

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

GOVERNMENT EMPLOYEES HEALTH
ASSOCIATION, on behalf of itself and all
others similarly situated,

Plaintiff,

v.

ACTELION PHARMACEUTICALS LTD. et
al.,

Defendants.

Case No. 1:18-cv-3560-GLR

**MEMORANDUM OF LAW IN SUPPORT OF THIRD-PARTY PAYOR CLASS
COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES, AND A SERVICE AWARD
FOR THE CLASS REPRESENTATIVE**

TABLE OF CONTENTS

I. INTRODUCTION 1

II. BACKGROUND 2

 A. Class counsel discovered this case and filed the complaint after months of investigation..... 2

 B. The case required extensive fact and expert discovery..... 4

 C. Class counsel secured class certification and defeated defendants’ summary judgment motions..... 6

 D. Class counsel vigorously prepared for trial. 7

 E. Class counsel reached a favorable settlement less than two weeks before trial and after months of hard-fought negotiations. 8

III. ARGUMENT 8

 A. The requested one-third fee is reasonable and warranted. 8

 1. The percentage-of-recovery method is the preferred approach for calculating reasonable attorneys’ fees in this circuit. 9

 a. Class counsel secured an excellent recovery for the class..... 10

 b. Class counsel’s experience, skill, and efficiency were instrumental in securing the \$65 million settlement. 10

 c. Class counsel assumed a significant risk of nonpayment. 11

 d. Not a single class member has objected to the settlement or fees requested..... 13

 e. Courts in this district and elsewhere routinely approve one-third fee awards in generic delay pharmaceutical antitrust cases. 14

 f. The parties did not reach settlement in this highly complex case until weeks before trial..... 15

 g. Public policy considerations support the requested fee. 15

 2. A lodestar cross-check confirms the reasonableness of a one-third fee..... 16

 B. The expenses for which class counsel seek reimbursement are reasonable. 17

C. Service awards are appropriate to compensate GEHA for its efforts on behalf of the class.....	19
IV. CONCLUSION.....	20
APPENDIX A.....	24

TABLE OF AUTHORITIES

Cases

In re Air Cargo Shipping Servs. Antitrust Litig.,
 No. 06-md-1775, 2015 WL 5918273 (E.D.N.Y. Oct. 9, 2015)11

In re Allura Fiber Cement Siding Litig.,
 No. 19-mn-2886, 2021 WL 2043531 (D.S.C. May 21, 2021).....14

Bailey v. Mercury Fin., LLC,
 No. 23-cv-827, 2025 WL 3211015 (D. Md. Nov. 18, 2025)..... *passim*

Binotti v. Duke Univ.,
 No. 20-cv-470, 2021 WL 5366877 (M.D.N.C. Aug. 30, 2021)20

Boeing Co. v. Van Gemert,
 444 U.S. 472 (1980).....9

Boyd v. Coventry Health Care Inc.,
 299 F.R.D. 451 (D. Md. 2014).....18

CASA de Md., Inc. v. Arbor Realty Tr., Inc.,
 No. 21-cv-1778, 2024 WL 1051120 (D. Md. Mar. 11, 2024)19

In re Celebrex (Celecoxib) Antitrust Litig.,
 No. 14-cv-361, 2018 WL 2382091 (E.D. Va. Apr. 18, 2018)14

Ciarciello v. Bioventus Inc.,
 760 F. Supp. 3d 377 (M.D.N.C. 2024)14

Decohen v. Abbasi, LLC,
 299 F.R.D. 469 (D. Md. 2014).....10

In re Flonase Antitrust Litig.,
 951 F. Supp. 2d 739 (E.D. Pa. 2013)11

Graham v. Famous Dave’s of Am., Inc.,
 No. 19-cv-486, 2022 WL 17584274 (D. Md. Dec. 12, 2022)15

In re Intuniv Antitrust Litig. (Indirect Purchaser Actions),
 No. 16-cv-12396, 2022 WL 398744 (D. Mass. Jan. 26, 2022).....14

Jien v. Perdue Farms, Inc.,
 No. 19-cv-2521, 2025 WL 3725489 (D. Md. June 5, 2025).....9, 11, 14, 16

In re Lidoderm Antitrust Litig.,
 No. 14-md-02521, 2018 WL 4620695 (N.D. Cal. Sept. 20, 2018).....17, 18

In re Lupron Mktg. & Sales Pracs. Litig.,
 No. 01-cv-10861, 2005 WL 2006833 (D. Mass. Aug. 17, 2005)16

In re Namenda Indirect Purchaser Antitrust Litig.,
 No. 15-cv-6549, slip op. (S.D.N.Y. Mar. 23, 2023)17, 18

Norwood v. Charlotte Mem. Hosp. & Med. Ctr.,
 720 F. Supp. 543 (W.D.N.C. 1989)17

In re Peanut Farmers Antitrust Litig.,
 No. 19-cv-463, 2021 WL 9494033 (E.D. Va. Aug. 10, 2021)13, 14, 20

In re Ranbaxy Generic Drug Application Antitrust Litig.,
 630 F. Supp. 3d 241 (D. Mass. 2022)14, 20

In re Relafen Antitrust Litig.,
 231 F.R.D. 52 (D. Mass. 2005).....14

In re Remicade Antitrust Litig.,
 No. 17-cv-04326, 2023 WL 2530418 (E.D. Pa. Mar. 15, 2023)14

In re Retina Grp. of Wash. Data Sec. Incident Litig.,
 No. 24-cv-4, 2025 WL 2030241 (D. Md. July 21, 2025)16, 17

Savani v. URS Prof'l Sols. LLC,
 No. 1:06-cv-02805, 2014 WL 172503 (D.S.C. Jan. 15, 2014)20

Seaman v. Duke Univ.,
 No. 15-cv-462, 2019 WL 4674758 (M.D.N.C. Sept. 25, 2019)14, 20

Singleton v. Domino’s Pizza, LLC,
 976 F. Supp. 2d 665 (D. Md. 2013)8, 10

In re Skelaxin (Metaxalone) Antitrust Litig.,
 No. 12-cv-83, 2014 WL 2946459 (E.D. Tenn. June 30, 2014)20

In re Solodyn Antitrust Litig.,
 No. 14-md-2503, 2018 WL 7075881 (D. Mass. July 18, 2018)17

In re Suboxone (Buprenorphine Hydrochloride & Naloxone) Antitrust Litig.,
 No. 13-md-2445, 2023 WL 8437034 (E.D. Pa. Dec. 4, 2023)18

In re Superior Beverage/Glass Container Consol. Pretrial,
 133 F.R.D. 119 (N.D. Ill. 1990).....12

In re Titanium Dioxide Antitrust Litig.,
 No. 10-cv-318, 2013 WL 6577029 (D. Md. Dec. 13, 2013)14, 20

Vista Healthplan, Inc. v. Cephalon, Inc. (Provigil),
No. 06-cv-1833, 2020 U.S. Dist. LEXIS 69614 (E.D. Pa. Aug. 20, 2020)20

Vista Healthplan, Inc. v. Warner Holdings Co. (Ovcon),
246 F.R.D. 349 (D.D.C. 2007).....14

Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.,
396 F.3d 96 (2d Cir. 2005).....12

In re Xyrem (Sodium Oxybate) Antitrust Litig.,
No. 20-md-2966, slip op. (N.D. Cal. Oct. 27, 2025)17, 18

In re Xyrem (Sodium Oxybate) Antitrust Litig.,
No. 20-md-2966, slip op. (N.D. Cal. Oct. 27, 2025)20

In re Zetia (Ezetimibe) Antitrust Litig.,
699 F. Supp. 3d 448 (E.D. Va. 2023) *passim*

Other Authorities

Fed. R. Civ. P. 238

Remarks of FTC Comm’r Terrell McSweeney, Am. Antitrust Inst. Private
Antitrust Enforcement Conf. (Dec. 2, 2014),16

I. INTRODUCTION

After more than seven years of hard-fought litigation, the third-party payor class plaintiffs have settled their claims against defendants Actelion Pharmaceuticals Ltd., Actelion Pharmaceuticals US, Inc., and Janssen Research & Development, LLC (collectively, Actelion). The litigation, which was settled just two weeks before trial, was extensive and vigorously prosecuted. Class counsel discovered, investigated, and filed this case in 2018, alleging that Actelion unlawfully delayed generic competition for its blockbuster branded drug, Tracleer. In the years that followed, class counsel secured voluminous and complex discovery, defeated motions to dismiss and for summary judgment, secured certification of the third-party payor class, and assiduously prepared for trial. Class counsel's efforts have secured a \$65 million cash recovery for the class—an excellent outcome that will provide a certain and immediate benefit to all class members and avoid the risks and cost of trial. Class counsel now respectfully seek an award of attorneys' fees, reimbursement for their reasonable out-of-pocket litigation expenses and the costs of settlement administration, and a service award for the class representative, Government Employees Health Association (GEHA).

Class counsel request attorneys' fees in the amount of \$21,666,666.67, equal to one-third of the gross settlement fund, plus any interest on that amount that may accrue before distribution. A one-third fee is reasonable and warranted given the complex nature of the case, the degree of risk assumed by class counsel, class counsel's significant out-of-pocket investment of time and money, and the outstanding result to the class. The requested fee is also commensurate with the fees typically awarded in complex pharmaceutical antitrust cases, both within and outside this district. A lodestar cross-check further confirms the reasonableness of the award, which is roughly equal to class counsel's lodestar at historic billing rates and less than their lodestar at current rates.

Class counsel request reimbursement from the settlement fund for \$3,875,181.16 in litigation expenses incurred since the case was filed. The vast majority of these expenses are expert fees, totaling \$3,304,703.49, which is reasonable and expected given the number of experts, the complexity of the legal and factual issues, and the advanced stage of the case. The remaining expenditures include charges for document databases and legal research, deposition costs, court filing fees, travel-related costs, and other reasonably incurred litigation expenses.

Finally, class counsel ask that the Court approve a service award of \$40,000 for GEHA in recognition of its vital participation in this case and the time and effort it expended to prosecute this action on behalf of the class.

II. BACKGROUND

A. **Class counsel discovered this case and filed the complaint after months of investigation.**

On November 20, 2018, after months of research and independent investigation, class counsel filed a complaint against Actelion, the manufacturer of the brand PAH drug Tracleer (bosentan).¹ The complaint alleged that Actelion perpetrated an anticompetitive scheme to prevent generic competition for Tracleer.² Under the guise of implementing the Tracleer Risk Evaluation and Mitigation Strategy (REMS), Actelion refused to sell and forbade its distributors from selling Tracleer to would-be generic manufacturers so they could conduct the bioequivalence testing necessary for approval.³ Unable to access Tracleer samples, generic manufacturers could not bring their competing products to market, allowing Actelion to continue

¹ Decl. of Co-Lead Counsel Sharon Robertson & Thomas Sobol ¶ 41 (“Co-Lead Counsel Decl.”) (filed concurrently). Unlike some antitrust cases, the complaint here was the product of class counsel’s diligent investigation and analysis only. It did not follow on the heels of a government investigation or lawsuit.

² ECF No. 74 at 2–4.

³ *Id.* at 2.

charging monopoly prices for its blockbuster drug and forcing purchasers to pay higher prices for Tracleer for more than three years after Actelion's patents for Tracleer expired.⁴

On February 25, 2019, Actelion moved to dismiss the complaint, arguing, *inter alia*, that the claims were time-barred, that Actelion had no antitrust duty to sell Tracleer to generic manufacturers, and that the named plaintiffs did not have standing to bring certain state-law claims.⁵ After extensive briefing and argument, the Court granted the motion.⁶ The Court ruled that, because the plaintiffs' cause of action accrued upon Actelion's last overt anticompetitive action, which was the February 2014 settlement between Actelion and several generic manufacturers, all but four of the plaintiffs' claims were barred by the applicable four-year statutes of limitations.⁷ The Court ruled that the plaintiffs lacked standing to pursue the remaining four state-law claims because they had made no purchases of Tracleer in those states and thus suffered no harm.⁸

The plaintiffs appealed. After voluminous briefing, the Fourth Circuit reversed, holding that the plaintiffs' claims did not accrue until they were injured by paying supracompetitive prices for Tracleer after its patent expired in November 2015 and that a new limitations period began to run from each sale that caused the plaintiff damages.⁹ The Fourth Circuit thus vacated the judgment and remanded to the district court.¹⁰

⁴ *Id.* at 4.

⁵ Co-Lead Counsel Decl. ¶ 5.

⁶ *Id.*

⁷ ECF No. 50, 51.

⁸ *Id.*

⁹ Co-Lead Counsel Decl. ¶ 5.

¹⁰ *Id.*

B. The case required extensive fact and expert discovery.

The complex nature of this case required extensive discovery of the defendants, plaintiffs, and non-parties that spanned more than a year-and-a-half.¹¹ The parties exchanged and negotiated discovery protocols governing, *inter alia*, document productions, privilege logs, and depositions.¹² The parties served and negotiated the scope of dozens of RFPs and conferred extensively with Actelion about custodians, non-custodial sources, and search terms.¹³ Actelion ultimately produced, and class counsel reviewed and analyzed, 375,000 documents comprising 1.6 million pages and thousands of lines of data.¹⁴ Class counsel also subpoenaed 21 non-parties, including generic manufacturers, specialty pharmacies, PBMs, and research institutions, negotiated the scope of those subpoenas, and, for one, moved to compel compliance in the Southern District of Ohio.¹⁵

During discovery negotiations, Actelion claimed that it had no documents for portions of the relevant period from the files of five employees involved in the alleged anticompetitive conduct. Actelion initially said the missing documents were an inadvertent consequence of data migration following Actelion's acquisition by Johnson & Johnson in 2017.¹⁶ After further investigation, however, including a letter motion to require Actelion to disclose additional information about the documents' deletion, class counsel discovered that Actelion had destroyed the files—comprising more than 50 GB of data—nine months after this case had been filed.¹⁷ On

¹¹ *Id.* ¶ 6.

¹² *Id.* ¶¶ 6–7.

¹³ *Id.* ¶¶ 7–8.

¹⁴ *Id.* ¶ 6.

¹⁵ *Id.* ¶ 15.

¹⁶ ECF No. 194 at 8.

¹⁷ *Id.* at 11–12.

November 21, 2022, class counsel moved for sanctions against Actelion for the spoliation.¹⁸ After briefing and argument, Magistrate Judge Coulson recommended granting the motion in part and issuing a spoliation-related jury instruction at trial. The Court affirmed the R&R on June 25, 2024.¹⁹

Between September and December 2022, class counsel prepared for and took the depositions of 12 current and former employees of the defendants and non-parties and defended two depositions of plaintiff witnesses. Because the plaintiffs would likely be unable to compel the attendance of former or current Actelion employees at trial, deposition preparation required class counsel to strategically develop case themes and identify the key documents that would need to be admitted at trial.

Expert discovery was similarly extensive. Class counsel retained six experts across numerous fields to analyze the voluminous evidentiary record and help explain this complex case to the jury. These experts included economists to opine on market power, the relevant market, class issues, and damages, a former FDA director to opine on FDA regulatory policies, and experts on generic drug formulation and causation and launch timing.²⁰ Class counsel worked closely with the experts for several months, providing them with requested materials, strategizing about the scope and content of their reports, and reviewing and providing feedback on drafts.²¹ Collectively, plaintiffs' experts prepared ten opening and rebuttal reports elucidating the key regulatory, economic, industry, and manufacturing issues in this case—foundational issues the

¹⁸ Co-Lead Counsel Decl. ¶ 23.

¹⁹ *Id.*

²⁰ *Id.* ¶ 17.

²¹ *Id.* ¶ 18.

jury would need to understand to render its verdict.²² Class counsel also analyzed the rebuttal reports of Actelion's five expert witnesses, assisted their experts in formulating responses to those reports, and prepared for and deposed Actelion's experts.²³

C. Class counsel secured class certification and defeated defendants' summary judgment motions.

On September 26, 2023, class counsel moved for certification of a class of third-party payors. The parties submitted voluminous briefs and expert reports and briefed motions to exclude each other's class certification experts. On September 6, 2024, the Court granted the motion, certifying the third-party payor class, appointing GEHA to serve as class representative, and appointing Sharon Robertson of Cohen Milstein and Thomas Sobol of Hagens Berman to serve as co-lead class counsel.²⁴ A.B. Data, the Court-approved notice administrator, promptly effectuated the endorsed notice plan, and there were no proper opt-outs from the class.²⁵

On February 6, 2024, Actelion moved for summary judgment on all claims.²⁶ The parties exchanged lengthy briefs supported by more than 100 exhibits, and a group of law professors submitted an amicus brief in support of the class.²⁷ The briefing encompassed issues of liability, injury, and causation, requiring class counsel to marshal the key fact and expert testimony and documentary evidence and conduct wide-ranging legal research.²⁸ The parties also filed and briefed five motions to exclude merits experts.²⁹ The Court heard argument on the motions on

²² *Id.* ¶¶ 18–30.

²³ *Id.* ¶¶ 18–21.

²⁴ *Id.* ¶ 25.

²⁵ *Id.* ¶ 28.

²⁶ *Id.* ¶ 29.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* ¶ 31.

January 12, 2026.³⁰ On September 6, 2024, the Court denied Actelion's motion for summary judgment, and the parties began full-blown trial preparations.³¹

D. Class counsel vigorously prepared for trial.

On November 7, 2024, the Court set a five-week trial to begin on March 3, 2026, and class counsel began addressing the multitude of logistical and strategic considerations necessary to try a complex pharmaceutical antitrust case.³² Between summary judgment and the date a settlement was reached, class counsel dedicated hundreds of hours to prepare for trial. These efforts included preparing and serving their witness list, a trial exhibit list comprising 735 exhibits and 31 Rule 1006 summaries, and thousands of individual designations across 12 deposition transcripts and reviewing, objecting to, and countering Actelion's pretrial disclosures, including its 1,705 proposed trial exhibits.³³ With the assistance of a jury consultant, class counsel organized and conducted a mock trial to help assess the strengths and weaknesses of their case and clarify the issues for trial.³⁴ Class counsel drafted and negotiated a detailed trial procedures stipulation and joint voir dire and prepared and filed a proposed pretrial order and a pretrial motion to allocate time at trial.³⁵ And they began drafting motions *in limine*, proposed jury instructions and verdict form, opening statements, closing arguments, witness examinations, and demonstratives.³⁶

³⁰ *Id.* ¶ 31.

³¹ *Id.* ¶ 32.

³² *Id.* ¶ 33.

³³ *Id.* ¶¶ 34–35.

³⁴ *Id.* ¶ 38.

³⁵ *Id.* ¶ 34–37.

³⁶ *Id.* ¶¶ 36–38.

E. Class counsel reached a favorable settlement less than two weeks before trial and after months of hard-fought negotiations.

As they prepared for trial, the parties began discussing a potential settlement under the guidance of Magistrate Judge Sullivan.³⁷ They participated in two mediation sessions on January 6, 2026 and January 12, 2026 and several telephonic sessions before and after.³⁸ The parties' arm's-length negotiations included the exchange of multiple proposals and counter-proposals, earnest acknowledgements of the strengths and weaknesses of the claims and defenses, and careful evaluation of the risks of proceeding to trial.³⁹ On February 18, 2026, after months of back-and-forth—and less than two weeks before trial was scheduled to begin—the parties finally reached a settlement providing for a \$65 million cash payment to the class.⁴⁰ On March 13, 2026, the Court granted preliminary approval and scheduled the fairness hearing for July 1, 2026.⁴¹

III. ARGUMENT

A. The requested one-third fee is reasonable and warranted.

“It is for the district court in the first instance to calculate an appropriate award of attorney’s fees.”⁴² Rule 23(h) of the Federal Rules of Civil Procedure provides that, in a certified class action, a court may award “reasonable attorneys’ fees . . . that are authorized by law or the parties’ agreement.”⁴³ As the Supreme Court has recognized, when attorneys recover a common

³⁷ *Id.* ¶ 39.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* ¶ 40.

⁴² *Singleton v. Domino’s Pizza, LLC*, 976 F. Supp. 2d 665, 681 (D. Md. 2013) (quoting *Carroll v. Wolpoff & Abramson*, 53 F.3d 626, 628 (4th Cir. 1995)).

⁴³ The settlement agreement provides that “Co-Lead Counsel may submit an application or applications for (a) an award of attorneys’ fees; plus (b) expenses or charges in connection with prosecuting the Action; plus (c) any interest on such Attorneys’ Fees and Expenses,” as well as “Service Awards in connection with [Named Plaintiff’s] representation of the Class,” which, upon order of the Court, “shall be paid to Co-Lead Counsel by the Escrow Agent from the Settlement Fund.” ECF No. 421-3 ¶¶ 6.1–6.2.

fund for the benefit of a class, counsel are “entitled to a reasonable attorney’s fee from the fund as a whole.”⁴⁴ Class counsel respectfully request a fee award of \$21,666,666.67, representing one-third of the gross settlement fund, as contemplated by the settlement agreement.

1. The percentage-of-recovery method is the preferred approach for calculating reasonable attorneys’ fees in this circuit.

To assess the reasonableness of a fee award, “courts generally take two approaches: (1) the ‘percentage-of-recovery’ or ‘percentage of the fund’ method; or (2) the ‘lodestar’ method.”⁴⁵ The percentage-of-recovery method “calculates an award based on a percentage of the recovery for the Class,” and “[t]he court then applies a seven-factor test to determine whether the requested percentage is reasonable.”⁴⁶ The lodestar method “calculates reasonable fees ‘by multiplying the number of reasonable hours expended times a reasonable rate.’”⁴⁷ Though the Fourth Circuit has not declared which of the two methodologies should be applied, district courts overwhelmingly prefer the percentage-of-recovery method.⁴⁸

When employing the percentage-of-recovery method, courts typically apply a seven-factor test that analyzes:

- (1) the results obtained for the class;
- (2) the quality, skill, and efficiency of the attorneys involved;
- (3) the risk of nonpayment;
- (4) objections by members of the class to the settlement terms and/or fees requested by counsel;
- (5) awards in similar cases;
- (6) the complexity and duration of the case; and
- (7) public policy.⁴⁹

⁴⁴ *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980).

⁴⁵ *Bailey v. Mercury Fin., LLC*, No. 23-cv-827, 2025 WL 3211015, at *4–5 (D. Md. Nov. 18, 2025) (quoting *In re Retina Grp. of Wash. Data Sec. Incident Litig.*, No. 24-cv-4, 2025 WL 2030241, at *10 (D. Md. July 21, 2025)).

⁴⁶ *In re Zetia (Ezetimibe) Antitrust Litig.*, 699 F. Supp. 3d 448, 461 (E.D. Va. 2023) (quoting *The Mills Corp. Sec. Litig.*, 265 F.R.D. 246, 260–61 (E.D. Va. 2009)).

⁴⁷ *Id.* (quoting *McAfee v. Boczar*, 738 F.3d 81, 88 (4th Cir. 2013)).

⁴⁸ *Jien v. Perdue Farms, Inc.*, No. 19-cv-2521, 2025 WL 3725489, at *1 (D. Md. June 5, 2025) (citing *Seaman v. Duke Univ.*, No. 15-cv-462, 2019 WL 4674758, at *2 (M.D.N.C. Sept. 25, 2019)).

⁴⁹ *Bailey*, 2025 WL 3211015, at *5 (quoting *CASA de Md., Inc. v. Arbor Realty Tr., Inc.*, No. 21-cv-1778, 2024 WL 1051120, at *6 (D. Md. Mar. 11, 2024)).

These factors “need not be applied in a formulaic way, and no one factor is necessarily dispositive.”⁵⁰ “With either method, the goal is to make sure that counsel is fairly compensated.”⁵¹

a. Class counsel secured an excellent recovery for the class.

“In the Fourth Circuit, the most critical factor in calculating a reasonable fee award is the degree of success obtained.”⁵² The guaranteed, non-reversionary \$65 million cash settlement provides a significant and immediate recovery for the class. It ranks in the top third of third-party payor settlements in generic suppression cases in terms of total dollars⁵³ and amounts to recovery of 24% to 53% of the class’s alleged overcharges.⁵⁴ The value of this recovery is especially significant in light of the legal burdens imposed on third-party payors, the skilled and vigorous opposition of Actelion’s counsel, and the risk of non-recovery absent the settlement. But for this litigation, it is unlikely such compensation would have been available to the class. There was no government investigation or other independent body seeking restitution for third-party payors or seeking to uncover the unlawful harms to third-party payers alleged here.

b. Class counsel’s experience, skill, and efficiency were instrumental in securing the \$65 million settlement.

The recovery obtained in this case is directly attributable to the experience, skill, and dedication of class counsel. Class counsel are leaders in pharmaceutical antitrust litigation: over the last 20 years, one or more of class counsel has served as court-appointed lead counsel, co-

⁵⁰ *Id.* (quoting *CASA de Md.*, 2024 WL 1051120, at *6).

⁵¹ *Singleton*, 976 F. Supp. 2d at 681.

⁵² *Decohen v. Abbasi, LLC*, 299 F.R.D. 469, 481 (D. Md. 2014) (quoting *McKnight v. Circuit City Stores, Inc.*, 14 F. App’x 147, 149 (4th Cir. 2001)).

⁵³ See Appendix A (listing settlement amounts and fees awarded in all third-party payor pharmaceutical antitrust class actions from the last 20 years).

⁵⁴ Based on the overcharge estimates by scenario set forth in the report of plaintiffs’ damages expert. See Expert Report of Meredith Rosenthal ¶ 86 tbl. 3 (ECF No. 297-4).

lead counsel, or a member of the steering committee in most pharmaceutical antitrust actions litigated across the country. This Court has recognized that Cohen Milstein and Hagens Berman, the two firms appointed co-lead counsel here, “specialize in prosecuting antitrust class actions against large corporations, and their lawyers have served as lead counsel in dozens of successful antitrust cases.”⁵⁵ The area of law is highly specialized, requiring knowledge of unique legal, regulatory, scientific, and industry-specific facts implicating patent law, antitrust law, and FDA regulations. Class counsel used their specialized knowledge and years of experience to develop novel legal theories and developed a trial-ready record to support those theories—all while litigating against skillful defense counsel and confronting unexpected challenges. The favorable settlement reached with Actelion, which guarantees compensation for all class members and avoids the costs and uncertainties of continued litigation, is the direct result of class counsel’s adroit prosecution of this action and decades of experience.

c. Class counsel assumed a significant risk of nonpayment.

In considering the reasonableness of a fee award, “courts consider the relative risk involved in litigating the specific matter compared to the general risks incurred by attorneys taking on class actions on a contingency basis.”⁵⁶ This risk “is evaluated by, among other things, the presence of government action preceding the suit, the ease of proving claims and damages, and . . . the relative speed at which the case was settled.”⁵⁷

Antitrust class actions are “arguably the most complex action[s] to prosecute,” as the “legal and factual issues involved are always numerous and uncertain in outcome.”⁵⁸ Even the

⁵⁵ *Jien*, 2025 WL 3725489, at *2.

⁵⁶ *Bailey*, 2025 WL 3211015, at *6 (quoting *Retina Grp.*, 2025 WL 2030241, at *11).

⁵⁷ *Id.*

⁵⁸ *Jien*, 2025 WL 3725489, at *2 (quoting *In re Peanut Farmers Antitrust Litig.*, No. 19-cv-463, 2021 WL 9494033, at *3 (E.D. Va. Aug. 10, 2021)); see also *In re Air Cargo Shipping Servs. Antitrust Litig.*, No. 06-md-

most meritorious and exceptionally prosecuted antitrust cases present a risk in a legal arena whose history “is replete with cases in which antitrust plaintiffs succeeded at trial on liability, but recovered no damages, or only negligible damages, at trial, or on appeal.”⁵⁹

This case was no exception; indeed, the novel issues it presented introduced unique challenges in an already notoriously difficult area of law. Unraveling a complex anticompetitive scheme orchestrated by a sophisticated pharmaceutical manufacturer to prevent generic competition required a substantial investment of time and resources from the outset. The case involved numerous complex issues of fact and law, covering topics including FDA regulations and compliance, generic drug development, pharmaceutical operations and supply chains, and health economics and policy. Establishing causation for their injuries required the plaintiffs to show how, absent such unlawful conduct, other sophisticated competitors would have overcome interlocking regulatory requirements to bring their pharmaceutical products to market sooner. To establish damages for the jury, the plaintiff would have to explain complex economic modeling of what fair prices would have looked like in different versions of a lawful, competitive world. And the plaintiff would have to prove these elements in the face of the skillful defense of Actelion’s counsel from Patterson Belknap, a sophisticated law firm with well-respected antitrust and litigation practices.

Despite these challenges, class counsel ably developed the extensive factual and legal record over a seven-year period without any aid from a regulatory, state attorney-general, or

1775, 2015 WL 5918273, at *6 (E.D.N.Y. Oct. 9, 2015); *In re Flonase Antitrust Litig.*, 951 F. Supp. 2d 739, 743 (E.D. Pa. 2013).

⁵⁹ *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 118 (2d Cir. 2005) (quoting *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 476 (S.D.N.Y. 1998)); see also *In re Superior Beverage/Glass Container Consol. Pretrial*, 133 F.R.D. 119, 127 (N.D. Ill. 1990) (“The ‘best’ [antitrust] case can be lost and the ‘worst’ case can be won, and juries may find liability but no damages. None of these risks should be underestimated.”).

federal DOJ investigation or litigation.⁶⁰ They collectively expended 31,278.7 hours and incurred \$3,875,181.16 in unreimbursed, out-of-pocket litigation expenses to do so—a significant investment by any measure, and all on a wholly contingent basis. And despite the real risk of nonpayment for that significant investment, class counsel were prepared to try this case to verdict if a favorable settlement could not be reached.

d. Not a single class member has objected to the settlement or fees requested.

The response of the class to the settlement and the requested attorneys’ fees has been uniformly favorable. The long- and short-form settlement notices—which were successfully delivered to 99% of class members by mail and 93% of class members by email⁶¹—informed them that class counsel would seek an award of attorneys’ fees “of up to 33⅓% of the Settlement Fund, plus interest, as well as “expenses up to \$4,500,000,” “[n]otice and administration costs,” and “[a] service award up to \$40,000 for the class representative.”⁶² The deadline for class members to mail objections to the settlement was June 2, 2026. As of the date of this filing, no objections have been submitted, and none are expected.

The absence of objections to the fee request “tends to show that at least from the class members’ perspective, the requested fee is reasonable for the services provided and the benefits achieved by class counsel.”⁶³ And it is particularly compelling here, where the class is composed of entities that purchased the expensive drug at issue in this case, and therefore possess the means and motivation to object to the fee request they believe is unreasonable.

⁶⁰ See *Peanut Farmers*, 2021 WL 9494033, at *3 (finding it “notable” that class counsel achieved an excellent settlement “without the benefit of a prior governmental investigation” because “[m]any antitrust class actions . . . follow a government investigation, where the risk in bringing related private action is comparatively limited”).

⁶¹ Suppl. Decl. of Eric J. Miller Regarding Notice ¶ 5 (filed concurrently).

⁶² See ECF No. 421-5 at 32; ECF No. 421-5 at 39.

⁶³ *Bailey*, 2025 WL 3211015, at *7 (quoting *Retina Grp.*, 2025 WL 2030241, at *11).

e. Courts in this district and elsewhere routinely approve one-third fee awards in generic delay pharmaceutical antitrust cases.

Courts in this circuit “have frequently found that a percentage award of one-third of the Settlement Fund is within the range of reasonable percentage of recovery.”⁶⁴ One-third fee awards are especially common in antitrust class actions.⁶⁵ And in generic delay pharmaceutical antitrust cases in particular, courts, recognizing the “highly technical and complex” legal and factual issues involved and “all-out effort” required to litigate them,⁶⁶ overwhelmingly approve one-third fee awards. As shown in Appendix A, courts nationwide have approved one-third fee awards for third-party payor class counsel in 85% of generic delay cases settled in the last 20 years.⁶⁷ In all but one of the cases in which a fee of less than one-third was approved, class counsel requested the lower amount.⁶⁸ And in cases with recoveries of similar size to the settlement here, courts have universally approved one-third fee awards.⁶⁹

⁶⁴ *Zetia*, 699 F. Supp. 3d at 462; *see, e.g., Jien*, 2025 WL 3725489, at *1–3; *Ciarciello v. Bioventus Inc.*, 760 F. Supp. 3d 377, 400–01 (M.D.N.C. 2024); *Peanut Farmers*, 2021 WL 9494033, at *5; *In re Allura Fiber Cement Siding Litig.*, No. 19-mn-2886, 2021 WL 2043531, at *4 (D.S.C. May 21, 2021);

⁶⁵ *See, e.g., Peanut Farmers*, 2021 WL 9494033, at *5; *Seaman*, 2019 WL 4674758, at *3; *In re Celebrex (Celecoxib) Antitrust Litig.*, No. 14-cv-361, 2018 WL 2382091, at *5 (E.D. Va. Apr. 18, 2018); *In re Titanium Dioxide Antitrust Litig.*, No. 10-cv-318, 2013 WL 6577029, at *1 (D. Md. Dec. 13, 2013).

⁶⁶ *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 80 (D. Mass 2005) (noting the “highly technical and complex issues with regard to pharmaceutical pricing and distribution, health insurance and federal regulation and preemption issues” involved in generic delay class action antitrust cases).

⁶⁷ *See* Appendix A (listing settlement amounts and attorneys’ fees awarded in generic delay pharmaceutical antitrust class actions brought on behalf of third-party payor classes that were settled between 2006 and 2026).

⁶⁸ *See In re Remicade Antitrust Litig.*, No. 17-cv-04326, 2023 WL 2530418, at *24 (E.D. Pa. Mar. 15, 2023) (28% fee requested); *In re Intuniv Antitrust Litig. (Indirect Purchaser Actions)*, No. 16-cv-12396, 2022 WL 398744, at *1 (D. Mass. Jan 26, 2022) (25% fee requested); *Vista Healthplan, Inc. v. Warner Holdings Co. (Ovcon)*, 246 F.R.D. 349, 364 (D.D.C. 2007) (26.2% fee requested). In *Ranbaxy Generic Drug Application Antitrust Litigation*—the only third-party payor generic delay class action in which the court awarded fees in an amount less than that sought by class counsel—the court awarded fees of 20% of the net settlement fund rather than the 28% requested. 630 F. Supp. 3d 241 (D. Mass. 2022). The court held that it was appropriate to “adjust significantly downward the attorneys’ fees due, in part, to the extent to which th[e] litigation was the successor of a civil settlement and criminal plea agreement into which Ranbaxy entered with the federal government in 2013.” *Id.* at 248. The court was also influenced by the “magnitude of attorneys’ fees” sought and the high lodestar multiplier. *Id.* at 247–48. None of these factors militate against a one-third award here.

⁶⁹ *See* Appendix A (one-third fee awards given in 100% of third-party payor generic delay cases with settlements of \$40–\$70M); *Bailey*, 2025 WL 3211015, at *7 (“When considering awards in similar cases, ‘courts

f. The parties did not reach settlement in this highly complex case until weeks before trial.

To evaluate the complexity and duration of the litigation, “courts consider not only the time between filing and reaching settlement, but also the amount of motions practice prior to settlement,” “the amount and nature of discovery,” and “whether negotiations were hard fought, complex, or arduous.”⁷⁰ Class counsel litigated this case for more than seven years against well-resourced defendants represented by highly qualified counsel from prestigious law firms, including Dechert, Cravath, and Patterson Belknap.⁷¹ Discovery spanned 19 months and encompassed the production of 1.6 million pages of documents, 17 depositions of fact, nonparty, and expert witnesses, and the exchange of 14 expert reports.⁷² The parties filed voluminous briefing and exhibits in support of Rule 12(b)(6), class certification, summary judgment, and *Daubert* motions and prepared extensively for trial.⁷³ And the \$65 million settlement was the culmination of months of hard-fought negotiations overseen by Magistrate Judge Sullivan and his staff.⁷⁴

g. Public policy considerations support the requested fee.

When evaluating the reasonableness of a fee award, “the court must strike the appropriate balance between promoting the important public policy that attorneys continue litigating class action cases that ‘vindicate rights that might otherwise go unprotected,’ and perpetuating the

look to cases of similar size, rather than similar subject matter.” (quoting *Boyd v. Coventry Health Care Inc.*, 299 F.R.D. 451, 465 (D. Md. 2014)).

⁷⁰ *Graham v. Famous Dave’s of Am., Inc.*, No. 19-cv-486, 2022 WL 17584274, at *11 (D. Md. Dec. 12, 2022) (quoting *Singleton*, 976 F. Supp. 2d at 686).

⁷¹ Co-Lead Counsel Decl. ¶ 39.

⁷² *Id.* ¶¶ 6, 12, 18–21.

⁷³ *Id.* ¶¶ 5, 25, 29–32.

⁷⁴ *Id.* ¶ 39.

public perception that ‘class action plaintiffs’ lawyers are overcompensated for the work that they do.’”⁷⁵

Awarding a one-third fee promotes the “significant societal interest in obtaining redress for prescription drug consumers whose harms could not, given the cost of litigation, be pursued on an individual basis.”⁷⁶ This case was brought to compensate purchasers overcharged for a medication to treat a chronic, life-threatening condition. While these cases are complex, they redress the “all too real” competitive harm that reverse payment settlements inflict on consumers.⁷⁷ As the FTC has acknowledged, “private antitrust enforcement [is] essential to protect competition, markets, and consumers.”⁷⁸ Private litigants have long worked alongside the FTC to “shape the contours of antitrust law,” and have played “a vital role in the evolution of the law around [reverse payment] settlements.”⁷⁹ Compensating class counsel for their significant investment of time and resources and assumption of risk in cases like this one ensures that they continue to do so—and that the public benefits as a result.

2. A lodestar cross-check confirms the reasonableness of a one-third fee.

When the percentage-of-recovery method is used, courts in this circuit use a lodestar cross-check to confirm the reasonableness of the fee award.⁸⁰ The purpose of a lodestar cross-check “is to determine whether a proposed fee award is excessive relative to the hours reportedly

⁷⁵ *Bailey*, 2025 WL 3211015, at *9 (quoting *Boyd*, 299 F.R.D. at 466).

⁷⁶ *In re Lupron Mktg. & Sales Pracs. Litig.*, No. 01-cv-10861, 2005 WL 2006833, at *6 (D. Mass. Aug. 17, 2005).

⁷⁷ Remarks of FTC Comm’r Terrell McSweeney, Am. Antitrust Inst. Private Antitrust Enforcement Conf. (Dec. 2, 2014), https://www.ftc.gov/system/files/documents/public_statements/602971/mcsweeney_-_aai_remarks_12-02-14.pdf.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *See, e.g., Jien*, 2025 WL 3725489, at *3; *Bailey*, 2025 WL 3211015, at *9; *Retina Grp.*, 2025 WL 2030241, at *13.

worked by counsel, or whether the fee is within some reasonable multiplier of the lodestar.”⁸¹

A lodestar cross-check here confirms that a one-third fee is eminently reasonable. Attorneys and support staff from the class counsel firms have collectively spent 31,278.7 hours on this case, amounting to a lodestar of \$20,021,139.75 at historic billing rates and \$25,188,967.25 at current billing rates.⁸² The requested fee award of \$21,666,666.67 represents a 1.08 multiplier of class counsel’s lodestar at historic billing rates; at current billing rates—which the Fourth Circuit has instructed district courts to use in cases like this one⁸³—the lodestar multiplier is 0.86. Under either metric, the multiplier here is well below the 2–4.5 range that courts in this circuit have found to demonstrate a reasonable fee.⁸⁴ A negative lodestar multiplier is “more than a reasonable number given the difficult circumstances of this case, the time and resources invested, the experience and skill of [c]lass [c]ounsel, and the result achieved for the [c]lass.”⁸⁵

B. The expenses for which class counsel seek reimbursement are reasonable.

“It is well-established that plaintiffs who are entitled to recover attorneys’ fees are also

⁸¹ *Retina Grp.*, 2025 WL 2030241, at *13 (quoting *CASA de Md.*, 2024 WL 1051120, at *9).

⁸² Co-Lead Counsel Decl. ¶ 42. Class counsel’s hours and lodestar here are commensurate with those reported by third-party payor class counsel in other pharmaceutical antitrust cases that settled shortly before trial. *See In re Xyrem (Sodium Oxybate) Antitrust Litig.*, No. 20-md-2966, slip op. at 4 (N.D. Cal. Oct. 27, 2025) (57,523.9 hours and lodestar of \$36,820,800.25); *Zetia*, 699 F. Supp. 3d at 462 (31,710.2 hours and lodestar of \$18,999,856.30); *In re Namenda Indirect Purchaser Antitrust Litig.*, No. 15-cv-6549, slip op. at 13 (S.D.N.Y. Mar. 23, 2023) (51,769.4 hours and lodestar \$32,048,598.25); *In re Lidoderm Antitrust Litig.*, No. 14-md-02521, 2018 WL 4620695, at *2 (N.D. Cal. Sept. 20, 2018) (51,668.35 hours and lodestar of \$25,560,049.50).

⁸³ The Fourth Circuit has “noted that when litigation spans a period of years during which no fee payments are received, the trial courts must make an appropriate adjustment to historic rates to prevent dilution of the prevailing plaintiffs’ lawyers’ fees,” either by “us[ing] current market rates” or “otherwise increas[ing] the rates to ‘counterbalance the effect of inflation and foregone interest on the value of the fee.’” *Norwood v. Charlotte Mem. Hosp. & Med. Ctr.*, 720 F. Supp. 543, 550–51 (W.D.N.C. 1989) (quoting *Daly v. Hill*, 790 F.2d 1071, 1081 (4th Cir. 1986)).

⁸⁴ *Bailey*, 2025 WL 3211015, at *9 (quoting *CASA de Md.*, 2024 WL 1051120, at *9).

⁸⁵ *In re Solodyn Antitrust Litig.*, No. 14-md-2503, 2018 WL 7075881, at *2 (D. Mass. July 18, 2018).

entitled to recover reasonable litigation-related expenses as part of their overall award.”⁸⁶ In the Fourth Circuit, “such costs may include ‘those reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client[] in the course of providing legal services,” such as “necessary travel, depositions and transcripts, computer research, postage, court costs, and photocopying.”⁸⁷

Class counsel here have incurred \$3,875,181.16 in unreimbursed, out-of-pocket litigation expenses since the inception of the case.⁸⁸ The largest of these expenses was expert fees (totaling \$3,304,703.49), which is reasonable considering the number of experts, the complexity of the legal and factual issues, the multiple rounds of trial preparations, and the advanced stage of the case.⁸⁹ The remaining expenditures included charges for document databases and legal research, deposition costs, court filing and transcript fees, deposition costs, travel-related costs, and other reasonably incurred litigation expenses.⁹⁰ Detailed summaries of these expenses are provided in the accompanying declaration of co-lead counsel and the exhibits thereto.

All expenses for which class counsel seek reimbursement were reasonable and necessary and of the type routinely charged to fee-paying clients. Class counsel avoided duplication of expert fees and other shared costs by contributing to a litigation fund from which common

⁸⁶ *Boyd*, 299 F.R.D. at 468 (quoting *Kabore v. Anchor Staffing, Inc.*, No. 10-cv-3204, 2012 WL 5077636, at *10 (D. Md. Oct. 17, 2012)).

⁸⁷ *Id.* (first quoting *Spell v. McDaniel*, 852 F.2d 762, 771 (4th Cir. 1988); then quoting *Almendarez v. J.T.T. Enters. Corp.*, No. 06-cv-68, 2010 WL 3385362, at *7 (D. Md. Aug. 25, 2010)).

⁸⁸ Co-Lead Counsel Decl. ¶ 46. The total expenses here are commensurate with those reported by third-party payor class counsel in other pharmaceutical antitrust cases that settled shortly before trial. *See, e.g., Xyrem*, No. 20-md-2966, slip op. at 2 (\$3,482,847.12); *In re Suboxone (Buprenorphine Hydrochloride & Naloxone) Antitrust Litig.*, No. 13-md-2445, 2023 WL 8437034, at *18 (E.D. Pa. Dec. 4, 2023) (\$3,942,771.87); *Zetia*, 699 F. Supp. 3d at 460 (\$3,905,175.85); *Namenda*, slip op at 13 (\$5,879,787.65); *Lidoderm*, 2018 WL 4620695, at *4 (\$3,948,118.06).

⁸⁹ *Id.* ¶ 46.

⁹⁰ *Id.* ¶¶ 46–47.

expenses were paid.⁹¹ Class counsel have reviewed all litigation fund and individual firm expenditures to ensure each of the charges was reasonable and supported by an invoice, receipt, or other acceptable form of documentation and eliminated or made downward adjustments to any expenses that were unnecessary, excessive, or lacking sufficient documentation.⁹²

In addition to the litigation fund and firm expenses for which class counsel seek reimbursement, class counsel has incurred \$69,931.74 to date for settlement-related costs and estimates that it will incur \$116,540.37 in additional expenses to complete administration.⁹³ Class counsel have not included the not-yet-incurred administration costs in the total expenses for which they seek reimbursement here but will instead ask the Court to approve payment of these costs from the net settlement fund in their motion to distribute.

C. Service awards are appropriate to compensate GEHA for its efforts on behalf of the class.

Service awards “are ‘often awarded in Rule 23 class actions.’”⁹⁴ “In determining whether an incentive payment is warranted, courts consider the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefited from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation.”⁹⁵

Class counsel respectfully request that the Court award \$40,000 to GEHA in recognition of its service to the class. GEHA assumed the risk inherent in putting its name on a lawsuit against an important pharmaceutical manufacturer—with no guarantee of any personal benefit—to redress the injury to the class caused by Actelion’s anticompetitive conduct. GEHA invested

⁹¹ *Id.* ¶ 46.

⁹² *Id.* ¶ 48.

⁹³ *Id.* ¶ 50.

⁹⁴ *CASA de Md.*, 2024 WL 1051120, at *11 (quoting *Graham*, 2022 WL 17584274, at *12).

⁹⁵ *Id.* (quoting *Graham*, 2022 WL 17584274, at *12).

significant time and effort responding to 18 interrogatories, collecting and producing more than a thousand pages of documents in response to the defendants' 26 requests for production, and providing two of its employees to prepare and sit for 30(b)(6) depositions.⁹⁶ The requested service award, which constitutes just 0.1% of the estimated net recovery to the class, is well within the range of service awards that courts in this circuit have approved⁹⁷ and commensurate with awards approved for third-party payor class representatives in other pharmaceutical antitrust class actions.⁹⁸

IV. CONCLUSION

For the foregoing reasons, class counsel respectfully request that the Court (1) award class counsel attorneys' fees of one-third of the settlement fund, totaling \$21,666,666.67, plus any interest on that amount that may accrue prior to distribution; (2) approve class counsel's request for reimbursement of their reasonable litigation expenses, totaling \$3,875,181.16; and (3) approve a service award of \$40,000 for GEHA.

⁹⁶ Co-Lead Counsel Decl. ¶¶ 10–14, 41.

⁹⁷ See, e.g., *Binotti v. Duke Univ.*, No. 20-cv-470, 2021 WL 5366877, at *5–6 (M.D.N.C. Aug. 30, 2021) (approving \$65,000 service award for single class representative); *Peanut Farmers*, 2021 WL 9494033, at *9 (approving \$40,000 service award for each of the six class representatives); *Seaman*, 2019 WL 4674758, at *7 (approving \$125,000 service award for class representative); *Savani v. URS Prof'l Sols. LLC*, No. 1:06-cv-02805, 2014 WL 172503, at *10 (D.S.C. Jan. 15, 2014) (\$40,000 service award); *Titanium Dioxide*, 2013 WL 6577029, at *1 (\$125,000 service award for one class representative and \$25,000 for the other).

⁹⁸ See, e.g., *In re Xyrem (Sodium Oxybate) Antitrust Litig.*, No. 20-md-2966, slip op. at 8 (N.D. Cal. Oct. 27, 2025) (approving service awards of \$40,000 for each of the third-party payor class representatives preparing to testify at trial and \$25,000 for each of the two others); *Zetia*, 699 F. Supp. 3d at 463 (approving service awards of \$30,000 to each of five class representatives and \$75,000 to two others); *Ranbaxy*, 630 F. Supp. 3d at 248 (\$50,000 award for each of the two class representatives); *Vista Healthplan, Inc. v. Cephalon, Inc. (Provigil)*, No. 06-cv-1833, 2020 U.S. Dist. LEXIS 69614, at *98 (E.D. Pa. Aug. 20, 2020) (\$50,000 for each); *In re Skelaxin (Metaxalone) Antitrust Litig.*, No. 12-cv-83, 2014 WL 2946459, at *4 (E.D. Tenn. June 30, 2014) (\$50,000 for each).

Dated: June 17, 2026

Respectfully submitted,

/s/ Sharon K. Robertson

Sharon K. Robertson

Donna M. Evans

Aaron J. Marks

COHEN MILSTEIN SELLERS & TOLL PLLC

88 Pine Street, 14th Floor

New York, NY 10005

Telephone: (212) 838-7797

srobertson@cohenmilstein.com

devans@cohenmilstein.com

amarks@cohenmilstein.com

Joseph M. Sellers

COHEN MILSTEIN SELLERS & TOLL PLLC

1100 New York Avenue NW, Suite 800

Washington, DC 20005

Telephone: (202) 408-4600

jsellers@cohenmilstein.com

Thomas M. Sobol

Erin C. Burns

Rachel A. Downey

HAGENS BERMAN SOBOL SHAPIRO LLP

1 Faneuil Hall Sq., 5th Floor

Boston, MA 02109

Telephone: (617) 482-3700

tom@hbsslaw.com

erinb@hbsslaw.com

racheld@hbsslaw.com

John D. Radice

A. Luke Smith

RADICE LAW FIRM PC

475 Wall Street Princeton, NJ 08540

Telephone: (267) 570-3000

Facsimile: (609) 385-0745

jradice@radicelawfirm.com

lsmith@radicelawfirm.com

Archana Tamoshunas

TAUS, CEBULASH & LANDAU, LLP

123 William Street

Suite 1900A
New York, NY 10038
646-873-7651
atamoshunas@tellaw.com

Counsel for Plaintiff and the Class

CERTIFICATE OF SERVICE

I, Sharon K. Robertson, hereby certify that, on this date, the foregoing document was served by filing it on the Court's CM/ECF system, which will deliver notification of filing to all counsel of record.

Dated: June 17, 2026

/s/ Sharon K. Robertson

Sharon K. Robertson

APPENDIX A

Fee Awards in Third-Party Payor Generic Delay Pharmaceutical Antitrust Class Actions, 2006–2026

Settlement Date	Case	Settlement Amount	Fee Award	Fee Percentage
04/07/25	<i>In re Xyrem (Sodium Oxybate) Antitrust Litig.</i> , No. 20-md-2966 (N.D. Cal. Oct. 27, 2025), ECF No. 1066	\$195,000,000	\$65,000,000	33.33%
09/18/24	<i>In re Seroquel XR (Extended Release Quetiapine Fumarate) Antitrust Litig.</i> , No. 20-cv-1076 (D. Del. Apr. 25, 2025), ECF No. 891	\$5,475,000	\$1,122,188	33.33%*
04/29/24	<i>In re Lipitor Antitrust Litig.</i> , No. 12-cv-2389 (D.N.J. Oct. 1, 2024), ECF No. 1480	\$35,000,000	\$11,666,666	33.33%
08/14/23	<i>In re Suboxone (Buprenorphine Hydrochloride & Naloxone) Antitrust Litig.</i> , No. 13-md-2445, 2023 WL 8437034 (E.D. Pa. Dec. 4, 2023)	\$30,000,000	\$10,000,000	33.33%
04/19/23	<i>In re Zetia (Ezetimibe) Antitrust Litig.</i> , 699 F. Supp. 3d 448 (E.D. Va. 2023)	\$70,000,000	\$23,333,333.33	33.33%
11/11/22	<i>In re Namenda Indirect Purchaser Antitrust Litig.</i> , No. 15-cv-6549 (S.D.N.Y. Mar. 23, 2023), ECF No. 967	\$56,438,000	\$18,812,666	33.33%
07/19/22	<i>In re Opana ER Antitrust Litig.</i> , No. 14-cv-10150 (N.D. Ill.), ECF No. 1091	\$15,000,000	\$5,000,000	33.33%
04/15/22	<i>In re Remicade Antitrust Litig.</i> , No. 17-cv-04326, 2023 WL 2530418 (E.D. Pa. Mar. 15, 2023)	\$25,000,000	\$7,000,000	28.0%†

* In *Seroquel*, *Doryx*, and *Metoprolol*, the fee requested and approved was a percentage of the *net* settlement fund, i.e., calculated after deducting litigation expenses and administration expenses from the gross settlement amount. In all other cases in the chart, the approved fee was a percentage of the gross settlement amount, with expenses and costs deducted second.

† 28% fee requested by class counsel.

Settlement Date	Case	Settlement Amount	Fee Award	Fee Percentage
04/08/22	<i>In re Ranbaxy Generic Drug Application Antitrust Litig.</i> , 630 F. Supp. 3d 241 (D. Mass. 2023)	\$145,000,000	\$29,000,000	20.0% [‡]
02/27/22	<i>In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Practices & Antitrust Litig.</i> , No. 17-md-2785, 2022 WL 2663873 (D. Kan. July 11, 2022)	\$264,000,000	\$88,000,000	33.33%
09/03/21	<i>In re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litig.</i> , No. 18-md-2819, 2022 WL 3043103 (E.D.N.Y. Aug. 2, 2022)	\$30,000,000	\$10,000,000	33.33%
05/10/21	<i>In re Intuniv Antitrust Litig. (Indirect Purchaser Actions)</i> , No. 16-cv-12396, 2022 WL 398744 (D. Mass. Jan 26, 2022)	\$2,950,000	\$740,000	25.1% [§]
04/20/20	<i>Vista Healthplan, Inc. v. Cephalon, Inc. (Provigil)</i> , No. 06-cv-1833, 2020 U.S. Dist. LEXIS 69614 (E.D. Pa. Aug. 20, 2020)	\$65,877,600	\$21,959,200	33.33%
03/30/20	<i>In re Thalomid & Revlimid Antitrust Litig.</i> , No. 14-cv-6997 (D.N.J. Oct. 2, 2020), ECF No. 326	\$34,000,000	\$11,333,333.33	33.33%
01/30/20	<i>In re Loestrin 24 Fe Antitrust Litig.</i> , No. 13-md-2472, 2020 WL 5201275 (D.R.I. Sept. 1, 2020)	\$62,500,000	\$20,833,333.33	33.17%
7/19/2018	<i>In re Aggrenox Antitrust Litig. (End-Payor Actions)</i> , No. 14-md-2516, 2018 WL 10705542 (D. Conn. July 19, 2018)	\$50,229,193	\$16,743,064	33.33%
03/28/18	<i>In re Solodyn (Minocycline Hydrochloride) Antitrust Litig.</i> , No. 14-md-02503, 2018 U.S. Dist. LEXIS 164688 (D. Mass.	\$43,000,000	\$14,333,333.33	33.33%

[‡] Class counsel requested a 28% fee, which the court reduced to 20% in its fee decision. The court held that it was appropriate to “adjust significantly downward the attorneys’ fees due, in part, to the extent to which th[e] litigation was the successor of a civil settlement and criminal plea agreement into which Ranbaxy entered with the federal government in 2013.” *Ranbaxy*, 630 F. Supp. 3d at 247. The court was also influenced by the “magnitude of attorneys’ fees” sought and the high lodestar multiplier. *Id.* at 247–48. None of these factors militate against a one-third award here.

[§] 25% fee requested by class counsel.

Settlement Date	Case	Settlement Amount	Fee Award	Fee Percentage
	July 18, 2018)			
03/20/18	<i>In re Lidoderm Antitrust Litig.</i> , No. 14-md-02521, 2018 WL 4620695 (N.D. Cal. Sept. 20, 2018)	\$104,750,000	\$34,916,000	33.33%
02/03/16	<i>In re Prograf Antitrust Litig.</i> , No. 11-md-02242 (D. Mass. Nov. 2, 2016), ECF No. 712	\$13,250,000	\$4,416,667	33.33%
07/11/14	<i>In re Doryx (Delayed-Release Doxycycline Hyclate) Indirect Purchaser Antitrust Litig.</i> , No. 12-cv-03824, 2015 WL 12791433 (E.D. Pa. Jan. 28, 2015)	\$8,000,000	\$1,700,328	33.33%*
06/05/14	<i>In re Skelaxin (Metaxalone) Antitrust Litig.</i> , No. 12-md-2343 (E.D. Tenn. Dec. 22, 2015), ECF No. 950	\$9,000,000	\$3,000,000	33.33%
03/01/13	<i>In re DDAVP Indirect Purchaser Antitrust Litig.</i> , No. 05-cv-2237, 2013 WL 10114257 (S.D.N.Y. Dec. 18, 2013)	\$4,750,000	\$1,567,500	33.0%
02/07/13	<i>In re Wellbutrin XL Antitrust Litig.</i> , No. 08-cv-2433, 2013 WL 6175616 (E.D. Pa. July 22, 2013)	\$11,750,000	\$3,916,275	33.33%
12/10/12	<i>In re Wellbutrin SR Antitrust Litig.</i> , No. 04-cv-05898 (E.D. Pa. June 27, 2013), ECF No. 378	\$21,500,000	\$7,095,000	33.0%
12/06/12	<i>In re Flonase Antitrust Litig.</i> , 291 F.R.D. 93 (E.D. Pa. 2013)	\$35,000,000	\$11,655,000	33.3%
07/02/12	<i>In re Metoprolol Succinate (Toprol XL) End-Payor Antitrust Litig.</i> , No. 06-cv-71 (D. Del. Mar. 7, 2013), ECF No. 342	\$11,000,000	\$3,500,000	31.8%*
03/31/09	<i>In re TriCor Indirect Purchaser Antitrust Litig.</i> , No. 05-cv-360, 2009 WL 3460769 (D. Del. Oct. 28, 2009)	\$65,700,000	\$21,900,000	33.33%
05/15/07	<i>Vista Healthplan, Inc. v. Warner Holdings Co. (Ovcon)</i> , 246 F.R.D. 349 (D.D.C. 2007)	\$4,200,000	\$1,100,000	26.2%**

** 26.2% fee requested by class counsel.

