

UNITED STATES DISTRICT COURT

DISTRICT OF KANSAS

In re EPIPEN (EPINEPHRINE INJECTION, ) Civil Case No. 2:17-md-02785-DDC-TJJ  
USP) MARKETING, SALES PRACTICES ) (MDL No. 2785)  
AND ANTITRUST LITIGATION )

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This Document Relates To: )  
)  
CONSUMER CLASS CASES. )

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NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

**TO: ALL PERSONS AND ENTITIES IN THE UNITED STATES WHO PAID OR PROVIDED REIMBURSEMENT FOR SOME OR ALL OF THE PURCHASE PRICE OF BRANDED OR AUTHORIZED GENERIC EPIPEN PRODUCTS<sup>1</sup> FOR THE PURPOSE OF CONSUMPTION, AND NOT RESALE, BY THEMSELVES, THEIR FAMILY MEMBER(S), INSUREDS, PLAN PARTICIPANTS, EMPLOYEES, OR BENEFICIARIES, AT ANY TIME BETWEEN AUGUST 24, 2011, AND NOVEMBER 1, 2020 (THE “CLASS PERIOD”); AND**

**ALL PERSONS AND ENTITIES IN THE ANTITRUST STATES<sup>2</sup> WHO PAID OR PROVIDED REIMBURSEMENT FOR SOME OR ALL OF THE PURCHASE PRICE OF BRANDED EPIPEN PRODUCTS AT ANY TIME BETWEEN JANUARY 28, 2013, AND NOVEMBER 1, 2020, FOR THE PURPOSE OF CONSUMPTION, AND NOT RESALE, BY THEMSELVES, THEIR FAMILY MEMBER(S), INSUREDS, PLAN PARTICIPANTS, EMPLOYEES, OR BENEFICIARIES.**

**NOTICE OF SETTLEMENT: Please be advised that Plaintiffs, on behalf of the certified Class (as defined on pages 4-5 below), have reached a proposed settlement of the Action for \$264,000,000 in cash that will resolve all claims in the Action against Mylan N.V., Mylan Specialty L.P., Mylan Pharmaceuticals Inc., and Heather Bresch (collectively, “Mylan”) (the “Settlement”).<sup>3</sup>**

**IN ORDER TO QUALIFY FOR A SETTLEMENT PAYMENT, YOU MUST EITHER (1) HAVE ALREADY SUBMITTED A PROOF OF CLAIM FORM (“PROOF OF CLAIM”) IN THE SETTLEMENT WITH THE PFIZER DEFENDANTS IN THIS CASE IN 2021, OR (2) TIMELY SUBMIT A PROOF OF CLAIM THAT IS POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE JULY 25, 2022.**

**THIS NOTICE WAS AUTHORIZED BY THE COURT. IT IS NOT A LAWYER SOLICITATION. PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.**

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<sup>1</sup> As used herein, “EpiPen” refers collectively to the EpiPen<sup>®</sup> Auto-Injector, EpiPen Jr<sup>®</sup> Auto-Injector, and the authorized generic versions of those products.

<sup>2</sup> The “Antitrust States” are: Alabama, California, Florida, Hawaii, Illinois, Kansas, Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New York, North Carolina, Tennessee, and Utah.

<sup>3</sup> All capitalized terms not otherwise defined herein shall have the meaning given to them in the Stipulation of Class Action Settlement (“Settlement Agreement”) dated as of February 27, 2022.

QUESTIONS? PLEASE CALL 1-877-221-7632  
OR VISIT [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com)

**WHY SHOULD I READ THIS NOTICE?**

This Notice is given pursuant to an order issued by the United States District Court for the District of Kansas (the “Court”). This Notice serves to inform you of the proposed settlement of the above-captioned class action lawsuit for \$264,000,000 in cash and the hearing (“Fairness Hearing”) to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, as set forth in the Settlement Agreement, by and between the certified Class (as defined below) and the Mylan Defendants (Mylan and Viatrix Inc., collectively).

**This Notice is intended to inform you how the proposed Settlement may affect your rights and what steps you may take in reaction to it. This Notice is NOT an expression of any opinion by the Court as to the merits of the claims or defenses asserted in the lawsuit or whether Mylan engaged in any wrongdoing.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT:</b>	
<b>ACTIONS YOU MAY PURSUE</b>	<b>EFFECT OF TAKING THIS ACTION</b>
<b>SUBMIT A PROOF OF CLAIM IF YOU DID NOT ALREADY SUBMIT A CLAIM FORM IN THIS CASE FOR THE SETTLEMENT WITH THE PFIZER DEFENDANTS IN 2021</b>	<p>This is the only way to be eligible to receive a payment from the Settlement. <b>Proofs of Claim must be postmarked (if mailed) or received (if submitted online) on or before July 25, 2022.</b></p> <p><b>If you already submitted a Proof of Claim form during the settlement with the Pfizer Defendants in 2021 in this case, you do not need to do anything.</b> You will automatically be included as a member of the settlement with Mylan using the claim form you already submitted in 2021. No further action is needed on your part.</p> <p>If you did not already submit a Proof of Claim form in this case in 2021 during the settlement with the Pfizer Defendants, you will need to submit a Proof of Claim form.</p>
<b>OBJECT TO THE SETTLEMENT BY SUBMITTING A WRITTEN OBJECTION</b>	<p>Write to the Court and explain why you object to the Settlement, the Plan of Allocation, and/or the request for attorneys’ fees, expenses, or service awards. <b>Objections must be filed with the Court and received by the parties on or before June 8, 2022.</b></p>

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OR VISIT [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com)

<p><b>ATTEND THE FAIRNESS HEARING ON JULY 6, 2022, AT 9:30 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR</b></p>	<p>Ask to speak in Court about the fairness of the Settlement. <b>Requests to speak must be filed with the Court and served on the parties on or before June 8, 2022. If you submit a written objection, you may (but you do not have to) attend the hearing.</b></p>
<p><b>DO NOTHING NOW</b></p>	<p>If you already submitted a claim in this case for the settlement with the Pfizer Defendants in 2021, you need not submit a second claim now.</p> <p>If you HAVE NOT previously submitted a claim, and do nothing, you will receive no payment. You will, however, still be a Class Member, which means that you give up your right to ever be part of any other lawsuit against the Mylan Defendants' Released Parties about the legal claims being resolved by this Settlement, and you will be bound by any judgments or orders entered by the Court in the Action.</p>

**SUMMARY OF THIS NOTICE**

**Description of the Action and the Class**

This Notice relates to a proposed Settlement of claims in a pending class action alleging that Mylan violated certain state antitrust, federal racketeering, and other laws in the United States, harming competition and causing Class Members to overpay for EpiPen products. Mylan denies that it violated any laws and contends that its actions enhanced competition and did not cause Class Members to overpay. The Court previously certified the following Class:

All persons and entities in the United States who paid or provided reimbursement for some or all of the purchase price of Branded or authorized generic EpiPens for the purpose of consumption, and not resale, by themselves, their family member(s), insureds, plan participants, employees, or beneficiaries, at any time between August 24, 2011, and November 1, 2020; and

All persons and entities in the Antitrust States who paid or provided reimbursement for some or all of the purchase price of Branded EpiPens at any time between January 28, 2013, and November 1, 2020, for the purpose of consumption, and not resale, by themselves, their family member(s), insureds, plan participants, employees, or beneficiaries.

The “Antitrust States” are: Alabama, California, Florida, Hawaii, Illinois, Kansas,

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Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New York, North Carolina, Tennessee, and Utah.

Those excluded from the Class are described on page 8 below. The proposed Settlement, if approved by the Court, will settle claims of the Class against Mylan only.

### **Statement of Class Recovery**

Pursuant to the Settlement described herein, a \$264,000,000 settlement fund has been established (the “Settlement Amount”). The Settlement Amount together with any interest earned thereon is the “Settlement Fund.” The Settlement Fund less: (a) any Taxes and Tax Expenses; (b) any Notice and Administration Expenses; and (c) any attorneys’ fees and litigation expenses and any service awards to Plaintiff Class Representatives in connection with their representation of the Class, awarded by the Court, will be distributed to Class Members under a proposed plan of allocation and distribution (“Plan of Allocation”) if approved by the Court, as summarized on page 9 below.

### **Statement of Potential Outcome of the Case**

The Settling Parties do not agree on whether Plaintiffs would have prevailed on any of their claims against Mylan. They also do not agree on the amount of damages, if any, that would be recoverable if the Class prevailed on the claims alleged. Mylan denies that it has engaged in any wrongdoing as alleged by Plaintiffs, denies any liability whatsoever for any of the claims alleged by Plaintiffs, and denies that the Class has suffered any injuries or damages. The issues on which the Settling Parties disagree are many, but include: (1) whether Mylan engaged in conduct that would give rise to any liability to the Class under the RICO statute or certain state antitrust or other laws; (2) whether Mylan has valid defenses to any such claims of liability; (3) whether Plaintiffs and the Class suffered any damages by reason of Mylan’s alleged wrongdoing, as well as the alleged amount of, and methodology for estimating, any such damages; (4) whether the Court properly certified the Class; and (5) whether Mylan had other meritorious defenses to the alleged claims.

### **Statement of Attorneys’ Fees and Expenses Sought**

Class Counsel (as defined on pages 12 and 13 below) will apply to the Court for an award of attorneys’ fees in an amount not to exceed one-third of the Settlement Amount, their expenses, and interest earned on these amounts at the same rate as earned by the Settlement Fund. Since the Court’s appointment of Plaintiffs’ leadership in September 2017, Class Counsel have expended considerable time and effort in the prosecution of this Action, including substantial preparation for trial, and have advanced the expenses of the Action in the expectation that if they were successful in obtaining a recovery for the Class they would be paid from such recovery. In addition, Plaintiffs will apply to the Court for service awards in connection with their representation of the Class.

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### **Further Information**

For further information regarding the Action or this Notice, or to review the Settlement Agreement, please contact the Settlement Administrator toll-free at 1-877-221-7632 or visit the website [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com).

**Please DO NOT Call the Court or Mylan with Questions About the Settlement.**

### **Reasons for the Settlement**

Plaintiffs' principal reason for entering into the Settlement with Mylan is the substantial benefit to the Class now, without further risk or the delays inherent in continued litigation. The cash benefit under the Settlement must be considered against the significant risk that a smaller recovery – or, indeed, no recovery at all – might be achieved after trial, and likely appeals, a process that could last several years into the future.

Mylan has denied and continues to deny each and all of the claims alleged by Plaintiffs in the Action. Mylan has expressly denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action. For Mylan, the principal reason for the Settlement is to eliminate the burden, expense, uncertainty and risks inherent in any litigation, especially in complex cases such as this Action.

### **WHAT IS THIS LAWSUIT ABOUT?**

The Action is currently pending in the United States District Court for the District of Kansas before the Honorable Daniel D. Crabtree (the "Court"). The initial complaint was filed in 2016. Plaintiffs filed the Consolidated Complaint (the "Complaint") on October 17, 2017. The Complaint alleges, among other things, that Mylan and the Pfizer Defendants are liable for violations of certain state antitrust laws and federal racketeering laws in the United States, harming competition and causing Class Members to overpay for EpiPen<sup>®</sup> (epinephrine injection, USP) 0.3 mg Auto-Injectors; EpiPen Jr<sup>®</sup> (epinephrine injection, USP) 0.15 mg Auto-Injectors; or Epinephrine Injection, USP Auto-Injectors (the authorized generic for EpiPen<sup>®</sup>) (collectively, "EpiPen" products). Mylan denies that it violated any laws and contends that its actions enhanced competition and did not cause Class Members to overpay.

This case has been vigorously litigated for over five years. After Plaintiffs filed the Complaint on October 17, 2017, the parties briefed arguments raised in Mylan's motions to dismiss. The Court granted in part and denied in part the motions to dismiss on August 20, 2018. Mylan answered the Complaint, denying all material allegations and asserting a number of defenses. Then, the parties engaged in discovery involving Mylan, the Pfizer Defendants, Plaintiffs, and numerous third parties, resulting in the production of over 1.75 million documents, totaling over 11 million pages, and 158 depositions of party witnesses, third parties, and experts.

Plaintiffs moved for class certification on December 7, 2018, and submitted four expert reports in support. Mylan opposed class certification and moved to exclude Plaintiffs' experts.

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Mylan also submitted its own expert reports in opposition to class certification, which Plaintiffs sought to exclude. A two-day evidentiary hearing was held on Plaintiffs' motion for class certification from June 11-12, 2019.

On February 27, 2020, the Court granted in part and denied in part Plaintiffs' motion for class certification, certified the Class defined above, appointed Plaintiffs as Class Representatives, and appointed Warren T. Burns, Paul J. Geller, Lynn Lincoln Sarko, Elizabeth C. Pritzker, and Rex A. Sharp as Class Counsel. The Court also denied all parties' motions to exclude experts. Mylan then filed a petition for interlocutory appellate review of that class certification decision with the United States Circuit Court of Appeals for the Tenth Circuit on March 12, 2020, which Plaintiffs opposed. The Tenth Circuit denied review on May 26, 2020.

On October 13, 2020, the Court approved the form and manner of notice to the certified Class, which commenced on November 1, 2020, and ended on January 15, 2021. A total of 1,423 persons and entities excluded themselves from the Class.

On July 15, 2020, Mylan moved for summary judgment, which Plaintiffs opposed. The parties also moved to exclude certain expert opinions. On June 23, 2021, the Court entered a Memorandum and Order on Mylan's motion for summary judgment and motions to exclude expert opinions, denying Mylan's motion for summary judgment as to Plaintiffs' generic delay antitrust claim, but granting Mylan's motion for summary judgment as to Plaintiffs' remaining claims, and granting in part and denying in part Mylan's motions to exclude Plaintiffs' experts.

On November 17, 2021, the Court granted final approval to Plaintiffs' settlement of the Action with the Pfizer Defendants, and entered a Final Judgment and Order of Dismissal with Prejudice Under Fed. R. Civ. P. 54(b) for the Pfizer Defendants Only.

Trial was set to commence in the Action against Mylan on February 22, 2022, based on the Pretrial Order dated July 17, 2020 (ECF No. 2169), later modified with a Trial Order entered on January 12, 2022 (ECF No. 2562).

The Plaintiffs and Mylan subsequently agreed, after settlement discussions, to settle the Action with Mylan in return for a cash payment of \$264,000,000 for the benefit of the Class.

**THE COURT HAS NOT RULED AS TO WHETHER MYLAN IS LIABLE TO PLAINTIFFS OR TO THE CLASS. THIS NOTICE IS NOT INTENDED TO BE AN EXPRESSION OF ANY OPINION BY THE COURT WITH RESPECT TO THE TRUTH OF THE ALLEGATIONS IN THE ACTION OR THE MERITS OF THE CLAIMS OR DEFENSES ASSERTED. THIS NOTICE IS SOLELY TO ADVISE YOU OF THE PROPOSED SETTLEMENT OF THIS ACTION AS TO MYLAN AND YOUR RIGHTS IN CONNECTION WITH THAT SETTLEMENT.**

#### **HOW DO I KNOW IF I AM A CLASS MEMBER?**

If you are a person or entity in the United States who paid or provided reimbursement for

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OR VISIT [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com)

some or all of the purchase price of Branded or authorized generic EpiPens for the purpose of consumption, and not resale, by yourself, your family member(s), insureds, plan participants, employees, or beneficiaries, at any time between August 24, 2011, and November 1, 2020; and

All persons and entities in the Antitrust States who paid or provided reimbursement for some or all of the purchase price of Branded EpiPens at any time between January 28, 2013, and November 1, 2020, for the purpose of consumption, and not resale, by themselves, their family member(s), insureds, plan participants, employees, or beneficiaries.

The “Antitrust States” are: Alabama, California, Florida, Hawaii, Illinois, Kansas, Maine, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New York, North Carolina, Tennessee, and Utah, and did not exclude yourself from the Class during the initial notice period, you are a Class Member.

As set forth in the Settlement Agreement, excluded from the Class are:

- a. Defendants and their officers, directors, management, employees, subsidiaries, and affiliates;
- b. Government entities, other than government-funded employee benefit plans;
- c. Fully insured health plans (*i.e.*, plans that purchased insurance that covered 100% of the plan’s reimbursement obligations to its members);
- d. “Single flat co-pay” consumers who purchased EpiPens or generic EpiPens only via a fixed dollar co-payment that is the same for all covered devices, whether branded or generic (*e.g.*, \$20 for all branded and generic devices);
- e. Consumers who purchased or received EpiPens or authorized generic equivalents only through a Medicaid program;
- f. All persons or entities who purchased branded or generic EpiPens directly from defendants;
- g. The judges in this case and members of their immediate families;
- h. All third-party payors who own or otherwise function as a Pharmacy Benefit Manager or control an entity who functions as a Pharmacy Benefit Manager; and
- i. Individual consumers whose only purchases of an EpiPen occurred before March 13, 2014 (the Generic Start Date).

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**PLEASE NOTE:** Receipt of this Notice does not mean that you are a Class Member or that you will be entitled to receive a payment from the Settlement. If you are a Class Member and you wish to participate in the distribution of proceeds from the Settlement, and you did not already submit a claim form in 2021 during the settlement with the Pfizer Defendants, you are required to submit a Proof of Claim available on the Settlement website and, if necessary, any required supporting documentation as set forth therein postmarked (if mailed) or submitted online on or before July 25, 2022. To confirm, you are not required to submit a claim form if you already submitted a claim form in 2021 as part of the settlement in this case with the Pfizer Defendants.

### **WHAT IS THE MONETARY VALUE OF THE PROPOSED SETTLEMENT?**

The Settlement, if approved, will result in the creation of a cash settlement fund of \$264,000,000. This fund, plus accrued interest and minus the costs of this Notice and all costs associated with the administration of the Settlement, including Taxes and Tax Expenses, as well as attorneys' fees and expenses, and any service awards to Plaintiffs in connection with their representation of the Class, as approved by the Court (the "Net Settlement Fund"), will be distributed to eligible Class Members pursuant to the Plan of Allocation that is described in the next section of this Notice.

