

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**If you purchased or paid for brand name or generic Lidoderm (lidocaine patch 5%), you could get a payment from class action settlements.**

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

- Three settlements in a lawsuit will provide up to \$104.75 million to pay the claims of certain persons and entities that purchased and/or paid for the costs of brand name Lidoderm or its generic equivalent (5% lidocaine patch), as well as attorneys’ fees and expenses.
- The settlements resolve a class action lawsuit (the “Lawsuit”) against Endo Pharmaceuticals Inc. (“Endo”); Teikoku Pharma USA, Inc., Teikoku Seiyaku Co., Ltd. (together “Teikoku”); Actavis, Inc., Watson Laboratories, Inc., Actavis plc, Anda Inc., Anda Pharmaceuticals, Inc., and Valmed Pharmaceuticals, Inc. (together “Watson” and with Endo and Teikoku “Defendants”) alleging that, as part of a 2012 settlement of patent infringement litigation, Endo and Teikoku unlawfully paid Watson to delay the launch of a generic Lidoderm product.
- Defendants deny these allegations and any wrongdoing. Defendants assert that their patent litigation settlement was a procompetitive and lawful compromise of patent infringement litigation. The Court has not found that Defendants violated any law or issued any ruling on the merits of plaintiffs’ claims.
- **Your legal rights are affected whether you act or don’t act. Read this notice carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>	
<b>SUBMIT A CLAIM</b>	You may submit a claim to receive a payment under the Settlements. This Notice provides instructions for how to submit a claim. <b>The deadline to submit a claim is: October 1, 2018.</b>
<b>DO NOTHING</b>	If you do nothing, you will get no payments under the Settlements.
<b>OBJECT</b>	You may write to the Court about why you don’t like the Settlements. <b>The deadline to submit an objection is: August 21, 2018.</b>

**These rights and options—and the deadlines to exercise them—are explained in this notice.**

The Court previously 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 may include you. Only members of the End-Payor Class are eligible to receive payments under the Settlements. Subject to the exclusions listed below, the End-Payor Class includes 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. 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 Cigna, 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 Cigna, 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; (i) the judges in this case and members of their immediate families; and (j) certain entities that previously excluded themselves from the End-Payor Class and have not requested to opt back in.

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**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. If so, you have a right to know about three, separate proposed settlements of the Lawsuit (the "Settlements"), and about all of your options, before the Court decides whether to approve the Settlements. If the Court approves the Settlements, after objections and any appeals are resolved, an administrator appointed by the Court will make payments to the members of the End-Payor Class in accordance with the Settlements.

This notice explains the Lawsuit, the End-Payor Class, the Settlements, what benefits are available under the Settlements, who is eligible for them, and how to get them. **You should read this entire notice carefully.**

**2. What is this Lawsuit about?**

This Lawsuit is about the prescription drug Lidoderm and in particular whether Defendants entered into an anticompetitive agreement to delay the availability of generic versions of Lidoderm. The plaintiffs in the lawsuit—consumers and third-party payors of branded and generic Lidoderm (the "End-Payor Plaintiffs")—allege that, as part of settlement of a patent infringement lawsuit that Endo and Teikoku brought against Watson, Endo and Teikoku agreed to pay Watson to refrain from selling generic Lidoderm from August 2012 until September 2013 (the "Patent Settlement"). End-Payor Plaintiffs contend that the Patent Settlement was anticompetitive and violated state laws in the Class States. End-Payor Plaintiffs allege that as a result of the Patent Settlement they paid more for branded and generic Lidoderm than they otherwise would have. A copy of the operative End-Payor Plaintiffs' Corrected Third Consolidated Amended Complaint is available at [www.lidodermantitrustlitigation.com](http://www.lidodermantitrustlitigation.com).

Defendants deny End-Payor Plaintiffs' allegations, deny that any member of the End-Payor Class is entitled to damages or other relief, and deny that their conduct violated any applicable law or regulation. Defendants also deny that End-Payor Plaintiffs have sustained any injury or damages as a result of the alleged conduct. The Settlements are not an admission of wrongdoing by any Defendant.

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 (the "Court") 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, which in this case is the End-Payor Class. 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 Ottavio Gallotto.

In a class action lawsuit, one court resolves the issues for everyone in the class. U.S. District Judge William H. Orrick III is in charge of this class action. You may have previously received a notice that the Court decided that this case can proceed as a Class Action.

