

Lidoderm End-Payor Notice Administrator
c/o KCC Class Action Services
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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

If you purchased brand name or generic Lidoderm (lidocaine patch 5%), a class action lawsuit could affect your rights.

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

A class action lawsuit (the “Lawsuit”) is pending in the United States District Court for the Northern District of California (“the Court”) against Endo Pharmaceuticals Inc. (“Endo”), Teikoku Pharma USA, Inc., Teikoku Seiyaku Co., Ltd. (together “Teikoku”), Actavis, Inc., Watson Laboratories, Inc., and Allergan, plc (together “Watson” and collectively “Defendants”). The Lawsuit was brought by consumers and third-party payors of branded and generic Lidoderm (“End-Payor Plaintiffs”) who allege that, as part of a settlement of patent infringement litigation, Endo and Teikoku unlawfully paid Watson to delay the launch of a generic Lidoderm product. End-Payor Plaintiffs seek reimbursement of the amounts allegedly overcharged.

Defendants deny any wrongdoing and assert that their settlement and license agreement constituted a procompetitive and lawful compromise of patent infringement litigation. The Court has not found that Defendants violated any law nor has the Court issued any ruling on the merits of End-Payor Plaintiffs’ claims. The Court has set a trial to begin on December 4, 2017.

A Class That May Include You Has Been Certified

The Court has decided that the Lawsuit can proceed as a class action on behalf of an “End-Payor Class,” or a group of people and entities that could include you. Subject to the exclusions listed below, members of the End-Payor Class include all persons and entities in the United States and its territories who:

1. Paid and/or provided reimbursements for some or all of the purchase price of:
 - a. Branded Lidoderm for the time period August 23, 2012 through September 14, 2013; and/or
 - b. AB-rated generic Lidoderm for the time period September 15, 2013 through August 1, 2014;

2. Purchased in Arizona, California, Florida, Kansas, Maine, Massachusetts, Minnesota, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, South Dakota, Tennessee, West Virginia, or Wisconsin (“Class States”); AND
3. For consumption by themselves or their family member, or by their insureds, plan participants or beneficiaries.

If not already included in the above categories, the End-Payor Class also includes third-party payors CVS Caremark, Cigna, Envision Pharmaceutical Services, MedImpact Healthcare Systems, Inc., Comprehensive Health Management, Inc. Part D, and Express Scripts Senior Care to the extent they provided, under their Medicare Part D plans, reimbursements for some or all of the price of branded Lidoderm purchased in Class States for the time period September 15, 2013 through August 1, 2014.

The End-Payor Class **does not include**: (a) Defendants and their officers, directors, management, employees, subsidiaries, and affiliates; (b) those who, after September 15, 2013, paid and/or provided reimbursements for branded Lidoderm and did not purchase or reimburse for generic Lidoderm, except third-party payors CVS Caremark, Cigna, Envision Pharmaceutical Services, MedImpact Healthcare Systems, Inc., Comprehensive Health Management, Inc. Part D, or Express Scripts Senior Care for their Part D insurance; (c) government entities, other than government-funded employee benefit plans; (d) fully insured health plans (*i.e.*, plans that purchased insurance that covered 100 percent of the plan's reimbursement obligations to all of its members); (e) “single flat co-pay” consumers who purchased Lidoderm or generic Lidoderm only via a fixed dollar co-payment that does not vary on the basis of the purchased drug's status as branded or generic (*e.g.*, \$20 for both branded and generic drugs); (f) “flat generic co-pay” consumers who, after September 15, 2013, purchased generic Lidoderm via a fixed dollar copayment (*e.g.*, \$10 for generic drugs) regardless of the co-payment applicable to branded drugs; (g) consumers who purchased or received Lidoderm or its AB-rated generic equivalent through a Medicaid program only; (h) Pharmacy benefit managers; and (i) the judges in this case and members of their immediate families.

YOUR LEGAL RIGHTS AND OPTIONS	
DO NOTHING AND STAY IN THE END-PAYOR CLASS	If you do nothing and stay in the End-Payor Class, you will be permitted to share in any recovery that may occur in this case. You will be bound by past and any future court rulings on, or settlement of, the claims against Defendants, and you will not be able to pursue your own claims against them.
EXCLUDE YOURSELF FROM THE END-PAYOR CLASS	<p>If you exclude yourself from the End-Payor Class (<i>i.e.</i> opt out), you will not be entitled to any recovery that may occur in this case through continued litigation or settlement. You will not be bound by any past or future rulings against Defendants. Once you opt out, you are no longer a member of the End-Payor Class affected by this case and you may pursue your own claims against Defendants.</p> <p>The deadline to exclude yourself from the End-Payor Class is: September 14, 2017.</p> <p>If you are a third-party payor, this will be the only opportunity you will have to exclude yourself from the End-Payor Class.</p>

These rights and options—and the deadlines to exercise them—are explained in this notice. Your legal rights are affected whether you act or not. Please read this entire notice carefully.

WHAT THIS NOTICE CONTAINS

Basic Information 3

- 1. Why did I get this notice? 3
- 2. What is this Lawsuit about? 3
- 3. Why is this Lawsuit a class action? 4
- 4. What is the status of the Lawsuit? 4

Determining If You Are a Member of the End-Payor Class 5

- 5. I am an individual who purchased or paid for Lidoderm.
How do I know if I am a member of the End-Payor Class? 5
- 6. I am a third-party payor who purchased or paid for Lidoderm.
How do I know if I am a member of the End-Payor Class? 5

Your Options as a Member of the End-Payor Class 6

- 7. What are my options as a member of the End-Payor Class? 6
- 8. What happens if I do nothing? 6
- 9. What happens if I opt out of the End-Payor Class? 7
- 10. How do I opt out of the End-Payor Class? 7

The Lawyers Representing You 7

- 11. Do I have a lawyer in the case? 7
- 12. Should I get my own lawyer? 7
- 13. How will the lawyers be paid? 8

Getting More Information 8

- 14. How do I get more information? 8

BASIC INFORMATION

1. Why did I get this notice?

You received this notice because you may have purchased or paid for branded or generic Lidoderm (lidocaine patch 5%) between August 23, 2012 and August 1, 2014 and be a member of the End-Payor Class that was certified by the Court in this Lawsuit against Defendants.

This notice explains the Lawsuit, the End-Payor Class, and your legal rights and options. **You should read this entire notice carefully.**

2. What is this Lawsuit about?

This lawsuit is about the prescription drug Lidoderm and whether Defendants entered into an anticompetitive agreement to delay the availability of allegedly less expensive generic versions of Lidoderm. End-Payor Plaintiffs allege that, as part of settlement of a patent lawsuit that Endo and Teikoku brought against Watson, Endo and Teikoku agreed to pay Watson with brand Lidoderm patches valued at \$96 million and by agreeing not to start selling an authorized generic version of Lidoderm until 7.5 months after Watson launched its generic Lidoderm in exchange for Watson’s agreement to drop its patent challenge and to refrain from selling generic Lidoderm from August 2012 until September 2013. End-Payor Plaintiffs contend that Defendants’ agreement was anticompetitive and violated state laws in the Class States.

End-Payor Plaintiffs allege that, as a result of Defendants’ agreement, for over a year they were forced to continue paying significantly more for branded Lidoderm than they would have paid for generic Lidoderm had it been available. End-Payor Plaintiffs also allege had Endo and Teikoku launched an authorized generic to compete with Watson’s generic product, the price of generic Lidoderm paid by end

payors would have been lower. End-Payor Plaintiffs seek reimbursement of the amounts allegedly overcharged. A copy of the operative End-Payor Plaintiffs' Corrected Third Consolidated Amended Complaint is available at www.lidodermantitrustlitigation.com.

Defendants deny End-Payor Plaintiffs' allegations, and they deny that any member of the End-Payor Class is entitled to damages or other relief. Defendants also deny that their conduct violated any applicable law or regulation. Specifically, Defendants assert that no provision in the settlement agreement is properly characterized as a "payment" in exchange for a delayed generic launch. They also assert that the settlement agreement, which permitted licensed generic entry more than two years prior to the expiration of patent protection for Lidoderm, constituted a lawful resolution of patent litigation, that the licensed entry date for when Watson could begin selling generic Lidoderm was a reasonable and lawful procompetitive compromise, and that the settlement and license agreement accelerated and enhanced competition. Defendants deny that End-Payor Plaintiffs have sustained any injury or damages as a result of Defendants' conduct.

THE COURT HAS NOT DECIDED WHETHER ANY DEFENDANT VIOLATED ANY LAWS. THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF END-PAYOR PLAINTIFFS' CLAIMS AGAINST ANY DEFENDANT, OR THE DEFENSES ASSERTED BY ANY DEFENDANT.

The Lawsuit is known as *In re Lidoderm Antitrust Litigation*, No. 14-md-2521-WHO (N.D. Cal.). Judge William H. Orrick of the United States District Court for the Northern District of California is overseeing the Lawsuit.

3. Why is this Lawsuit a class action?

In a class action, the plaintiffs in the lawsuit—in this case, the End-Payor Plaintiffs—are called "Class Representatives" and sue on behalf of other people who have similar claims. In this case, the Class Representatives are Allied Services Division Welfare Fund, City of Providence, International Union of Operating Engineers Local 49 Health and Welfare Fund, International Union of Operating Engineers Local 132 Health and Welfare Fund, Iron Workers District Council of New England Welfare Fund, NECA-IBEW Welfare Trust Fund, United Food and Commercial Workers Local 1776 & Participating Employers Health and Welfare Fund, Welfare Plan of the International Union of Operating Engineers Locals 137, 137A, 137B, 137C, 137R, and Letizia Gallotto.

The Class Representatives and the entities on whose behalf they have sued constitute the End-Payor Class and are considered End-Payor Class members. Their attorneys are called "End-Payor Plaintiffs' Counsel" or "Co-Lead Counsel."

In a class action lawsuit, one court resolves the issues for everyone in the class, except for those class members who exclude themselves (*i.e.* opt out) from the class. The Court has determined that the Lawsuit by the End-Payor Plaintiffs against Defendants can proceed as a class action. A copy of the Court's order can be found at www.lidodermantitrustlitigation.com.

4. What is the status of the Lawsuit?

No trial has been held in the Lawsuit. A trial is currently scheduled to begin on December 4, 2017. There is no guarantee that End-Payor Plaintiffs will win or obtain any money for the End-Payor Class. Any judgment will be binding on all End-Payor Class members who have not opted out, regardless of who wins.

You do not need to attend the trial. Co-Lead Counsel will present the case for End-Payor Plaintiffs and the End-Payor Class, and counsel for Defendants will present Defendants' defenses. You and/or your own lawyer are welcome to attend the trial at your own expense. If End-Payor Plaintiffs obtain money

or benefits as a result of the trial or a settlement, you will be notified about how to participate or share in any recovery. We do not know how long this will take.

DETERMINING IF YOU ARE A MEMBER OF THE END-PAYOR CLASS

5. I am an individual who purchased or paid for Lidoderm. How do I know if I am a member of the End-Payor Class?

As a **Consumer**, you may be a member of the End-Payor Class if:

- You are a person in the United States and its territories who, in Arizona, California, Florida, Kansas, Maine, Massachusetts, Minnesota, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, South Dakota, Tennessee, West Virginia, or Wisconsin and for consumption by yourself or your family member, paid for some or all of the purchase price of:
 - Branded Lidoderm for the time period August 23, 2012 through September 14, 2013; and/or
 - AB-rated generic Lidoderm for the time period September 15, 2013 through August 1, 2014.
- As a Consumer, you are **NOT** a member of the End-Payor Class if:
 - You are one of the Defendants and their officers, directors, management, employees, subsidiaries, and affiliates;
 - After September 15, 2013, you paid and/or provided reimbursements for branded Lidoderm and did not purchase or reimburse for generic Lidoderm;
 - You purchased Lidoderm or generic Lidoderm only via a “single flat co-pay,” *i.e.* a fixed dollar co-payment that does not vary on the basis of the purchased drug’s status as branded or generic (*e.g.*, \$20 for both branded and generic drugs);
 - You purchased Lidoderm or generic Lidoderm only after September 15, 2013, via a “flat generic co-pay, *i.e.* a fixed dollar copayment (*e.g.*, \$10 for generic drugs) regardless of the co-payment applicable to branded drugs;
 - You purchased or received Lidoderm or its AB-rated generic equivalent through a Medicaid program only; or
 - You are one of the judges in this case or a member of their immediate families.

6. I am a third-party payor who purchased or paid for Lidoderm. How do I know if I am a member of the End-Payor Class?

Third-party payors are also in the End-Payor Class. Third-party payors are entities—such as a health and welfare plan or insurance company—that provide payment or reimbursement from its own funds for some or all of the cost of prescription drug purchases made by its members, employees, insureds, participants, or beneficiaries.

As a **Third-Party Payor**, you may be a member of the End-Payor Class if:

- You are an entity in the United States and its territories who, in Arizona, California, Florida, Kansas, Maine, Massachusetts, Minnesota, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, South Dakota, Tennessee, West Virginia, or Wisconsin and for consumption by your insureds, plan participants or beneficiaries, paid and/or provided reimbursements for some or all of the purchase price of:

- Branded Lidoderm for the time period August 23, 2012 through September 14, 2013; and/or
- AB-rated generic Lidoderm for the time period September 15, 2013 through August 1, 2014.
- If not already included in the above categories, the End-Payor Class also includes third-party payors CVS Caremark, Cigna, Envision Pharmaceutical Services, MedImpact Healthcare Systems, Inc., Comprehensive Health Management, Inc. Part D, and Express Scripts Senior Care to the extent they provided, under their Medicare Part D plans, reimbursements for some or all of the price of branded Lidoderm purchased in Class States for the time period September 15, 2013 through August 1, 2014.
- As a Third-Party Payor, you are **NOT** a member of the End-Payor Class if:
 - You are one of the Defendants and their officers, directors, management, employees, subsidiaries, and affiliates;
 - After September 15, 2013, you paid and/or provided reimbursements for branded Lidoderm and did not purchase or reimburse for generic Lidoderm, except third-party payors CVS Caremark, Cigna, Envision Pharmaceutical Services, MedImpact Healthcare Systems, Inc., Comprehensive Health Management, Inc. Part D, or Express Scripts Senior Care for their Part D insurance;
 - You are a government entity, other than a government-funded employee benefit plan;
 - You are a fully insured health plan (*i.e.*, a plan that purchased insurance that covered 100 percent of the plan's reimbursement obligations to all of its members);
 - You are a pharmacy benefit manager; or
 - You are one of the judges in this case or a member of their immediate families.

YOUR OPTIONS AS A MEMBER OF THE END-PAYOR CLASS

7. What are my options as a member of the End-Payor Class?

If you are a member of the End-Payor Class you can either:

- Do nothing and remain in the End-Payor Class, or
- Exclude yourself (*i.e.* opt out) from the End-Payor Class.

These options and your rights are explained in the following sections, along with the steps you must take if you wish to opt out of the End-Payor Class.

8. What happens if I do nothing?

If you do nothing and remain in the End-Payor Class, you will keep the right to a share of any recovery that may come from a trial or settlement of this Lawsuit against Defendants. You will not be able to start another lawsuit, continue another lawsuit, or be part of any other lawsuit against Defendants about the legal issues in this case, including claims brought in the case between End-Payor Plaintiffs and Defendants. All of the Court's orders in the case relating to the End-Payor Plaintiffs' claims will apply to you and legally bind you. You will also be bound by any judgment in the Lawsuit.

9. What happens if I opt out of the End-Payor Class?

If you exclude yourself from the End-Payor Class—also known as “opting-out” of the End-Payor Class—you won’t get any money or benefits from this lawsuit even if End-Payor Plaintiffs obtain them as a result of trial or from any settlement between Defendants and End-Payor Plaintiffs. If you exclude yourself, you will not be legally bound by any of the Court’s orders in this class action or any judgment or release entered in this class action, 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 End-Payor Class so that you can start, or continue, your own lawsuit against Defendants, you should talk to your own lawyer soon, because your claims will be subject to a statute of limitations defense, which means your claims may be subject to expiration without timely action.

If you are a third-party payor, this will be the only opportunity you will have to exclude yourself from the End-Payor Class.

10. How do I opt out of the End-Payor Class?

You can exclude yourself from the End-Payor Class (*i.e.*, “opt out” of the class) by sending a letter via first class U.S. mail saying that you want to exclude yourself from the End-Payor Class Action in *In re Lidoderm Antitrust Litigation*, No. 14-md-2521-WHO (N.D. Cal.) to the Notice Administrator at the below address on or before **September 14, 2017**.

Lidoderm End-Payor Notice Administrator
c/o KCC Class Action Services
EXCLUSION
3301 Kerner Boulevard
San Rafael, CA 94901

Be sure to include your name, address, telephone number, and your signature. **Your letter requesting exclusion must be postmarked no later than September 14, 2017. If you are a third-party payor, this will be the only opportunity you will have to exclude yourself from the End-Payor Class.**

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in the case?

The Court has appointed the below law firms to serve as Co-Lead Counsel for the End-Payor Class and to represent the members of the End-Payor Class. Co-Lead Counsel are experienced in handling similar cases against other companies.

The contact information for Co-Lead Counsel is:

Dena C. Sharp
GIRARD GIBBS LLP
601 California Street, 14th Fl.
San Francisco, CA 94108
Telephone: (415) 981-4800
Facsimile: (415) 981-4846

Rena D. Steiner
**HEINS MILLS & OLSON,
P.L.C.**
310 Clifton Avenue
Minneapolis, MN 55403
Telephone: (612) 338-4605
Facsimile: (612) 338-4692

Sharon K. Robertson
**COHEN MILSTEIN
SELLERS & TOLL PLLC**
88 Pine Street, 14th Fl.
New York, New York 10005
Telephone: (212) 838-7797
Facsimile: (212) 838-7745

12. Should I get my own lawyer?

You do not need to hire your own lawyer because Co-Lead Counsel are working on your behalf. However, if you wish to do so, you may retain your own lawyer at your own expense.

13. How will the lawyers be paid?

If Co-Lead Counsel achieves a recovery for the End-Payor Plaintiffs and the End-Payor Class, for example by way of settlement or after winning at trial, the Court will be asked to approve reasonable attorneys' fees, as well as reimbursement of expenses Co-Lead Counsel have advanced on behalf of the End-Payor Class. If the Court grants Co-Lead Counsel's requests, fees and expenses would either be deducted from any money obtained for the Class, or the Court may order the Defendants to pay attorneys' fees and costs in addition to any damage award to the End-Payor Class. Members of the End-Payor Class will not otherwise have to pay any attorneys' fees or expenses in connection with the Lawsuit.

GETTING MORE INFORMATION

14. How do I get more information?

This notice contains a summary of the lawsuit. For more detailed information about this lawsuit, copies of End-Payor Plaintiffs' complaint, the Court's order certifying the End-Payor Class, and other filings are available at www.lidodermantitrustlitigation.com. Complete copies of public pleadings, Court rulings, and other filings are available for review and copying at the Office of the Clerk of Court, United States District Court for the Northern District of California, 450 Golden Gate Avenue, 17th floor, San Francisco, CA 94012 during normal business hours.

Additional information about the Lawsuit is available at www.lidodermantitrustlitigation.com or you can call the Notice Administrator toll-free at 1-866-700-0414 or by email at info@lidodermantitrustlitigation.com.

You can also contact Co-Lead Counsel at the addresses listed in response to Question 11.