### **WHAT IS THE PROPOSED PLAN OF ALLOCATION AND DISTRIBUTION?**

If the Settlement is approved by the Court, the Net Settlement Fund will be distributed to eligible Class Members who timely submit valid Proofs of Claim in accordance with the proposed Plan of Allocation or such other plan of allocation as the Court may approve—or have already submitted a claim form as part of the settlement with the Pfizer Defendants in 2021. Class Members who do not timely submit valid Proofs of Claim (or did not already submit a claim form in 2021 as part of the settlement with the Pfizer Defendants) will not share in the Net Settlement Fund, but will otherwise be bound by the Settlement. The Court may approve the proposed Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the Settlement website, [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com).

The Plan of Allocation is intended to partially compensate Class Members who purchased or provided reimbursement for EpiPen products during the Class Period and were allegedly damaged thereby.

### **ALLOCATION OF THE NET SETTLEMENT FUND**

The Net Settlement Fund will be allocated into two pools, one for individual consumer Class Members and one for third-party payor ("TPP") Class Members. This allocation, which tracks Plaintiffs' estimated overall amount of damages suffered by individual consumer and TPP Class Members as a result of the claims in the Action, will be twenty percent (20%) for the individual consumer Class Member pool and eighty percent (80%) for the TPP Class Member pool.

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Within each pool, a Class Member's actual recovery will be a proportion of that pool determined by that Class Member's allowed claim(s) compared to the total allowed claims of all Class Members in the same pool who submit acceptable and timely Proofs of Claim.

If the distributions in only one pool would result in all Class Members in that pool receiving more than all of their allowed claim amounts, and the second pool lacks sufficient funds to pay all Class Members in that pool all of their claims, then any excess funds remaining in the first pool after distribution will be reallocated to the second pool.

If you previously submitted a timely and valid claim form in connection with the settlement with the Pfizer Defendants, the Distribution Amount for your share of the Net Settlement Fund from this Settlement shall be combined with the Distribution Amount, if any, from the settlement with the Pfizer Defendants such that the Settlement Administrator may make one payment to you. Class Members who did not previously submit a claim in connection with the settlement with the Pfizer Defendants in this Action shall only receive a payment for this Settlement.

For more detailed information about the Plan of Allocation and the calculation of your claim, please visit the Settlement website at [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com).

### **ADDITIONAL PROVISIONS**

Distributions will be made to Class Members after all claims have been processed, after the Court has finally approved the Settlement, and after any appeals are resolved. If there is any balance remaining in the Net Settlement Fund after a reasonable amount of time from the initial date of distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), the Settlement Administrator shall, if feasible, reallocate such balance among Class Members who successfully received and deposited, cashed, or otherwise accepted a Distribution Amount and who would receive a distribution of at least \$5.00, in an equitable and economic fashion. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is no longer economically feasible to distribute to Class Members. Thereafter, any *de minimis* balance which still remains in the Net Settlement Fund shall be donated to the: (a) Allergy and Asthma Foundation of America; (b) Allergy and Asthma Network; (c) Allison Rose Foundation; and (d) Food Allergy & Anaphylaxis Connection Team, if approved by the Court.

Please contact the Settlement Administrator or Class Counsel if you disagree with any determinations made by the Settlement Administrator regarding your Proof of Claim. If you are dissatisfied with the determinations, you may ask the Court, which retains jurisdiction over all Class Members and the claims administration process, to decide the issue by submitting a written request.

The Court has reserved jurisdiction to allow, disallow, or adjust the claim of any Class Member on equitable grounds.

QUESTIONS? PLEASE CALL 1-877-221-7632  
OR VISIT [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com)

**DO I NEED TO CONTACT CLASS COUNSEL TO PARTICIPATE IN DISTRIBUTION OF THE SETTLEMENT FUND?**

No. If you have received this Notice and timely submit or already submitted your Proof of Claim to the designated address, you need not contact Class Counsel. If your address changes, please contact the Settlement Administrator at:

*EpiPen Settlement*  
c/o A.B. Data, Ltd.  
P.O. Box 173113  
Milwaukee, WI 53217  
Email: [info@EpiPenClassAction.com](mailto:info@EpiPenClassAction.com)  
[www.EpiPenClassAction.com](http://www.EpiPenClassAction.com)  
Telephone: 1-877-221-7632

**THERE WILL BE NO PAYMENTS IF THE SETTLEMENT AGREEMENT IS TERMINATED.**

The Settlement Agreement may be terminated under several circumstances outlined in it. If the Settlement Agreement is terminated, the Action will proceed against Mylan as if the Settlement Agreement had not been entered into.

**WHAT ARE THE REASONS FOR SETTLEMENT?**

The Settlement was reached after years of contested litigation, including at the motion to dismiss, class certification, and summary judgment stages. The parties also completed substantial document and deposition discovery. Nevertheless, a jury has not rendered any verdict in connection with Plaintiffs' claims against Mylan. Instead, Plaintiffs and Mylan have agreed to this Settlement to avoid the cost, delay, and uncertainty of further litigation.

As in any litigation, Plaintiffs and the Class would face an uncertain outcome if they did not agree to a Settlement. If Plaintiffs succeeded at trial, Mylan would likely file appeals that would postpone final resolution of the case. Continuation of the Action against Mylan could result in a judgment greater than this Settlement. Conversely, continuing the case could result in no recovery at all or a recovery that is less than the amount of the Settlement.

Plaintiffs and Class Counsel believe that this Settlement is fair and reasonable to the Class for several reasons. Specifically, if the Settlement is approved, the Class will receive a certain and immediate monetary recovery. Additionally, Class Counsel believe that the significant and immediate benefits of the Settlement, when weighed against the significant risk, delay, and uncertainty of continued litigation, are a very favorable result for the Class.

Mylan is entering into this Settlement because it would be beneficial to avoid the burden, inconvenience, and expense associated with continuing the Action, and the uncertainty and risks inherent in any litigation. Mylan has determined that it is desirable and beneficial to it that the Action be settled in the manner and upon the terms and conditions set forth in the Settlement

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Agreement. Mylan expressly disclaims and denies any wrongdoing or liability whatsoever.

### **WHO REPRESENTS THE CLASS?**

The following attorneys are Co-Lead Counsel for the Class:

Elizabeth C. Pritzker  
PRITZKER LEVINE LLP  
1900 Powell Street, Suite 450  
Emeryville, CA 94608

Warren T. Burns  
BURNS CHAREST LLP  
900 Jackson Street, Suite 500  
Dallas, TX 75202

Paul J. Geller  
ROBBINS GELLER RUDMAN & DOWD LLP  
120 East Palmetto Park Road, Suite 500  
Boca Raton, FL 33432

Lynn Lincoln Sarko  
KELLER ROHRBACK L.L.P.  
1201 Third Avenue, Suite 3200  
Seattle, WA 98101

Rex A. Sharp  
SHARP LAW, LLP  
4820 West 75th Street  
Prairie Village, KS 66208

If you have any questions about the Action, or the Settlement, you are entitled to consult with Co-Lead Counsel by contacting counsel at an address listed above.

You may obtain a copy of the Settlement Agreement by contacting the Settlement Administrator at:

*EpiPen Settlement*  
c/o A.B. Data, Ltd.  
P.O. Box 173113  
Milwaukee, WI 53217  
Email: [info@EpiPenClassAction.com](mailto:info@EpiPenClassAction.com)  
[www.EpiPenClassAction.com](http://www.EpiPenClassAction.com)  
Telephone: 1-877-221-7632

### **HOW WILL CLASS COUNSEL BE PAID?**

Class Counsel will file a motion for an award of attorneys' fees and expenses that will be considered at the Fairness Hearing. Class Counsel will apply for an attorneys' fee award on behalf of all Plaintiffs' counsel in the amount of up to one-third of the Settlement Amount, plus payment of Plaintiffs' counsel's expenses incurred in connection with this Action, plus interest earned on these amounts at the same rate as earned by the Settlement Fund. In addition, Plaintiffs will apply for service awards in connection with their representation of the Class to be approved by the Court.

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Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

The attorneys' fees and expenses requested will be the only payment to Plaintiffs' counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. The Court will decide what constitutes a reasonable fee award and may award less than the amount requested by Class Counsel.

**CAN I OBJECT TO THE SETTLEMENT, THE REQUESTED ATTORNEYS' FEES,  
THE REQUESTED PAYMENT OF EXPENSES AND/OR THE PLAN OF  
ALLOCATION?**

Yes. If you are a Class Member and did not exclude yourself from the Class during the notice period, you may object to the terms of the Settlement. Whether or not you object to the terms of the Settlement, you may also object to the requested attorneys' fees and expenses, Plaintiffs' request for service awards for representing the Class, and/or the Plan of Allocation. For any objection to be considered, you must file a written statement, accompanied by proof of Class membership, with the Clerk of Court **by June 8, 2022**, at United States District Court for the District of Kansas, 500 State Avenue, Kansas City, KS 66101. You must also mail a copy of your objection to the following counsel representing the Settling Parties:

Rex A. Sharp  
SHARP LAW LLP  
4820 West 75th Street  
Prairie Village, KS 66208

Adam K. Levin  
HOGAN LOVELLS US LLP  
555 13th Street, NW  
Washington, DC 20004

**Counsel must also receive your objection by June 8, 2022.**

To comment or object, you must send a signed letter saying that you wish to comment on or object to the proposed Settlement in the *In re EpiPen Marketing, Sales Practices and Antitrust Litigation*. Any objection must: (i) state the name, address, and telephone number of the objector and must be signed by the objector even if represented by counsel; (ii) state that the objector is objecting to the proposed Settlement, Plan of Allocation, or application for attorneys' fees or expenses in this Action; (iii) state the objection(s) and the specific reasons for each objection, including any legal and evidentiary support the objector wishes to bring to the Court's attention; (iv) state whether the objection applies only to the objector, to a subset of the Class, or to the entire Class; (v) identify all class actions to which the objector and his, her, or its counsel has previously objected; (vi) include documents sufficient to prove the objector's membership in the Class, such as the number of EpiPen products purchased, acquired, or paid for during the Class Period, as well as the dates and prices of each such purchase, acquisition, or payment; (vii) state whether the objector intends to appear at the Fairness Hearing; (viii) if the objector intends to appear at the Fairness Hearing through counsel, state the identity of all attorneys who will appear on the objector's behalf at the

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Fairness Hearing; and (ix) state that the objector submits to the jurisdiction of the Court with respect to the objection or request to be heard and the subject matter of the Settlement of the Action, including, but not limited to, enforcement of the terms of the Settlement. Any Class Member who does not make their objection in the manner provided shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Settlement Agreement, to the Plan of Allocation, or to the award of fees and expenses to Class Counsel or any service awards to Plaintiffs, unless otherwise ordered by the Court. Class Members submitting written objections are not required to attend the Fairness Hearing, but any Class Member wishing to be heard orally in opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an award of attorneys' fees and expenses must file and mail a written objection and indicate in the written objection their intention to appear at the hearing and to include in their written objections the identity of any witnesses they may call to testify and copies of any exhibits they intend to introduce into evidence at the Fairness Hearing. Class Members do not need to appear at the Fairness Hearing or take any other action to indicate their approval.

### **WHAT ARE MY RIGHTS AND OBLIGATIONS UNDER THE SETTLEMENT?**

If you are a Class Member and did not exclude yourself from the Class during the initial notice period, you may receive the benefit of, and you will be bound by, the terms of the Settlement described in this Notice, upon approval by the Court.

### **HOW CAN I GET A SETTLEMENT PAYMENT?**

To qualify for a Settlement payment, you must timely complete and return the Proof of Claim if you did not already submit a Proof of Claim during the settlement with the Pfizer Defendants in this case in 2021. A Proof of Claim is available at [www.EpiPenClassAction.com](http://www.EpiPenClassAction.com). Read the instructions carefully; fill out the Proof of Claim; sign it; and mail or submit it online so that it is **postmarked (if mailed) or received (if submitted online) no later than July 25, 2022**. If you do not submit a timely Proof of Claim with all of the required information, or did not already do so during the settlement in 2021 with the Pfizer Defendants, you will not receive a payment from the Settlement Fund. Unless you expressly excluded yourself from the Class as described above, you will still be bound in all other respects by the Settlement, the Judgment, and the release contained in them.

### **WHAT CLAIMS WILL BE RELEASED BY THE SETTLEMENT?**

If the Settlement is approved by the Court, the Court will enter a Judgment. If the Judgment becomes Final pursuant to the terms of the Settlement Agreement, all Class Members shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged any and all of the Mylan Defendants' Released Parties from all Plaintiffs' Released Claims.

- “Mylan Defendants' Related Parties” means any of the Mylan Defendants' past, present and future direct or indirect parents, subsidiaries, divisions, sister

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companies, affiliates, related entities, holding companies, unincorporated business units, vendors, independent contractors, stockholders, officers, directors, insurers, general or limited partners, principals, employees, agents, attorneys and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing).

- “Mylan Defendants’ Released Parties” shall collectively refer to the Mylan Defendants and the Mylan Defendants’ Related Parties.
- “Plaintiffs’ Released Claims” means all claims, duties, demands, actions, causes of action, allegations, rights, obligations, costs, losses, attorneys’ fees and costs, liabilities and damages arising in whole or in part from or in connection with acts or omissions of any of the Mylan Defendants’ Released Parties, of every kind or nature, whether known or unknown, suspected or unsuspected, asserted or unasserted, whether in law or in equity, in tort or contract, or arising under any statute or regulation, including without limitation any state or federal RICO statute, state or federal antitrust laws or any other federal or state or local or common law doctrine relating to antitrust or unfair competition, fraud, unjust enrichment, or consumer protection, based upon, arising out of, or relating in any way to Class Member’s purchases of, payments for, or reimbursements for EpiPen products or otherwise relating in any way to the causes of action described which were asserted or could have been asserted in the Action, except for claims relating to the enforcement of the Settlement. However, nothing herein shall be construed to release any claims relating to physical injury related to the EpiPen. The relevant Release Dates are August 24, 2011 to November 1, 2020. Upon entry of the final approval of the Settlement, the Action shall be dismissed with prejudice as to Mylan. The Release shall extend to the Mylan Defendants’ Released Parties. The Release shall be given by Plaintiffs and each member of the Class, on behalf of themselves and their spouses, associates, principals, trustees, agents, attorneys, partners, assigns, respective legal representatives, heirs, executors, administrators, predecessors, successors in interest, transferees and assignees, in their capacities as such. For the avoidance of doubt, the Plaintiffs’ Released Claims do not include claims brought by direct purchasers in *KPH Healthcare Services, Inc. v. Mylan N.V.*, No. 2:20-cv-DDC-TJJ (D. Kan.) or *In re: EpiPen Direct Purchaser Litigation* No. 0:20-cv-00827-ECT-JFD (D. Minn.).

### **THE FAIRNESS HEARING**

The Court will hold a Fairness Hearing on July 6, 2022, at 9:30 a.m., before the Honorable Daniel D. Crabtree at the United States District Court for the District of Kansas, 500 State Avenue, Kansas City, Kansas 66101, Courtroom 643, for the purpose of determining whether: (1) the Settlement as set forth in the Settlement Agreement for \$264,000,000 in cash should be approved by the Court as fair, reasonable and adequate; (2) the Judgment as provided under the Settlement Agreement should be entered; (3) to award Class Counsel attorneys’ fees and expenses out of the

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Settlement Fund and, if so, in what amount; (4) to award Plaintiffs service awards in connection with their representation of the Class out of the Settlement Fund and, if so, in what amount; and (5) the Plan of Allocation should be approved by the Court. The Court may adjourn or continue the Fairness Hearing without further notice to Class Members.

Any Class Member may appear at the Fairness Hearing and be heard on any of the foregoing matters; provided, however, that no one shall be heard unless his, her, or its objection is made in writing and is filed, together with proof of membership in the Class and with copies of all other papers and briefs to be submitted by him, her, or it with the Court, no later than **June 8, 2022**. The same documentation must be received by counsel by **June 8, 2022**, as described above.

Unless otherwise directed by the Court, any Class Member who does not make his, her or its objection in the manner provided shall be deemed to have waived all objections to this Settlement and shall be foreclosed from raising (in this or any other proceeding or on any appeal) any objection and any untimely objection shall be barred.

If you hire an attorney (at your own expense) to represent you for purposes of objecting, your attorney must serve a notice of appearance on counsel listed above and file it with the Court (at the address set out above) by no later than **June 8, 2022**.

### **INJUNCTION**

The Court has issued an order enjoining all Class Members from instituting, commencing, maintaining or prosecuting any action in any court or tribunal that asserts Plaintiffs' Released Claims against any of the Mylan Defendants' Released Parties, pending final determination by the Court of whether the Settlement should be approved.

### **HOW DO I OBTAIN ADDITIONAL INFORMATION?**

This Notice contains only a summary of the terms of the proposed Settlement. The records in this Action may be examined and copied at any time during regular office hours, and subject to customary copying fees, at the Clerk of the United States District Court for the District of Kansas. For a fee, all papers filed in this Action are available at [www.pacer.gov](http://www.pacer.gov). In addition, all of the Settlement documents, including the Settlement Agreement, this Notice, the Proof of Claim, and proposed Judgment may be obtained by contacting the Settlement Administrator at:

*EpiPen Settlement*  
c/o A.B. Data, Ltd.  
P.O. Box 173113  
Milwaukee, WI 53217  
Email: [info@EpiPenClassAction.com](mailto:info@EpiPenClassAction.com)  
[www.EpiPenClassAction.com](http://www.EpiPenClassAction.com)  
Telephone: 1-877-221-7632

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In addition, you may contact the Settlement Administrator if you have any questions about the Action or the Settlement.

**DO NOT WRITE TO OR TELEPHONE THE COURT FOR INFORMATION**

DATED: MARCH 18, 2022

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS

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