UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK DIVISION

IN RE: METFORMIN MARKETING AND SALES PRACTICES LITIGATION	Case No. 2:20-cv-2324-MCA-MAH Honorable Madeline C. Arleo Honorable Michael A. Hammer

JOINT DECLARATION OF CO-LEAD COUNSEL IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENTS

We, James Cecchi, Ruben Honik, Conlee Whiteley, David Stanoch, Max Roberts, Joseph P. Guglielmo, Marlene Goldenberg, Charles E. Schaffer, and Janpaul Portal declare and state pursuant to 28 U.S.C. § 1746 as follows:

1. We are counsel of record for Plaintiffs Joseph Brzozowski, Jacqueline Harris, Kristen Wineinger, Michael Hann, Masao Hendrix, MSP Recovery Claims, Series LLC, County of Monmouth, and Central Midwest Regional Council of Carpenters Welfare Fund f/k/a Ohio Carpenters' Health Fund ("Plaintiffs") and Co-Lead Counsel for the Settlement Class.[1] We submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Settlements. Unless otherwise noted, we have personal knowledge of the facts set forth in this declaration and could and would testify competently to them if called upon to do so.

[1] All terms not defined herein shall have the same meaning as in the Settlement Agreements (ECF No. 641-1 Exs. 1-2).

2. This case was first brought in March 2020. During the last six years of litigation, Co-Lead Counsel have performed at least the following work:

(i) Drafting the Consolidated Class Action Complaint and subsequent First, Second, Third, and Fourth Amended Consolidated Complaints;

(ii) Litigating (and ultimately prevailing on) several motions to dismiss;

(iii) Preparing discovery requests, conducting numerous meet and confers with Defendants, litigating a number of discovery disputes; and reviewing thousands of documents;

(iv) Preparing responses to Defendants' discovery requests, including securing medical records for Consumer Plaintiffs and custodial records for TPP Plaintiffs;

(v) Defending depositions of all but one of the Consumer Plaintiffs[2];

(vi) Consulting with experts regarding the alleged NDMA contamination of Defendants' MCDs;

(vii) Negotiating the Settlements at arm's-length over many months, including with the assistance of Judge Hammer in connection with the Granules settlement; and

(viii) Preparing the various settlement, notice, and preliminary approval materials presented to the Court, and overseeing the notice plan.[3]

[2] Plaintiff Hann was scheduled to sit for his deposition, but it was taken off calendar in light of the Parties' settlement negotiations. Nonetheless, Plaintiff Hann still prepared for his deposition with Co-Lead Counsel.

[3] Attached hereto as **Exhibit 1** is a true and correct copy of the transcript for the

3. Despite our confidence in the strength of Plaintiffs' claims, this case presented substantial risk to Plaintiffs. Plaintiffs would need to prove that the MCDs they paid for were actually contaminated with NDMA, and how much less in value that contamination rendered their MCDs. If Teva and Granules/Heritage were able to show that Plaintiffs' MCDs were not actually contaminated—or even if they were, that the MCDs still retained some value—Plaintiffs would not be able to recover *any* money in the litigation, or would at least not be able to recover a full refund. Indeed, Plaintiffs' claims were already twice dismissed in their entirety for lack of Article III standing. This dispute would require extensive expert testimony regarding the harm of NDMA from a scientific standpoint, and a damages analysis of how that contamination affected the MCDs' value. The *In re Valsartan* case—where similar evidence was adduced, similar disputes were raised, and in which many of us serve as class counsel—shows the complexity of cases like this one.

4. In addition, even if Plaintiffs were successful at proving the merits of their case, it is not clear that Plaintiffs could obtain certification of a nationwide class on a contested motion, meaning they might not ultimately recover money for all Settlement Class Members outside of settlement. Adding to the degree of difficulty Co-Lead Counsel encountered, Teva and Granules/Heritage were each represented by formidable counsel, who would certainly appeal any order granting class

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certification or adverse jury verdict.

5. The Settlement thus represents a substantial recovery. Consumer Class Members from any state are expected to receive a full refund for their MCDs, and the Teva Settlement Fund and Granules Settlement Fund constitute more than 50% and close to 100% respectively of Teva and Granules' MCD-related revenue.

6. The Settlement and Plan of Allocation provide that TPP Class Members are expected to receive a *pro rata* percentage of their potential damages based on the amount of purchases of recalled MCDs manufactured by Teva and Granules. We believe that the estimated percentage of recovery for TPP Class Members to be between approximately 40% to 50% of their purchase amounts. Because TPP Class Members' purchase amounts were more than what Teva and Granules were paid for MDCs, the recovery would be a larger percentage of TPP Class Members' recovery if their damages were limited to the amounts received by these Defendants.

7. Following our preliminary review of claims data, we made the decision to deem only Consumer Settlement Class Member claims for less than $1,000 with proof-of-payment as "presumptively valid." This decision was made based on two factors. *First*, as a prescription medication, there is an easy and verifiable method of proving out-of-pocket costs related to MCDs: prescription records from pharmacies. Indeed, each of the Consumer Plaintiffs obtained said documentation and produced it as part of discovery. Thus, eliminating claims without proof-of-

payment was necessary to deter claims fraud and ensure all relief ended up with actual Settlement Class Members. *Second*, copayments for metformin are typically very low. The average out-of-pocket payment for the Consumer Plaintiffs for Teva or Granules metformin was approximately $13.92.[4] Assuming a consumer filled a metformin prescription every month for the 60 months of the Class Period (which, of course, not all Consumer Class Members did), that consumer would have spent $835.20 in costs. Accordingly, Co-Lead Counsel determined that claims for $1,000 or more in out-of-pocket costs would be unlikely.

8. The total amount of presumptively valid claims by Consumer Settlement Class Members is 3,353 for $1,193,989.92 in relief. Of course, all Settlement Class Members with deficient claims will be provided the ability to rectify their deficient claims and submit acceptable proof-of-payment.

9. Similarly, following our preliminary review of claims data, we made the decision to deem only TPP Settlement Class Member claims for $250,000 or less with proof-of-payment as "presumptively valid." Again, as a prescription medication, there is an easy and verifiable method of proving out-of-pocket costs related to MCDs. Further, of the named TPP Plaintiffs, MSP had the largest out-of-pocket expenses (by far) for the Teva and Granules/Heritage MCDs with $229,000

[4] This amount was computed by taking the average of the copayment amounts for the at-issue MCDs for the Consumer Plaintiffs (found at 4AC ¶¶ 188, 193, 198, 203, 208, 213).

in paid claims. Thus, Co-Lead Counsel used MSP's expenses as a benchmark for which TPP Settlement Class Member claims would be "presumptively valid."

10. The total amount of presumptively valid claims by TPP Class Members is 104 for $2,005,184.65 in relief. Again, all Settlement Class Members with deficient claims will be provided the ability to rectify their deficient claims and submit acceptable proof-of-payment.

11. Following Preliminary Approval, Co-Lead Counsel was contacted by counsel for plaintiffs in *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724, 16-md-2724 (E.D. Pa.); *Connecticut et al. v. Aurobindo Pharma USA, Inc. et al.*, Case No. 3:16-cv-02056-MPS (D. Conn.); *Connecticut et al. v. Teva Pharmaceuticals USA, Inc. et al.*, Case No. 3:19-cv 00710-MPS (D. Conn.); and *Connecticut et al. v. Sandoz Inc. et al.*, Case No. 3:20-cv-00802-MPS (D. Conn.). Plaintiffs' counsel in those cases requested that Co-Lead Counsel and the Teva and Granules/Heritage Defendants specify that the release in this Action will not affect the claims at issue in those cases. Co-Lead Counsel and Teva and Granules/Heritage Defendants' counsel agreed, as the intent of the Agreement was never to release claims in other active litigation. Thus, the [Proposed] Final Approval Order includes a provision (paragraph 21) setting forth that the releases in the Settlement Agreements do not affect the claims in the aforementioned actions.

12. Since the implementation of the Notice plan in May 2026, Co-Lead

Counsel has worked in conjunction with the Claims Administrator, A.B. Data, Ltd. ("AB Data"), to effectuate the Court-ordered Notice, and have fielded inquiries from Settlement Class Members answering their questions and assisting them in filing claims. In addition, Co-Lead Counsel has remained in contact with AB Data regarding the claims rate and questions about submitted forms.

13. The Parties agreed to the terms of the Settlements through experienced counsel who possessed all the information necessary to evaluate the case, determine the contours of the proposed Settlement Class, and reach a fair and reasonable compromise after negotiating the terms of the Settlements at arm's length.

14. Co-Lead Counsel are highly experienced in class action litigation, including with respect to consumer products, and have reached settlements concerning allegedly contaminated medications like those here. As noted above, many members of Co-Lead Counsel's slate are class counsel in the analogous *In re Valsartan* matter, which was certified as a class and survived dispositive motions. Co-Lead Counsel have devoted substantial time and resources to the prosecution of this action by investigating Plaintiffs' claims and that of the Settlement Class, aggressively prosecuting those claims, briefing multiple motions to dismiss, reviewing and analyzing documents and information from Defendants, and ultimately, negotiating a favorable class action settlement.

15. Plaintiffs and Co-Lead Counsel recognize that, despite their belief in

the strength of Plaintiffs' claims and Plaintiffs' and the Settlement Class's ability to ultimately secure a favorable judgment at trial, the expense, duration, and complexity of protracted litigation would be substantial and the outcome of trial uncertain.

16. Plaintiffs and Co-Lead Counsel are also mindful that absent a settlement, the success of the Teva and Granules/Heritage Defendants' various defenses in this case could deprive Plaintiffs and Settlement Class Members of any potential relief whatsoever. The Teva and Granules/Heritage Defendants are represented by highly experienced and formidable counsel.

17. Notwithstanding how long this matter has been pending, significant fact and expert discovery remains to be done, including on, among other things, (i) the scope and effect of the alleged NDMA contamination; (ii) scientific evidence regarding the alleged harmful effects of NDMA; (iii) the amount of damages claimed by Settlement Class Members (*i.e.*, how much of the amount each Settlement Class Member paid for an MCD are they entitled to); and (iv) the exact identities of the class members. The Parties would then need to brief class certification, any Rule 23(f) petitions filed by any party, and summary judgment. The costs of the litigation would thus continue to increase significantly.

18. The Teva and Granules/Heritage Defendants would vigorously contest liability, including the scope and levels of the NDMA contamination in the MCDs

and whether the amount of NDMA in the products (if any) rendered them unsafe, and thus, were worth less than what Plaintiffs paid, requiring extensive expert analysis and opinion, with a judge or jury determining the outcome, either at summary judgment or trial.

19. Plaintiffs also faced risks in briefing class certification. At class certification, Plaintiffs would be required to satisfy a challenging ascertainability standard. *See generally Carrera v. Bayer Corp.*, 727 F.3d 300 (3d Cir. 2013). More important, Plaintiffs would need to demonstrate that all or substantially all of the MCDs sold by Teva and Granules/Heritage were contaminated with NDMA to ensure all Settlement Class Members had standing. On top of this, Plaintiffs would have to demonstrate the amount of NDMA in the MCDs rendered the MCDs so contaminated that they were worth less than what Plaintiffs paid for them.

20. Thus, at each stage, Plaintiffs faced risks and the costs of the litigation would thus continue to increase significantly. These Settlements permit a prompt resolution of this action against the Teva and Granules/Heritage Defendants and provides meaningful to the Settlement Class, years earlier than if the case proceeded to judgment through trial and/or appeals and provides certainty.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Roseland, New Jersey, on July 24, 2026.

/s/ James E. Cecchi
James E. Cecchi

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Walnut Creek, California, on July 24, 2026.

/s/ Max S. Roberts
Max S. Roberts

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in New Orleans, Louisiana on July 24, 2026.

/s/ Conlee S. Whiteley
Conlee S. Whiteley

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Philadelphia, Pennsylvania on July 24, 2026.

/s/ David J. Stanoch
David J. Stanoch

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Philadelphia, Pennsylvania on July 24, 2026.

/s/ Ruben Honik
Ruben Honik

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Minneapolis, Minnesota on July 24, 2026.

/s/ Marlene Goldenberg
Marlene Goldenberg

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in New York, New York on July 24, 2026.

/s/ Joseph P. Guglielmo
Joseph P. Guglielmo

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Philadelphia, Pennsylvania on July 24, 2026.

/s/ Charles E. Schaffer
Charles E. Schaffer

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Miami, Florida on July 24, 2026.

/s/ Janpaul Portal
Janpaul Portal