### 4. Why are there Settlements?

There was no trial. The Court did not decide in favor of End-Payor Plaintiffs or Defendants. Instead, End-Payor Plaintiffs and Defendants agreed to the Settlements. That way, both sides avoid the cost and risk of a trial. As a result of the Settlement, members of the End-Payor Class will be guaranteed compensation without undue delay. The Class Representatives and their attorneys think the Settlements are best for all members of the End-Payor Class.

#### WHO IS IN THE SETTLEMENTS

To see if you are entitled to get money from the Settlements, you first have to determine 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 an officer, director, manager, or employee of one of the Defendants;
  - After September 15, 2013, you paid for branded Lidoderm and did not purchase 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 generic Lidoderm 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 may also be in the End-Payor Class. Third-party payors are entities—such as health and welfare plans or insurance companies—that provide payment or reimbursement from their own funds for some or all of the cost of prescription drug purchases made by their 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 Cigna, 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 or one of their officers, directors, management, employees, subsidiaries, or 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 Cigna, 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;
  - You are one of the judges in this case or a member of their immediate families; or
  - You previously excluded yourself from the End-Payor Class and have not requested to opt back in.

#### **7. I'm still not sure if I am included.**

If you are still not sure whether you are included, you can ask for help. You can visit [www.lidodermantitrustlitigation.com](http://www.lidodermantitrustlitigation.com) or call (866) 700-0414 for more information. Or you can fill out and return the claim form described in Question 10 to see if you qualify.

#### **THE SETTLEMENT BENEFITS—WHAT DO YOU GET?**

#### **8. What do the Settlements provide?**

Defendants have agreed to pay a total of \$104.75 into a Settlement Fund, which will be held in escrow pending the court's Final Approval and distribution, to settle the End-Payor Plaintiffs' claims. Of that amount, Endo will pay \$40 million, Teikoku will pay \$23.75 million, and Watson will pay \$41 million. After the payment of certain attorney fees and expenses, the amount remaining in the Settlement Fund will be divided among all End-Payor Class members who send in a valid claim form.

Endo will pay \$20 million, Watson will pay \$41 million and Teikoku will pay \$23.75 million into the Settlement Fund shortly after the Court grants preliminary approval of the Settlements. Endo will make additional payments into the Settlement Fund of \$10 million by February 15, 2019, and \$10 million by February 15, 2020.

#### **9. How much will my payment be?**

Your share of the Settlement Fund will depend on the number and amount of valid claims that End-Payor Class members send in and the number of prescriptions or amount of brand or generic Lidoderm that you paid for.

#### **HOW YOU GET A PAYMENT—SUBMITTING A CLAIM FORM**

#### **10. How can I get a payment?**

To qualify for a payment, you must send in a claim form. You may also get a claim form at [www.lidodermantitrustlitigation.com](http://www.lidodermantitrustlitigation.com). Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, and submit the claim form on the website or mail it postmarked no later than October 1, 2018.

Electronically submitted claims forms allow for faster claims processing. Please fill out the form on the website if you are able to. **Third-Party Payors MUST submit their claims electronically.**

### 11. When would I get my payment?

The Court will hold a hearing on September 12, 2018, to decide whether to approve the Settlements. If Judge Orrick approves the Settlements, there may be appeals. The outcome of any appeal is always uncertain, and resolving them can take time, perhaps more than a year.

If the Court approves the Settlements and there are no appeals, or the appeals are rejected, it will take some time for the Claims Administrator to determine how much each End-Payor Class member that submits a valid claim is owed and to make the payments. Please be patient. Certain third-party payors may receive faster payment of their claims, but the amount they receive will be determined in the same manner as for other third party payors.

Eligible claimants may receive their payments in multiple parts as Endo makes additional payments into the Settlement Fund.

#### THE LAWYERS REPRESENTING YOU

### 12. 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

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

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

### 13. 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.

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

Co-Lead Counsel will ask the Court to approve a payment of up to one-third of the Settlement Fund to them and other attorneys for the End-Payor Class for attorneys' fees. The fees would pay the attorneys for investigating the facts, litigating the case, and negotiating the Settlements. Co-Lead Counsel will also request the reimbursement of expenses the attorneys have advanced on behalf of the End-Payor Class, including the costs of administering the settlement, in an amount not to exceed \$5,000,000. The expenses for which Co-Lead Counsel anticipates requesting reimbursement include up to \$1,300,000 for providing notice of the settlement to the End-Payor Class, receiving and processing claims, and distributing funds to eligible claimants. Co-Lead Counsel also intend to seek service awards for each of the nine Class Representatives of no more than \$10,000 each. The Court may award less than these amounts, but these are the maximum amounts Co-Lead Counsel will request.

Any Court-approved fees, expenses, and service awards will be deducted from the Settlement Fund. Members of the End-Payor Class will not otherwise have to pay any attorneys' fees or expenses in connection with the Lawsuit or the Settlements.

Co-Lead Counsel will file their motion for the payments of fees, expenses, and service awards by July 31, 2018. The motion will include detailed information concerning the requested fees and expenses. The motion will be available at [www.lidodermantitrustlitigation.com](http://www.lidodermantitrustlitigation.com) or you can call the Notice Administrator toll-free at 1-866-700-0414 or by email at [info@lidodermantitrustlitigation.com](mailto:info@lidodermantitrustlitigation.com) to obtain a copy. You can object to Co-Lead Counsel's motion by following the same steps explained in Question 15 with respect to objecting to one or more of the settlements.

#### OBJECTING TO THE SETTLEMENTS

You can tell the Court that you don't agree with the Settlements or some part of them.

### 15. Can I tell the Court if I don't like one or more of the Settlements?

If you're a member of the End-Payor Class, you can ask the Court to deny approval of one or more of the Settlements by filing an objection. You can't ask the Court to order larger settlements; the Court can only approve or deny the Settlements. If the Court denies approval of a Settlement, no settlement payments will be sent out related to that Settlement and the Lawsuit will continue against any Defendant(s) that are a party to the Settlement for which approval is denied. If that is what you want to happen, then you should object. If the Court rejects your objections, you will still be bound by the Settlement.

You may object to one or more of the Settlements in writing. All written objections should (a) include your name, address, telephone number, and your signature, (b) clearly identify the Settlement(s) to which the objection pertains, (c) explain the reason(s) for your objection, (d) clearly identify the case name and number (*In re Lidoderm Antitrust Litig.*, Case Number 14-md-2521) and (e) be mailed to:

Clerk of Court  
United States District Court for the Northern District of California  
450 Golden Gate Avenue, 17th floor  
San Francisco, CA 94012

**Your objection should be postmarked no later than August 21, 2018.**

#### **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the Settlements. You may attend and you may ask to speak, but you don't have to.

#### **16. When and where will the Court decide whether to approve the Settlements?**

The Court will hold a Fairness Hearing at 2:00 p.m. on September 12, 2018, in Courtroom 2, United States District Court for the Northern District of California, 450 Golden Gate Ave., San Francisco, California, 94102. At this hearing the Court will consider whether the Settlements are fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Orrick will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Co-Lead Counsel. After the hearing, the Court will decide whether to approve the Settlements. We do not know how long these decisions will take. The date of the Fairness Hearing may change without further notice and, if you are interested in attending, you should check the settlement website or the court website to confirm that the date has not changed.

#### **17. Do I need to come to the hearing?**

No. Co-Lead Counsel will answer questions Judge Orrick may have. But you are welcome to come at your own expense. If you send an objection, you don't need to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

#### **18. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you should send a letter to the Court at the address in Question 15 saying that it is your "Notice of Intention to Appear with respect to the End Payor Class Action Settlement in *In re: Lidoderm Antitrust Litigation.*" Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear should be postmarked no later than August 21, 2018.

#### **IF YOU DO NOTHING**

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

Unless you submit a claim form, you'll get no money from the Settlements.

If you are a part of the End-Payor Class, you are not able to start a lawsuit, continue with a lawsuit, or be a part of any other lawsuit against Defendants about the claims released in these Settlements. Class Members are releasing the Released Claims regardless of whether or not they submit a claim form.

#### **GETTING MORE INFORMATION**

#### **20. How do I get more information?**

This notice contains a summary of the proposed Settlements.

Additional information about the Lawsuit and Settlements is available at [www.lidodermantitrustlitigation.com](http://www.lidodermantitrustlitigation.com) or by calling the Notice Administrator toll-free at (866) 700-0414 or by email at [info@lidodermantitrustlitigation.com](mailto:info@lidodermantitrustlitigation.com).

For the precise terms and conditions of the Settlements, please see the settlement agreements available at [www.lidodermantitrustlitigation.com](http://www.lidodermantitrustlitigation.com). You may also obtain a copy of the settlement agreements by contacting Co-Lead Counsel at the addresses in Question 12, by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting 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 between 9:00am and 4:00pm, Monday through Friday, excluding Court holidays.