Complete copies of public pleadings, Court rulings and other filings are available for review and copying at the Clerk's office. The address is United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106. Judge Mary A. McLaughlin for the United States District Court for the Eastern District of Pennsylvania is overseeing the Class Action. You can also review relevant Decisions and Orders on the website at [www.wxclassaction.com](http://www.wxclassaction.com).

Additional information about the Class Action is available on the website at [www.wxclassaction.com](http://www.wxclassaction.com), or you can call the Claims Administrator at 800-358-6980. *Please do not contact the Court or the Judge.*

**For more information, call the Claims Administrator at 800-358-6980, or go to [www.wxclassaction.com](http://www.wxclassaction.com).**

DATED: February 22, 2013

BY ORDER OF THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA