

ADDENDUM

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE LOESTRIN 24 FE)	MDL No. 13-2472
ANTITRUST LITIGATION)	
)	Master File No. 1:13-md-2472-WES-PAS
)	
THIS DOCUMENT RELATES TO:)	
ALL END-PAYOR CLASS)	
ACTIONS)	

ORDER

WILLIAM E. SMITH, Chief Judge.

For reasons that will be fully explained in a forthcoming Opinion, the End-Payor Plaintiffs' ("EPPs") Motion for Class Certification, ECF No. 526, is GRANTED IN PART AND DENIED IN PART, insofar as the Court certifies a Third-Party Payor ("TPP") Class, as defined below, but does not certify an EPP class inclusive of consumers. In the forthcoming Opinion, the Court will rule on Defendants' Motion to Exclude the Opinion and Testimony of EPPs' Expert Gary L. French, ECF No. 575; EPPs' Motion to Exclude the Testimony and Opinions of James W. Hughes, Ph.D., ECF No. 634; Defendants' Motion to Exclude the Opinions and Testimony of Indirect Purchaser Plaintiffs' Experts Eric Miller, Laura Craft, and Myron Winkelman, ECF No. 698; EPPs' Motion to Exclude the Opinions and Testimony of Mr. Timothy Kosty and Dr. Bruce Strombom, ECF No. 733; and Defendants' Renewed Motion to Dismiss and Motion for Judgment on the Pleadings as to Claims in EPPs' Second Am.

Consolidated Class Action Compl., ECF No. 576.

The Court certifies the following "TPP Class":

All Third-Party Payor entities in the United States and its territories that indirectly purchased, paid and/or provided reimbursement for some or all of the purchase price for Loestrin 24 Fe and/or its AB-rated generic equivalents in any form, and/or Minastrin 24 Fe and/or its AB-rated generic equivalents in any form, for consumption by their members, employees, insureds, participants, or beneficiaries, other than for resale, during the period September 1, 2009 through and until the anticompetitive effects of Defendants' unlawful conduct cease. For purposes of the Class definition, entities "purchased" Loestrin 24 Fe, Minastrin 24 Fe, or their generic equivalents if they indirectly purchased, paid and/or reimbursed for some or all of the purchase price.

Expressly excluded from the TPP Class are the following entities:

- a. Defendants and their subsidiaries, or affiliates;
- b. All federal or state governmental entities, excluding cities, towns or municipalities with self-funded prescription drug plans;
- c. All entities who purchased Loestrin 24 Fe or its AB-rated generic equivalent, and/or Minastrin 24 Fe or its AB-rated generic equivalent, for purposes of resale or directly from Defendants or their affiliates;
- d. Fully insured health plans (i.e., Plans that purchased insurance from another third-party payor covering 100% of the Plan's reimbursement obligations to its members); and
- e. Pharmacy Benefit Managers.

See EPPs' Reply Mem. of Law in Further Supp. of Their Mot. for Class Certification and Appointment of Class Counsel 6-7, ECF No. 636. The Court further designates the named TPPs (A.F. of L. - A.C.G. Building Trades Welfare Plan, Allied Services Division Welfare Fund, City of Providence, Rhode Island, Electrical Workers 242 and 294 Health & Welfare Fund, Fraternal Order of Police, Fort

Lauderdale Lodge 31, Insurance Trust Fund, Laborers International Union of North America, Local 35 Health Care Fund, Painters District Council No. 30 Health & Welfare Fund, Teamsters Local 237 Welfare Benefits Fund, United Food and Commercial Workers Local 1776 & Participating Employers Health and Welfare Fund) as Class Representatives; appoints Motley Rice LLC, Miller Law LLC, Hilliard & Shadowen LLP, and Cohen Milstein Sellers & Toll PLLC as Co-Lead Class Counsel; and appoints Motley Rice LLC as Liaison Counsel.

Counsel for the TPP Class shall file with the Court, within three (3) business days, a chart indicating which causes of action in which states they continue to press at this juncture. The Court asks counsel, in formulating this chart, to be particularly mindful that they may be ineligible to bring certain state-law claims because they are not natural persons, and that facilitating the narrowing of claims where required by law will help ensure that this case may commence trial on January 6, 2020, as scheduled.

IT IS SO ORDERED.



William E. Smith
Chief Judge
Date: September 17, 2019

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: LOESTRIN 24 FE
ANTITRUST LITIGATION

MDL No. 2472

THIS DOCUMENT RELATES TO:
End-Payor Plaintiff Actions

Master File No. 1:13-md-2472-S-PAS

ORDER

The Court hereby (1) approves the End-Payor Plaintiffs' proposed forms and manners of notice to the certified class informing it of the pendency of this class action, as amended and filed at ECF No. 1244-1 (short form notice) and attached hereto as Exhibit A (long form notice); (2) appoints A.B. Data, Ltd. as the notice administrator tasked with effectuating notice to the class in anticipation of trial; and (3) allows for the amendment of the class definition to replace "until the anticompetitive effects cease" with "September 17, 2019," the date of the Court's Order certifying the TPP Class (ECF No. 1226).

Therefore, the Court's Order Certifying the TPP Class (ECF No. 1226) is modified, and the TPP Class definition shall read as follows:

All Third-Party Payor entities in the United States and its territories that indirectly purchased, paid and/or provided reimbursement for some or all of the purchase price for Loestrin 24 Fe and/or its AB-rated generic equivalents in any form, and/or Minastrin 24 Fe and/or its AB-rated generic equivalents in any form, for consumption by their members, employees, insureds, participants, or beneficiaries, other than for resale, during the period September 1, 2009 through September 17, 2019. For purposes of the Class definition, entities "purchased" Loestrin 24 Fe, Minastrin 24 Fe, or their generic equivalents if they indirectly purchased, paid and/or reimbursed for some or all of the purchase price.

Expressly excluded from the TPP Class are the following entities:

- a. Defendants and their subsidiaries, or affiliates;
- b. All federal or state governmental entities, excluding cities, towns or municipalities with self-funded prescription drug plans;
- c. All entities who purchased Loestrin 24 Fe or its AB-rated generic equivalent, and/or Minastrin 24 Fe or its AB-rated generic equivalent, for purposes of resale or directly from Defendants or their affiliates;
- d. Fully insured health plans (i.e., Plans that purchased insurance from another third-party payor covering 100% of the Plan's reimbursement obligations to its members); and
- e. Pharmacy Benefit Managers.

IT IS SO ORDERED.



William E. Smith
Chief Judge
Date: September 27, 2019

EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

NOTICE OF CLASS ACTION

**If you purchased Loestrin 24 Fe, Minastrin 24 Fe or their generic versions,
a class action lawsuit may affect your rights.**

*This Notice is being provided by Order of the U.S. District Court.
It is not a solicitation from a lawyer. You are not being sued.*

A lawsuit is pending in the United States District Court for the District of Rhode Island (“the Court”) against the following Defendants: Warner Chilcott (US), LLC, Warner Chilcott Sales (US), LLC, Warner Chilcott Company, LLC, Warner Chilcott plc, and Warner Chilcott Limited (together, “Warner Chilcott”); Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc. (together, “Watson”); and Lupin Ltd. and Lupin Pharmaceuticals, Inc. End-Payor Plaintiffs in the lawsuit claim that Defendants harmed competition and violated state antitrust, consumer protection and unjust enrichment laws in the United States and its territories. End-Payor Plaintiffs allege that Defendants unlawfully prevented, delayed, and impaired the availability of allegedly less-expensive generic versions of Loestrin 24 Fe and Minastrin 24 Fe and that Defendants’ conduct caused certain consumers and third-party payors (discussed below) to pay too much for Loestrin 24 Fe, Minastrin 24 Fe and their generic equivalents. Defendants deny any wrongdoing.

A settlement has been reached with Lupin Pharmaceuticals, Inc. and Lupin Limited (together, “Lupin,” the “Lupin Defendants” or the “Settling Defendants”). That settlement includes End-Payor Consumers and members of the Third-Party Payor (“TPPs”) class, provides for a cash payment of \$1,000,000, which is substantially less than the expenses (expert witness fees, and other expenses) that class counsel have incurred to date on behalf of the class and the cost to disseminate notice to the class. Therefore, the Class Plaintiffs’ motion for preliminary approval of the Lupin settlement asks that the Court approve deferring notice to the Lupin Settlement Class. If the Lupin settlement is the only recovery that the class receives in this litigation, then: (1) class counsel will request that the funds be used to reimburse them for their expenses; and (2) if the Court does not approve such a request, the settlement amount may not warrant distribution to the class, due to the costs of notice and claims administration.

A motion for preliminary approval is pending but the Court has not yet granted preliminary approval of that settlement. Notice regarding the Lupin Settlement and your options in that settlement will occur at a later date. **HOWEVER, AS A THIRD-PARTY PAYOR MEMBER OF THE CERTIFIED CLASS, THIS WILL BE THE ONLY OPPORTUNITY YOU WILL HAVE TO EXCLUDE YOURSELF FROM THE END-PAYOR CLASS.** The lawsuit will continue against the other Defendants, Warner Chilcott and Watson (collectively, “Non-Settling Defendants”).

On September 17, 2019, the Court determined that this case can proceed as a class action with respect to TPPs. The Court denied certification to include end user consumers. Your legal rights and options are explained below.

This lawsuit does not claim that Loestrin 24 Fe or Minastrin 24 Fe are unsafe or ineffective.

CERTIFIED CLASS

The Court certified the following “TPP Class”:

All Third-Party Payor entities in the United States and its territories that indirectly purchased, paid and/or provided reimbursement for some or all of the purchase price for Loestrin 24 Fe and/or its AB-rated generic equivalents in any form, and/or Minastrin 24 Fe and/or its AB-rated generic equivalents in any form, for consumption by their members, employees, insureds, participants, or beneficiaries, other than for resale, during the period September 1, 2009 through September 17, 2019. For purposes of the Class definition, entities “purchased” Loestrin 24 Fe, Minastrin 24 Fe, or their generic equivalents if they indirectly purchased, paid and/or reimbursed for some or all of the purchase price.

Expressly excluded from the TPP Class are the following entities:

- a. Defendants and their subsidiaries, or affiliates;

- b. All federal or state governmental entities, excluding cities, towns or municipalities with self-funded prescription drug plans;
- c. All entities who purchased Loestrin 24 Fe or its AB-rated generic equivalent, and/or Minastrin 24 Fe or its AB-rated generic equivalent, for purposes of resale or directly from Defendants or their affiliates;
- d. Fully insured health plans (i.e., Plans that purchased insurance from another third-party payor covering 100% of the Plan’s reimbursement obligations to its members); and
- e. Pharmacy Benefit Managers.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	Give up rights to be part of any other lawsuit that asserts claims related to the allegations or claims against the Defendants in this case.
EXCLUDE YOURSELF FROM THE TPP CLASS	This option allows you to exclude yourself from the TPP Class and instead file a lawsuit against the Defendants that asserts claims related to the allegations or claims in this case. The exclusion deadline is December 2, 2019 .

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

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BASIC INFORMATION ABOUT THE LAWSUIT

1. **Why did I get this Notice?**

You received this Notice because you requested it or records indicate that you may be a member of the TPP Class. On September 17, 2019, the Court certified a TPP Class but denied certification of an end user consumer class. The lawsuit is currently ongoing. All Defendants deny any wrongdoing. You are not being sued. This Notice describes the lawsuit and the rights and options you have now.

2. **What is the lawsuit about?**

The lawsuit is about the price of Loestrin 24 Fe and Minastrin 24 Fe and whether the manufacturer of these drugs, Warner Chilcott, prevented or delayed the availability of allegedly less-expensive generic versions of Loestrin 24 Fe and Minastrin 24 Fe through alleged anticompetitive agreements with Defendants and an anticompetitive product hop. End-Payor Plaintiffs (those who brought the suit) allege that Defendants did so through: (i) wrongfully obtaining patents and asserting them against generic-drug manufacturers; (ii) unlawfully settling patent lawsuits in which the patents covering Loestrin 24 Fe were in dispute; and (iii) unlawfully switching patients from Loestrin 24 Fe to Minastrin 24 Fe and discontinuing Loestrin 24 Fe. End-Payor Plaintiffs claim that Defendants' actions denied End-Payors who purchased, paid and/or provided reimbursement for Loestrin 24 Fe and Minastrin 24 Fe the benefits of free and unrestricted competition and caused them to pay higher prices for Loestrin 24 Fe and Minastrin 24 Fe than they otherwise would have.

Defendants deny these claims and deny that they did anything wrong. The litigation is proceeding and, at this point, no court or other authority has found that the Defendants engaged in any wrongdoing.

3. **What is the current status of the lawsuit?**

The lawsuit is currently pending in the United States District Court for the District of Rhode Island before United States District Chief Judge William E. Smith. The case name is *In re Loestrin 24 Fe Antitrust Litigation*, MDL No. 2472 (D.R.I.), and the Civil Action Number is 1:13-md-02472-WES-PAS. End-Payor Plaintiffs have reached a settlement agreement with the Lupin defendants, which is not expected to result in any payments to class members. Jury selection will commence December 16, 2019, and the trial against all remaining Defendants is currently scheduled to begin on January 6, 2020.

DETERMINING IF YOU ARE A MEMBER OF THE TPP CLASS

4. **I am a Third-Party Payor that has purchased, paid and/or provided reimbursement for Loestrin 24 Fe, Minastrin 24 Fe and/or their generic equivalents, other than for resale; how do I know if I am a member of the TPP Class?**

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

- From September 1, 2009 through September 17, 2019, you purchased, paid and/or provided reimbursement for some or all of the purchase price for Loestrin 24 Fe and/or its AB-rated generic equivalents in any form and/or Minastrin 24 Fe and/or its AB-rated generic equivalents in any form, in the United States and its territories, for consumption by your members, employees, insureds, participants, or beneficiaries, other than for resale. For purposes of the Class definition, entities "purchased" Loestrin 24 Fe, Minastrin 24 Fe, or their generic equivalents if they indirectly purchased, paid and/or reimbursed for some or all of the purchase price.

Expressly excluded from the TPP Class are the following entities:

- a. Defendants and their subsidiaries, or affiliates;
- b. All federal or state governmental entities, excluding cities, towns or municipalities with self-funded prescription drug plans;
- c. All entities who purchased Loestrin 24 Fe or its AB-rated generic equivalent, and/or Minastrin 24 Fe or its AB-rated generic equivalent, for purposes of resale or directly from Defendants or their affiliates;
- d. Fully insured health plans (i.e., Plans that purchased insurance from another third-party payor covering 100% of the Plan's reimbursement obligations to its members); and

e. Pharmacy Benefit Managers.

Third-Party Payors include all health insurance companies, third-party administrators, health maintenance organizations, health and welfare plans that make payments from their own funds, and other health benefit providers and entities with self-funded plans that contract with a health insurer or administrator to administer their prescription drug benefits. Third-Party Payors include such private entities that may provide prescription drug benefits for current or former public employees and/or public benefits programs, but only to the extent that such a private entity purchased Loestrin 24 Fe, Minastrin 24 Fe, or their generic equivalents for consumption by its members, employees, insureds, participants, or beneficiaries.

EXCLUDING YOURSELF FROM THE TPP CLASS

5. What does it mean to request to be excluded from the TPP Class?

If you do not want to be part of the TPP Class and you want to keep your right to sue the Defendants relating to the allegations in *In re Loestrin 24 Fe Antitrust Litigation* concerning the alleged delay and impairment of competition from generic Loestrin 24 Fe and Minastrin 24 Fe, then you must take steps to remove yourself from the TPP Class. This is called excluding yourself, or “opting out” of the TPP Class. If you exclude yourself, you will not receive any payment or anything else from the TPP Class from which you exclude yourself and you will not be bound by orders of the Court.

6. How do Third-Party Payors get out of the case? (Excluding a Third-Party Payor)

Third-Party Payors that want to be excluded from the TPP Class must submit a written request for exclusion to the Notice Administrator. Your request for exclusion must include: (i) the entity name, address, and IRS EIN; (ii) the name and title of the entity representative; (iii) the name of this case, *In re Loestrin 24 FE Antitrust Litigation*, MDL No. 2472; and (iv) a statement, signed by an authorized representative, that you are a member of the TPP Class and wish to be excluded from the TPP Class; Exclusion requests must be mailed to the Notice Administrator at the address below and postmarked no later than **December 2, 2019**:

In re Loestrin 24 Fe Antitrust Litigation
EXCLUSIONS
P.O. Box 173001
Milwaukee, WI 53217

A separate exclusion request must be submitted by each Third-Party Payor electing to be excluded from the Class. Any Third-Party Payor included in the Class that does not submit a valid request for exclusion providing all necessary information will be bound by the outcome of the case.

Any Third-Party Payor that wants to opt out the claims of others whom the Third-Party Payor provides services (e.g., welfare funds or employers for whom the Third-Party Payor acts as an Administrative Services Organization), must include for each such entity all of the information noted in items i–iv above. In addition, for each such entity the Third-Party Payor must provide a Declaration from an authorized representative of the entity, substantially in the form noted below and executed specifically in connection with this litigation, attesting to the Third-Party Payor’s authority to opt the entity’s claims out of the Class. The Third-Party Payor must mail this information to the Notice Administrator at the address below and postmarked no later than **December 2, 2019**.

<p>Date: Declarant Entity Name Declarant Entity Address Declarant Entity Telephone Number</p> <p>Declarant Entity EIN</p> <p>Dear Notice Administrator:</p> <p>I am [Name and Title of Officer or Employee of Declarant Entity Requesting Exclusion]. [Declarant Entity] has authorized [Third Party Payor] to request exclusion from the TPP certified class in this case and the Proposed Lupin Settlement Class on [Declarant Entity’s] behalf in the case of <i>In re Loestrin 24 Fe Antitrust Litigation</i>, MDL No. 2472.</p> <p>[Declarant Entity] hereby acknowledges that, as a result of this authorization and opting out, [Declarant Entity] will not receive any future proceeds resulting from this litigation, should any exist.</p> <p>I do so declare under penalty of perjury.</p> <p>_____ Name of Officer or Employee Title of Officer or Employee</p> <p>_____ Date Signed</p>

7. What is the legal significance of excluding myself?

If you exclude yourself, you will not be legally bound by the outcome of the case from which you exclude yourself. You may be able to sue the Defendants in the future.

8. If I don’t exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue the Defendants for the claims in this case. You must exclude yourself from the TPP Class to be able to bring your own, separate lawsuit(s) against the Defendants. Remember, the exclusion deadline is **December 2, 2019**.

IF YOU DO NOTHING

9. What happens if I do nothing at all?

If you do nothing, you will be bound by the orders of the Court and the outcome of the case and may participate in any recoveries that it might generate. Unless you exclude yourself, you will not be able to file a lawsuit or be part of any other lawsuit asserting claims against the Defendants concerning or relating to the claims and factual allegations that were or could have been raised in this action.

THE LAWYERS REPRESENTING YOU

10. As a member of the TPP Class, do I have a lawyer representing my interests in this Class Action?

Yes. The Court has appointed lawyers to represent you and other TPP Class Members. These lawyers are called Class Counsel. You will not be charged individually for these lawyers. They will ask the Court to approve an award for expenses in connection with the Loestrin 24 Fe Antitrust Litigation. The following lawyers represent the Class:

COUNSEL FOR THE CLASS	
Marvin A. Miller MILLER LAW LLC 115 South LaSalle Street, Suite 2910 Chicago, IL 60603 (312) 332-3400	Steve Shadowen HILLIARD & SHADOWEN LLP 1135 W. 6th Street, Suite 125 Austin, TX 78703 (855) 344-3298
Michael M. Buchman MOTLEY RICE LLC 777 Third Avenue, 27 th Floor New York, NY 10017 (212) 577-0040	Sharon K. Robertson COHEN MILSTEIN SELLERS & TOLL PLLC 88 Pine Street, 14th Floor New York, NY 10005 (212) 838-7797

11. How will the lawyers be compensated? Will the named Plaintiffs receive an incentive award?

Class Counsel may seek up to one-third of any future recovery that may occur in this Class Action against the Defendants. They also may ask for reasonable additional incentive awards for the named Plaintiffs from any future recovery that may occur in this Class Action.

12. Should I get my own lawyer?

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

GETTING MORE INFORMATION

13. Where do I get more information?

This Notice contains a summary of relevant court papers. Complete copies of public pleadings, Court rulings, and other filings are available for review and copying at the Clerk’s office. The address is Federal Building and Courthouse, One Exchange Terrace, Providence, RI 02903. Chief Judge William E. Smith of the United States District Court for the District of Rhode Island is overseeing the Class Action. You can also review relevant Decisions and Orders online at **www. InReLoestrin24FeAntitrustLitigation.com**.

Additional information about the Class Action is available on the case website at **www. InReLoestrin24FeAntitrustLitigation.com**, or you can call the Notice Administrator toll-free at 1-877-324-0380. *Please do not contact the Court or Chief Judge Smith.*

For more information, call the Notice Administrator at 1-877-324-0380 or go to www. InReLoestrin24FeAntitrustLitigation.com.

DATED: September 27, 2019

BY ORDER OF THE UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND