

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

NOTICE OF CLASS ACTION

**If you purchased Solodyn or its generic version,
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 Massachusetts (“the Court”) against the following Defendants: Medicis Pharmaceutical Corp., Impax Laboratories, Inc., Lupin Limited, Lupin Pharmaceuticals Inc., and Sandoz Inc. Plaintiffs in the lawsuit claim that Defendants hurt competition and violated state laws in the United States and its territories, including Puerto Rico. Plaintiffs allege Defendants unlawfully delayed the availability of allegedly less-expensive generic versions of Solodyn and that Defendants’ conduct caused certain consumers and third-party payors (discussed below) to pay too much for Solodyn in these states and territories. Defendants deny any wrongdoing.

On October 16, 2017, the Court determined that this case could proceed as a Class Action.

This lawsuit does not claim that Solodyn is unsafe or ineffective.

CERTIFIED CLASS

You may be a member of the Class if, during the period from July 23, 2009, until the alleged anticompetitive effects of Defendants’ allegedly unlawful conduct cease (the “Class Period”):

- As a Consumer, you purchased or paid for some or all of the purchase price for Solodyn 45mg, 55mg, 65mg, 80mg, 90mg, 105mg, 115mg, and/or 135mg tablets and/or generic versions of one or more of these dosages, for consumption by yourself or your family, other than for resale, in Alabama, Alaska, Arizona, Arkansas, California, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia and Puerto Rico.
- As a Third-Party Payor, you purchased, paid and/or reimbursed for some or all of the purchase price for Solodyn 45mg, 55mg, 65mg, 80mg, 90mg, 105mg, 115mg, and/or 135mg tablets and/or generic versions of one or more of these dosages, for consumption by your members, employees, insureds, participants, or beneficiaries, other than for resale, in Alabama, Alaska, Arizona, Arkansas, California, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia and Puerto Rico.

The following persons or entities are excluded from the End-Payor Class: (a) Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates; (b) All federal or state governmental entities, excluding cities, towns, or municipalities with self-funded prescription drug plans; (c) All persons or entities that purchased Solodyn or its generic equivalents for purposes of resale or directly from the Defendants or their affiliates; (d) Fully insured health plans (plans that purchased insurance from another third-party payor covering 100% of the plan’s reimbursement obligations to its members); (e) Pharmacy Benefits Managers; (f) Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs); and (g) The judges in this case and any members of their immediate families.

| YOUR LEGAL RIGHTS AND OPTIONS | |
|--|--|
| EXCLUDE YOURSELF FROM THE CLASS | This option allows you to exclude yourself from the Class and instead file a lawsuit against the Defendants asserting claims related to the allegations or claims in this case. The exclusion deadline is February 10, 2018 . |
| 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. |

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 End-Payor Class. The Court certified this case as a Class Action on October 16, 2017. 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 Solodyn and whether its manufacturer, Medicis, delayed the availability of an allegedly less-expensive generic version through alleged anticompetitive agreements with Defendants. Plaintiffs

(those who brought the suit) allege that Defendants did so through unlawful settlement of patent lawsuits in which the patents covering Solodyn were in dispute. Plaintiffs claim that Defendants' actions denied End-Payers who paid for Solodyn the benefits of competition and caused them to pay higher prices for Solodyn than they otherwise would have.

Defendants deny these claims and deny they did anything wrong. No court or other authority has found that 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 Massachusetts before United States District Judge Denise J. Casper. The case name is *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation*, and the civil action number is 1:14-md-2503-DJC. Trial is currently scheduled to begin on March 12, 2017. On November 27, 2017, the Court entered a Final Approval Order for the Lupin and Sandoz settlements. The Medicis and Impax Defendants filed a petition for interlocutory review of the class certification decision.

DETERMINING IF YOU ARE A MEMBER OF THE CLASS

4. **I am an individual who purchased or paid for Solodyn and/or its generic equivalent; how do I know if I am a member of the Class?**

As a **Consumer**, you may be a member of the Class if:

- From July 23, 2009, until the alleged anticompetitive effects of Defendants' allegedly unlawful conduct cease, you purchased or paid for some or all of the purchase price for 45mg, 55mg, 65mg, 80mg, 90mg, 105mg, 115mg, and/or 135mg Solodyn and/or its generic versions of one or more of these dosages, in Alabama, Alaska, Arizona, Arkansas, California, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia and Puerto Rico, in tablet form, for consumption by yourself or your family.
- The following are **NOT** members of the Class:
 - Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;
 - All persons or entities that purchased Solodyn or its generic equivalents for purposes of resale or directly from the Defendants or their affiliates;
 - Flat co-payers (consumers who paid the same co-payment amount for brand and generic drugs); and
 - The judges in this case and any members of their immediate families.

5. **I am a Third-Party Payor that has purchased or paid for Solodyn and/or its generic equivalent; how do I know if I am a member of the Class?**

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

- From July 23, 2009, until the alleged anticompetitive effects of Defendants' allegedly unlawful conduct cease, you purchased, paid and/or reimbursed for some or all of the purchase price for 45mg, 55mg, 65mg, 80mg, 90mg, 105mg, 115mg, and/or 135mg Solodyn and/or its generic versions of one or more of these dosages in Alabama, Alaska, Arizona, Arkansas, California, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the District of Columbia and Puerto Rico, in tablet form, for consumption by your members, employees, insureds, participants, or beneficiaries.
- As a Third-Party Payor, you are **NOT** a member of the Class if you are among any of the following:

- Defendants and their counsel, officers, directors, management, employees, subsidiaries, or affiliates;
- All federal or state governmental entities, excluding cities, towns, or municipalities with self-funded prescription drug plans;
- All persons or entities that purchased Solodyn or its generic equivalents for purposes of resale or directly from the Defendants or their affiliates;
- Fully insured health plans (plans that purchased insurance from another Third-Party Payor covering 100% of the plan's reimbursement obligations to its members); and
- Pharmacy Benefits 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 Solodyn and/or its generic equivalent for consumption by its members, employees, insureds, participants, or beneficiaries. For purposes of this definition, an entity "paid for" Solodyn and/or its generic equivalent if it paid some or all of the purchase price.

EXCLUDING YOURSELF FROM THE CLASS

6. What does it mean to request to be excluded the Class?

If you do not want to be part of the Class and you want to keep your right to sue the Defendants relating to the allegations in *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation* concerning the alleged delay in the entry of generic Solodyn, then you must take steps to remove yourself from Class. This is called excluding yourself, or "opting out" of the Class. If you exclude yourself, you will not receive any payment or anything else from the Class from which you exclude yourself.

7. How do I get out of the Class? (Excluding a consumer.)

To exclude yourself from the Class, you must send a letter by mail saying that you wish to be excluded from the Class in *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation*, MDL No. 2503. Be sure to include your name, address, telephone number, and signature. You cannot exclude yourself on the telephone or by email. You must mail your Request for Exclusion, postmarked no later than **February 10, 2018**, to:

In re Solodyn Antitrust Litigation (End-Payor Action)
EXCLUSIONS
P.O. Box 173001
Milwaukee, WI 53217

8. 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 Class must submit a written request for exclusion to the Notice Administrator. Your request for exclusion must include: (1) the entity name, address, and IRS EIN; (2) the name and title of the entity representative; (3) the name of this case, *In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation*, MDL No. 2503; (4) a statement, signed by an authorized representative, that you are a member of the Class and wish to be excluded from the Class; and (5) data sufficient to establish your entity's relevant Solodyn and generic extended-release minocycline hydrochloride purchases or payments, for the period from July 23, 2009, to the present, and each State in which relevant purchases or payments were made. Exclusion requests must be mailed to the Notice Administrator at the address below and postmarked no later than **February 10, 2018**:

In re Solodyn Antitrust Litigation (End-Payor Action)
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 represents (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 1 through 5 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 above and postmarked no later than **February 10, 2018**.

| |
|---|
| Date |
| Declarant Entity Name |
| Declarant Entity Address |
| Declarant Entity Telephone Number |
| |
| Declarant Entity EIN |
| |
| Dear Notice Administrator: |
| |
| 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 End-Payor Class on [Declarant Entity’s] behalf in the case <i>In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation</i> , MDL No. 2503, Civil Action No. 1:14-MD-2503-DJC. [Declarant Entity] hereby acknowledges that, as a result of this authorization and opting out, [Declarant Entity] will not receive any future proceeds of the End-Payor Class case, should any exist. |
| |
| I do so declare under penalty of perjury. |
| |
| _____ |
| Name of Officer or Employee |
| Title of Officer or Employee |
| _____ |
| Date Signed |

9. **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.

10. **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 Class to be able to bring your own, separate lawsuit(s) against the Defendants. Remember, the exclusion deadline is **February 10, 2018**.

IF YOU DO NOTHING

11. **What happens if I do nothing at all?**

If you do nothing, you will be bound by the outcome of the case. 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

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

Yes. The Court has appointed lawyers to represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged individually for these lawyers. They will ask the Court to approve and award for attorneys' fees, expenses and incentive awards in connection with the Solodyn Antitrust Litigation. The following lawyers represent the Class:

| COUNSEL FOR THE CLASS | |
|---|--|
| <p>Michael M. Buchman MOTLEY RICE LLC 600 Third Avenue, Suite 2101 New York, NY 10016 212-577-0040</p> | <p>Steve Shadowen HILLIARD & SHADOWEN LLP 2407 S. Congress Ave., Ste. E 122 Austin, TX 78704 855-344-3298</p> |

13. 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 against the Defendants.

14. 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

15. 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 John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, MA 02210. Judge Denise J. Casper for the United States District Court for the District of Massachusetts is overseeing the Class Action. You can also review relevant Decisions and Orders online at www.SolodynCase.com.

Additional information about the Class Action is available on the case website, www.SolodynCase.com, or you can call the Notice Administrator toll-free at 1-800-332-7414. *Please do not contact the Court or Judge Casper.*

For more information, call the Notice Administrator at 1-800-332-7414, or go to www.SolodynCase.com.

DATED: NOVEMBER 29, 2017

BY ORDER OF THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS