

08/04/2009

Judge Patti B. Saris: ELECTRONIC ENDORSEMENT re [6300](#) Report on Remaining GSK Consumer Funds, filed by All Plaintiffs. "I approve the procedure for redistributing the funds." (Patch, Christine) (Entered: 08/05/2009)

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL NO. 1456

THIS DOCUMENT RELATES TO:
GSK SETTLEMENT

CIVIL ACTION: 01-CV-12257-PBS
Judge Patti B. Saris

CLASS PLAINTIFFS' REPORT ON REMAINING GSK CONSUMER FUNDS

Class Plaintiffs submit this report in compliance with the GSK AWP Allocation Binding Mediation Decision [Docket No. 6171] to detail the proposed distribution of part of the \$11.6 million remaining in the GSK consumer settlement fund. This report is required by Mediator Eric Green's June 22, 2009 decision, which was the result of a binding mediation required under the GSK Settlement Agreement.

The AWP Mediator instructed Class Plaintiffs to make additional distributions to all valid GSK consumer claimants in order to increase payments to these class members to a level commensurate with later AWP settlement consumer distributions; to issue checks under certain conditions to claimants who failed to sign their claim forms; to make the minimum distribution to claimants with defective claim forms with an opportunity to provide additional information resulting in additional payments; and to seek other methods of determining the potential claims of claimants with defective claim forms.

Attached hereto as Exhibit "1" is a Declaration from Ryan Walter of Rust Consulting, Inc. (formerly Complete Claims Solutions, LLC), the Court-appointed Claims Administrator for this case. The Declaration and the Chart attached as Exhibit A, set forth the steps necessary to accomplish each of the tasks mentioned above, the amount of the remaining funds that will be

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**CO-LEAD COUNSEL FOR
PLAINTIFFS**

CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **CLASS PLAINTIFFS' REPORT ON REMAINING GSK CONSUMER FUNDS**, to be delivered to all counsel of record by electronic July 24, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Steve W. Berman

Steve W. Berman

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
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Judge Patti B. Saris

**DECLARATION OF RYAN M. WALTER REGARDING THE
DISTRIBUTION OF REMAINING FUNDS TO CONSUMERS**

The undersigned, Ryan M. Walter, deposes and states that:

1. I am a Project Manager at Rust Consulting, Inc. (formerly Complete Claim Solutions, LLC. (“CCS”)). CCS was appointed the Claims Administrator in the GlaxoSmithKline Settlement (the “Settlement”) by Order Granting Preliminary Approval of the GlaxoSmithKline Settlement, Certifying Class for Purposes of Settlement, Directing Notice to the Class and Scheduling Fairness Hearing (“Preliminary Approval Order”) dated November 15, 2006. I am over 21 years of age and am not a party to the Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. I submit this declaration in order to provide the Court and the parties with information about the administration of the Settlement Fund (the “Fund”) with regard to the Consumer claims submitted to CCS and the distribution of remaining funds.

3. There remains approximately \$11,600,000.00 of the Fund originally allocated for distribution to the Consumer Class (“Remaining Amount”). CCS was requested by the MDL Mediator, Eric Green, to work with Class Counsel in order to distribute the remaining funds through several different courses of action. Attached as Exhibit A is a chart detailing the different methods and the processes involved in completing the requested distribution to various groups of claimants.

4. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 24th day of July, 2009 in Palm Beach Gardens, Florida.

/s/ Ryan M. Walter

Ryan M. Walter

CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **DECLARATION OF RYAN M. WALTER REGARDING THE DISTRIBUTION OF REMAINING FUNDS TO CONSUMERS**, to be delivered to all counsel of record by electronic July 24, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Steve W. Berman
Steve W. Berman

EXHIBIT A**Current Valid Claims**

Category	Description
Number of Claimants	3,821
Action To Be Taken	Increase total payments to valid claimants to three times their out-of-pocket expenses for Class A drugs and three times their original recognized claim amount for Class B drugs (netting out the amounts already paid).
Work Involved	<ul style="list-style-type: none"> • Calculate award amounts. • Print and mail checks. • Process returned checks and requests for reissue. • Perform address trace and remail any undeliverable checks. • Process administrative mail and telephone calls that result from mailing checks.
Payout To Class Members	Approximately \$3,689,000.00
Fees	Estimated professional fees and expenses - \$15,000
Time Period	Payments mailed within 30 days of receipt of Court approval

Valid Claims Without Signatures

Category	Description
Number of Claimants	42
Action To Be Taken	Payment of the 42 otherwise valid claims submitted without signature.
Work Involved	<ul style="list-style-type: none"> • Draft and mail a detailed letter to claimants. • Research each claimant's phone number and call the claimant in an effort to help them cure their deficiency. • Print and mail checks to consumers who have either cured the deficiency or who provide adequate explanation for deficiency.
Payout	\$11,569.05 (assuming all 42 claims paid)
Fees	No additional administrative fees
Time Period	Process complete and payments mailed within 45 days of Court approval

Current Invalid Claims

Category	Description
Number of Claimants	Approximately 6,430
Action To Be Taken	Send payment of the minimum amount of \$100 to these claimants based on their existing claims in an effort to stimulate and obtain additional information that may result in a valid larger payment.
Work Involved	<ul style="list-style-type: none"> • Print and mail checks for \$100 along with letter explaining the reason for the check and explaining how consumer may obtain additional money by filing a claim. • Send claim forms as requested. • Process undeliverable mail. • Reissue checks. • Send and process claim forms. • Process mail and telephone calls that result from mailing to claimants.
Payout	\$643,000 plus additional payments based on newly received claims.
Fees	Estimated professional fees and expenses - \$25,000-\$30,000.
Time Period	Process complete and payments mailed within 45 days of Court approval.

**Obtain CMS Information and Make Payments to Class 1
Members Who May Be Entitled to More Than Minimum Payment**

Category	Description
Number of Claimants	Up to 6,430
Action To Be Taken	Obtain additional information from CMS on existing claims for which there is inadequate information or little or no information available to be able to pay such claims.
Work Involved	<ul style="list-style-type: none"> • Create and submit a list of the ineligible claimants to CMS. • Receive and process data from CMS. Apply the data received to each corresponding claimant's record and recalculate totals to see if claimant has a recognized loss that warrants a check greater than \$100. • Calculate recognized loss amounts for claimants. • Print and mail resulting checks.
Payout	Unknown
Fees	\$15,000
Time Period	5 months from receipt of order of the Court