

NOTICE OF CLASS ACTION AND PROPOSED END-PAYOR SETTLEMENT

**If You Purchased Solodyn<sup>®</sup> or Generic Versions of Solodyn<sup>®</sup>**

**You Could Get Money from a Class Action Settlement**

*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.*

- **Your legal rights are affected whether you act or do not act, so please read this notice carefully.**
- The purpose of this notice is to alert you to a proposed settlement relating to a Class Action Lawsuit (the “Lawsuit”) brought by indirect purchasers (“End-Payor Class Plaintiffs”) of Solodyn or its generic versions. The Lawsuit is pending in the United States District Court for the District of Massachusetts (“the Court”). End-Payor Class Plaintiffs had sued the following Defendants: Medicis Pharmaceutical Corp. (“Medicis”), Impax Laboratories, Inc. (“Impax”), Lupin Limited, Lupin Pharmaceuticals Inc., and Sandoz Inc. Plaintiffs in the lawsuit claim that Defendants hurt competition and violated certain 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.
- The Impax settlement provides a cash payment of \$20 million. This settlement is in addition to the recent proposed settlement with Medicis for \$23 million.
- You may be included if you purchased, paid or reimbursed for all or part of the cost of Solodyn<sup>®</sup> or generic versions of Solodyn<sup>®</sup> during the period from July 23, 2009 through February 25, 2018. *See* questions 6 and 7 for details.

*No question is raised about the safety or effectiveness of Solodyn<sup>®</sup> or generic versions of Solodyn<sup>®</sup>.*

**A Summary of Your Rights and Choices:**

*Your Legal Rights Are Affected Even If You Do Not Act.  
Read This Notice Carefully.*

| <b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b> |  |               |
|---|--|---------------|
| <b>File a Claim</b>                                     | This is the only way to receive money from the Settlement. <i>See</i> Question 10 below.       | July 31, 2018 |
| <b>Object to the Settlement</b>                         | Write to the Court explaining why you don’t like the Settlement. <i>See</i> Question 12 below. | June 18, 2018 |
| <b>Go to the Hearing</b>                                | Ask to speak in Court about your opinion of the Settlement. <i>See</i> Question 17 below.      | July 18, 2018 |
| <b>Do Nothing</b>                                       | You won’t get a payment. <i>See</i> Question 12 below.   |               |

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.

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### **BASIC INFORMATION ABOUT THE LAWSUIT AND SETTLEMENTS**

#### **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. Following the completion of fact discovery and expert discovery, class certification and summary judgment motions, and ten days of trial before a jury, End-Payor Class Plaintiffs, on behalf of the Class, entered into the Settlement with Defendant Impax Laboratories, Inc. (“Impax”). The terms of the Settlement, which is subject to final approval by the Court, are set forth in the written Settlement Agreement. A proposed settlement with Medicis Pharmaceutical Corp.(“Medicis”) also is currently pending. The other defendants (Lupin Limited, Lupin Pharmaceuticals Inc., and Sandoz Inc.) have already settled. All Defendants have denied any wrongdoing. You are not being sued. This Notice describes the lawsuit, the Settlement of this case, and the rights and options you have now.

#### **2. What is the lawsuit about?**

The lawsuit alleges Impax delayed the availability of an allegedly less-expensive generic version through allegedly anticompetitive agreements with the other Defendants. Plaintiffs (those who brought the suit) allege that Defendants did so through the 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. This notice is not an expression of any opinion by the Court as to the merits of Plaintiffs' claims or the defenses asserted by Defendants.

This case does not involve the safety or effectiveness of Solodyn® or generic versions of Solodyn®.

**3. What is the current status of the lawsuit?**

Plaintiffs have agreed to settle with Defendant Impax Laboratories, Inc.. 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 (D. Mass.). The Court has set a Final Approval Hearing for the proposed Settlement on July 18, 2018 at 3:00 a.m./p.m. in Courtroom 11 at the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210. The Court may continue the Final Approval Hearing without further notice so please consult [www.SolodynCase.com](http://www.SolodynCase.com) for any updates on deadlines.

The lawsuit against another Defendant, Medicis Pharmaceutical Corp., was recently settled for an additional \$23 million. The other defendants (Lupin Limited, Lupin Pharmaceuticals Inc., and Sandoz Inc.) have already settled.

**4. What does the Settlement provide?**

Defendant Impax Laboratories, Inc. has agreed to pay twenty million dollars (\$20,000,000.00) in cash into the Settlement Fund (which will include any earnings or interest that accrues). End-Payor Class Plaintiffs' Counsel will apply to the Court for an award of attorneys' fees (of up to thirty-three and one-third percent (33 $\frac{1}{3}$ %) of the Settlement Fund), a proportionate share of the interest earned on the Settlement Fund, and expenses, incentive awards to the Class Representatives of \$10,000.00 each for their services to the Class (and an additional \$10,000 to a Class Representative that testified at trial) and payment for costs of administering the settlement from the fund. The remainder (the "Net Settlement Fund") will be divided among Class Members. Plaintiffs' Counsel may also apply for additional attorneys' fees and costs incurred for services rendered to defend any appeals from final approval of the Settlement, additional services rendered in connection with claims administration, and to enforce the terms of the Settlement.

**5. What are members of the Class giving up in exchange for the Settlement?**

In exchange for the Settlements, members of the Class will agree to a "Release of Claims" against the Defendants as follows:

Upon the Settlement Agreement becoming final, Plaintiffs and the End-Payor Class, except those who have requested exclusion from the Class and such request has been approved by the Court, shall unconditionally, fully and finally release and forever discharge and covenant not to sue Defendant, any past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the "Released Parties") from any and all manner of claims, rights, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, including costs, expenses, penalties and attorneys' fees, accrued in whole or in part, in law or equity, that Plaintiffs or any member or members of the End-Payor Class (including any of their past, present, or future officers, directors, insurers, general or limited partners, divisions, stockholders, agents, attorneys, employees, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, heirs, executors, administrators, predecessors, successors and assigns, acting in their capacity as such) (the "Releasers"), whether or not they object to the Settlement, ever had, now has, or hereafter can, shall or may have, indirectly, representatively, derivatively or in any other capacity, arising out of or relating in any way to:

(1) Any conduct alleged in the End-Payor Class Action and/or that could have been alleged in the End-Payor Class Action, or

(2) Any conduct alleged, or that could have been alleged, in any other complaint filed in any action in any court related to the End-Payor Class Action (the “Related Actions”)

provided only that such conduct occurred or allegedly occurred prior to the date of this Settlement Agreement (the “Released Claims”). Releasors hereby covenant and agree that each shall not sue or otherwise seek to establish or impose liability against any Released Party based, in whole or in part, on any of the Released Claims, including claims that were alleged in the End-Payor Class Action.

In addition, Plaintiffs on behalf of themselves and all other Releasors, hereby expressly waive, release and forever discharge, upon the Settlement becoming final, any and all provisions, rights and benefits conferred by §1542 of the California Civil Code, which reads:

“Section 1542. General Release; extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor[;]”

or by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Releasors may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of this paragraph, but each Releasor hereby expressly waives and fully, finally and forever settles, releases and discharges, upon this Settlement becoming final, any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim that would otherwise fall within the definition of Released Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Each Plaintiff and member of the End-Payor Class also hereby expressly waives and fully, finally and forever settles, releases and discharges any and all claims it may have against any Released Party under § 17200, *et seq.*, of the California Business and Professions Code or any similar comparable or equivalent provision of the law of any other state or territory of the United States or other jurisdiction, which claims are expressly incorporated into the definition of Released Claims.

This settlement is not intended to and does not release claims under Article 2 of the Uniform Commercial Code (pertaining to Sales), the laws of negligence or product liability or implied warranty, breach of contract, breach of express warranty, or personal injury, or other claims wholly unrelated to the allegations in the End-Payor Class Action or to allegations that could have been alleged or asserted in the Action.

The Settlement Agreement, available at [www.SolodynCase.com](http://www.SolodynCase.com), fully describes the Settlement and the Released Claims. If you have any questions, you can talk with the lawyers listed in Question 14 for free, or you can, of course, talk with your own lawyer if you have questions about what this means.

## DETERMINING IF YOU ARE A MEMBER OF THE CLASS

### 6. **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:

- At any time from July 23, 2009 until February 25, 2018, 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.

7. **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 Settlement Class?**

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

- At any time from July 23, 2009 until February 25, 2018 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.

**HOW TO GET A PAYMENT**

8. **How much money can I get?**

At this time, it is unknown how much each member of the Class who submits a valid claim will receive. Payments will be based on a number of factors, including the number of valid claims filed by all members of the Class and the dollar value of each member of the Class’ purchase(s) in proportion to the total claims filed. No matter how many claims are filed, no money will be returned to the Defendants once the Court finally approves the Settlement. In order to receive a payment, you will need to file a valid claim form before the claims period ends.

The net settlement funds, after the payment of Court-approved attorneys’ fees, reimbursement of expenses, incentive awards, escrow fees, and claims administration fees and costs, shall be distributed to eligible members of the Class according to the Plan of Allocation. Complete details of how your recovery will be calculated are in the Plan of Allocation, which is available at [www.SolodynCase.com](http://www.SolodynCase.com).

9. **When would I get a payment?**

The Court must approve the Settlement and any appeals resolved, before any money is distributed to Class members. The Settlement Administrator must also complete processing all of the Claim Forms and determine distribution amounts. This process can take several months.

10. **What do I need to do to get a payment?**

To be eligible to receive a payment if the Court approves the Settlement, you must complete and submit a valid Claim Form by July 31, 2018. Get a Claim Form at [www.SolodynCase.com](http://www.SolodynCase.com) or by calling 1-800-332-7414 or writing to the address below. Claim Forms must be received by July 31, 2018, and submitted online at [www.SolodynCase.com](http://www.SolodynCase.com) or mailed to:

**Solodyn Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173034  
Milwaukee, WI 53217**

**Note: If you previously received a notice regarding the settlement with Medicis and submitted a valid Claim Form, you do NOT need to submit another Claim Form for this Settlement. Your previously submitted Claim Form will be used to calculate any payment that you may be entitled to in this Settlement.**

**OBJECTING TO THE SETTLEMENT**

11. **What does it mean to object?**

Objecting is telling the Court that you don't like something about the proposed Settlement, the request for attorneys' fees and reimbursement of expenses, or request for payment of incentive awards to the Class Representatives. You can give reasons why you think the Court should not approve it. The Court will consider your views before making a decision, but if the Court rejects your objection you will remain a member of the Class.

12. **How do I object to the proposed Settlements?**

To object, you must prepare and sign a written objection that includes: (1) the case name and number ("*In re Solodyn (Minocycline Hydrochloride) Antitrust Litigation*, Civil No. 1:14-md-2503-DJC"); (2) your full name, current address, and telephone number; (3) a written statement of your objections and the specific reasons for each; (4) any supporting papers, evidence, or documents; (5) a statement of whether you intend to appear and present your objections at the Fairness Hearing (see Question 17) and (6) your signature. You must file your objection with the Court, and mail copies to Class Counsel and Defense Counsel postmarked **NOT LATER THAN JUNE 18, 2018**.

| COURT   | CLASS COUNSEL   | DEFENSE COUNSEL   |
|---|---|---|
| John Joseph Moakley<br>United States Courthouse<br>1 Courthouse Way<br>Boston, MA 02210 | Michael M. Buchman<br><b>MOTLEY RICE LLC</b><br>600 Third Avenue, Suite 2101<br>New York, NY 10016<br><br>Steve Shadowen<br><b>HILLIARD &amp; SHADOWEN LLP</b><br>2407 S. Congress Ave., Ste. E 122<br>Austin, TX 78704 | J. Douglas Baldrige<br>Lisa Jose Fales<br>Danielle R. Foley<br><br><b>VENABLE LLP</b><br>600 Massachusetts Ave., NW<br>Washington, D.C. 20001 |

## IF YOU DO NOTHING

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

If you do nothing, you will not receive a payment if the Settlement is approved.

## THE LAWYERS REPRESENTING YOU

**14. As a member of the Settlement Class, do I have a lawyer representing my interests in this Class Action and the Settlements?**

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

| <b>Counsel for the Class</b>   |   |
|--|---|
| Michael M. Buchman<br><b>MOTLEY RICE LLC</b><br>600 Third Avenue, Suite 2101<br>New York, NY 10016<br>212-577-0040 | Steve Shadowen<br><b>HILLIARD &amp; SHADOWEN LLP</b><br>2407 S. Congress Ave., Ste. E 122<br>Austin, TX 78704<br>855-344-3298 |

**15. How will the lawyers representing the Class be compensated? Will the named Plaintiffs receive an incentive award?**

If the Court gives Final Approval to the Settlement, then the Court will be asked to approve a fee to the lawyers representing the Class of up to thirty-three and one-third percent (33 $\frac{1}{3}$ %) of the Settlement Fund (including earnings and accrued interest) plus reimbursement to the lawyers for the costs and expenses they have paid. If the Court grants Class Counsel's requests, these amounts would be deducted from the Settlement Fund. Class Counsel also will apply for incentive awards of \$10,000.00 to each of the Class Representatives (and an additional \$10,000 to one Class Representative that testified at trial) for their services to the Settlement Class.

**16. 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.

## THE COURT'S FINAL APPROVAL HEARING

**17. When and where will the Court determine whether to approve the Settlements?**

The Final Approval Hearing will be on July 18, 2018 at 3:00 a.m./p.m. eastern before Judge Denise J. Casper in Courtroom 11 at the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210. At this Hearing, the Court will consider whether the proposed Settlement and all of its terms are fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may listen to people who have asked for permission to speak at the Hearing (see Question 11). At or after the Final Approval Hearing, the Court will decide whether to finally approve the proposed Settlement. There may be appeals after that. We do not know how long these decisions will take.

The time and date of the Final Approval Hearing is subject to change without further notice as provided by this Notice. Please visit [www.SolodynCase.com](http://www.SolodynCase.com) for updates.

**18. Do I have to attend the Final Approval Hearing?**

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. So long as you file your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but that is not required.

**19. May I speak at the Final Approval Hearing?**

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include a Notice of Intent to Appear at the Final Approval Hearing with your objection (see Question 12). You must provide copies of any documents you intend to rely upon, including the names and addresses of any witnesses who will appear at the Final Approval Hearing, and the name of any counsel representing you as an objector. Ultimately, the Court will decide who will be allowed to speak at the Final Approval Hearing. You cannot speak at the hearing if you excluded yourself as a Class Member previously or if you do not send a notice of intention to appear.

**GETTING MORE INFORMATION**

**20. 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, Courtroom 11, Boston, Massachusetts 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](http://www.SolodynCase.com).

Additional information about the Class Action and proposed Settlement is available on the case website at [www.SolodynCase.com](http://www.SolodynCase.com) or you can call the Settlement Administrator toll-free at 1-800-332-7414. *Please do not contact the Court or Judge Casper.*

For more information, call the Settlement Administrator at 1-800-332-7414, or go to [www.SolodynCase.com](http://www.SolodynCase.com).

DATED: APRIL 5, 2018

BY ORDER OF THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS