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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: XYREM (SODIUM OXYBATE)
ANTITRUST LITIGATION

Case No. 3:20-md-02966-RS-SVK

**ORDER GRANTING MOTION FOR
ENTRY OF AN ORDER TO APPROVE
THE FORM AND MANNER OF
NOTICE, AND APPOINT A NOTICE
ADMINISTRATOR FOR CLASS
ACTION SETTLEMENT**

THIS DOCUMENT APPLIES TO:
ALL CLASS ACTIONS

1 On February 28, 2023, Class Plaintiffs¹ entered into a settlement agreement to resolve
2 their claims against two of the Defendants in this action, Amneal and Lupin. Class Plaintiffs
3 moved for and were granted preliminary approval of the proposed class action settlement, the
4 terms and conditions of which are set forth in the Settlement Agreement filed on March 3, 2023.
5 Dkt. 423-2. The proposed settlement is only between the Settlement Class and Amneal and
6 Lupin. It does not include Jazz, Hikma, Par,² or any related companies (including but not limited
7 to those named as Defendants in this litigation). No class or individual claims against those
8 entities will be released, and litigation continues against the non-settling Defendants. On May 12,
9 2023, Class Plaintiffs' motion for class certification was granted and two litigation classes were
10 certified: the Injunctive Relief Class and the Damages Class. Dkt. 500.

11 Having read and considered Class Plaintiffs' Notice of Motion and Motion for Entry of an
12 Order to Approve the Form and Manner of Notice and Appoint a Notice Administrator, there are
13 sufficient grounds to appoint Class Plaintiffs' proposed Notice Administrator and authorize the
14 Class Plaintiffs' proposed Notice Plan.

15 Accordingly, it is **HEREBY ORDERED** that:

- 16 1. The Court appoints and designates A.B. Data as the Notice Administrator.
- 17 2. The Court approves the proposed Notice Plan, including the form, manner, and
18 content of the proposed notices. The notices are written in plain language, are easy to understand,
19 and comply with the requirements of the Due Process Clause of the United States Constitution,
20 Rule 23, and any other applicable law.
- 21 3. Responsibility for implementing the Notice Plan and any other related tasks
22 assigned to the Notice Administrator under the Settlement Agreement or as this Court may order,
23

24 _____
25 ¹ The capitalized terms used in this Order shall have the same meaning as defined in Class
26 Plaintiffs' notice of motion for entry of an order to approve the form and manner of notice, and
27 appoint a notice administrator, except as otherwise noted.

28 ² Par is also a Defendant named in this matter. But Par filed a Notice of Suggestions of
Bankruptcy and Automatic Stay of Proceedings, which advised that Par and its affiliates filed
voluntary petitions for relief on August 17, 2022, under title 11 of the United States Code, in the
United States Bankruptcy Court for the Southern District of New York.

1 shall be performed by the Notice Administrator, subject to the oversight of Co-Lead Counsel and
2 this Court.

3 4. Prior to any payments being made for notice costs, Co-Lead Counsel shall review
4 the billing records, and payments shall be made only as reimbursement for costs that were
5 previously authorized and already incurred.

6 5. The Notice Administrator shall provide a declaration attesting to its compliance
7 with the obligations set forth herein and the terms of the Notice Plan by the deadline set forth
8 below.

9 6. Each Class member who wishes to be excluded from the Damages Class or the
10 Settlement Class must submit to the Notice Administrator a written statement requesting
11 exclusion from the Class. Such requests for exclusion must be made online or by mailing a valid
12 exclusion request by First Class U.S. Mail to the address specified in the Long-Form Notice. Such
13 request for exclusion must be made online or postmarked by the deadline set forth below. To be
14 effective the request for exclusion must:

- 15 a. State whether the Class member seeks to be excluded from the Damages
16 Class, the Settlement Class, or both;
- 17 b. For entities, the entity name, address, and IRS EIN;
- 18 c. For entities, the name and title of the entity representative
- 19 d. For consumers, the Class member's name and address
- 20 e. The name of this case
- 21 f. Explicitly and unambiguously state the desire to be excluded from the
22 Class; and
- 23 g. For entities, data sufficient to establish the entity's relevant Xyrem
24 purchases and reimbursements (including the date and state of the
25 prescriptions) during the time from January 1, 2015, through and until May
26 12, 2023, other than for resale, in the United States and its territories.

27 7. Any Settlement Class member who does not submit a valid and timely request for
28 exclusion may submit an objection to the Settlement. Any Settlement Class member who intends

1 to object to the Settlement (including any request for attorneys' fees, expenses, or service awards)
 2 must submit a written notice of objections to the Clerk of the Court and the Notice Administrator.
 3 Objections are valid only if postmarked before the deadline set forth below. Objections must be
 4 individually and personally signed by the Settlement Class member (and if the Settlement Class
 5 member is represented by counsel, the objection additionally must be signed by such counsel),
 6 and must include:

- 7 a. The objecting Settlement Class member's name, address, telephone
 8 number, and, for entities, the title of the person submitting the objection;
- 9 b. An explanation of the objection;
- 10 c. The case name and number (*In re Xyrem (Sodium Oxybate) Antitrust*
 11 *Litigation*, Case No. 3:20-md-02966-RS-SVK (N.D. Cal.)); and
- 12 d. Documentation demonstrating that the objector is a member of the
 13 Settlement Class and/or this statement, followed by the objector's
 14 signature: "I declare under penalty of perjury under the laws of the United
 15 States of America that [insert your name or the name of the entity you
 16 represent] is a member of the Class."

17 8. The following deadlines shall apply. The basis for determining each event shall be
 18 the entry of this order or the receipt of updated data from third-party Express Scripts Specialty
 19 Distribution Services reflecting the names and addresses of consumer class members, whichever
 20 is later. Within three business days of this order Class Plaintiffs shall file a notice setting the
 21 specific calendar date for each of the deadlines set forth below, or a statement setting forth the
 22 date by which supplemental class data is to be produced.

Event	Days After Entry of This Order and/or the Receipt of Supplemental Claims Data
Notice Period Commences	30
Notice Period Concludes	90
Notice Completion/Settlement Administrator Declaration Date	104
Motion for Final Approval Deadline	136
Fee and Expense Application Deadline	136

Event	Days After Entry of This Order and/or the Receipt of Supplemental Claims Data
Opt-Out Deadline	150
Objection Deadline	150
Opposition to Final Approval and Fee and Expense Application Deadline	150
Responses to Motion for Entry of a Set-Aside Order	150 164 (<i>see</i> Dkt. 519)
Deadline for the Parties to file information concerning timely filed opt out requests and objections	157 (as modified by Dkt. 519, if applicable)
Replies in support of Final Approval and Fee and Expense Application Deadline (including the filing of list of opt outs and objections)	164
Reply in support of Motion for Entry of a Set-Aside Order	164 171 (<i>see</i> Dkt. 519)
Final Approval Hearing	January 11, 2024

IT IS SO ORDERED.

Dated: June 28, 2023


 HONORABLE RICHARD SEEBORG
 Chief United States District Judge