

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

In re: RESTASIS (CYCLOSPORINE  
OPHTHALMIC EMULSION) ANTITRUST  
LITIGATION

18-MD-2819 (NG) (LB)

THIS DOCUMENT APPLIES TO:

**All Direct Purchaser Class Actions:**

*FWK Holdings, LLC v. Allergan, Inc.*, 18-cv-00677 (E.D.N.Y.);

*Rochester Drug Co-Operative, Inc. v. Allergan, Inc.*, 18-cv-00970 (E.D.N.Y.);

*KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., v. Allergan, Inc.*, No. 18-cv-00974 (E.D.N.Y.); and

*Meijer, Inc. and Meijer Distribution, Inc. v. Allergan, Inc.*, 19-cv-02563 (E.D.N.Y).

**ORDER GRANTING DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR  
DISTRIBUTION OF NET SETTLEMENT FUND**

NOW, upon consideration of Direct Purchaser Class Plaintiffs' Motion for Distribution of Net Settlement Fund and the accompanying Memorandum in Support and the Declaration of Tina Chiango of RG/2 Claims Administration LLC and the exhibits thereto:

WHEREAS, the Court previously issued an Opinion and Order granting Direct Purchaser Class Plaintiffs' Unopposed Motion for Certification of Settlement Class, Final Approval of Settlement, Approval of Plan of Allocation, Reimbursement of Expenses and Award of Attorneys' Fees and Service Awards, and Order Dismissal with Prejudice (ECF No. 562), approving the settlement between direct purchaser plaintiffs FWK Holdings, LLC, Rochester Drug Co-Operative, Inc., KPH Healthcare Services, Inc. a/k/a/ Kinney Drugs, Inc., Meijer, Inc., and Meijer

Distribution, Inc. and defendant Allergan, Inc. (ECF No. 490-1) and the plan of allocation (ECF No. 490-7);

WHEREAS, pursuant to the Court-approved plan of allocation, RG/2 Claims Administration LLC (“RG/2”), the Court-appointed claims administrator, was required to and did disseminate claim forms to each class member by U.S. First-Class Mail and email setting forth the calculation of each class member’s qualifying purchases of Restasis and posted a blank version of the claim form on the settlement website, <https://restasisantitrustsettlement.com/>;

WHEREAS, RG/2 has received valid, accepted claim forms from 32 claimants who are eligible for participation in the net settlement fund (class members or their assignees) and, with the assistance of class counsel’s economic consultant, Econ One Research, Inc. (“Econ One”), has calculated each of these 32 claimants’ net qualifying purchases of Restasis and determined the *pro rata* percentages of the net settlement fund<sup>1</sup> allocated to each such claimant;

WHEREAS, RG/2 has incurred administration fees of \$12,497 and anticipates incurring an additional \$5,000 in fees and expenses for distributing the net settlement fund and completing the administration of the settlement;

WHEREAS, in addition to RG/2’s outstanding and anticipated fees, class counsel have incurred unpaid fees from Econ One totaling \$12,226.50 for work done calculating the figures used in the pre-populated claim forms mailed to each class member, reviewing and analyzing data submitted by claimants, and calculating the *pro rata* share of the net settlement fund due to each claimant that filed a valid claim form;

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<sup>1</sup> The net settlement fund is the \$51.25 million settlement amount, net of Court-approved attorneys’ fees, costs and expenses (including expenses related to claims administration), and service awards for class representatives, plus interest.

WHEREAS, as set forth in the Final Approval Order, the Court has retained jurisdiction over the settlement and the settlement agreement, including the administration and consummation of the settlement and over the Final Approval Order;

NOW THEREFORE, IT IS HEREBY ORDERED as follows:

1. The administrative determinations of RG/2 concerning the claims submitted in this case as set forth in the Declaration of Tina Chiango of RG/2 Claims Administration LLC in Support of Direct Purchaser Class Plaintiffs' Motion for Distribution of Net Settlement Fund are hereby APPROVED.

2. Payment from the net settlement fund in the amount of \$17,497 to RG/2 for fees and expenses associated with the claims administration process is hereby APPROVED.

3. Payment from the net settlement fund in the amount of \$12,226.50 to Econ One for fees and expenses associated with the claims administration process is hereby APPROVED.

4. The entire net settlement fund, including all interest earned and less the payments of \$17,497 to RG/2 and \$12,226.50 to Econ One for fees and expenses associated with the claims administration process, shall be distributed to the 32 claimants whose claims have been accepted by RG/2, listed in Exhibit B to the Chiango Declaration, or to the claimant's designated assignee, in accordance with the claimant's instructions. RG/2 shall distribute to each of the 32 claimants or their designated assignees each claimant's *pro rata* percentage share of the net settlement fund as computed by Econ One, which assisted RG/2 with the claims administration.

5. No additional claim forms beyond the valid, accepted claim forms previously received and accepted by RG/2 and listed in Exhibit B to the Chiango Declaration shall be allowed.

6. Any further or additional claims against the net settlement fund established for purposes of this settlement, beyond those 32 claimants that filed approved, accepted claims that

