

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

IN RE TEVA SECURITIES LITIGATION	:	No. 3:17-cv-00558 (SRU)
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THIS DOCUMENT RELATES TO:	:	All Class Actions
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**MEMORANDUM IN SUPPORT OF CLASS REPRESENTATIVES' MOTION
FOR RESERVE DISTRIBUTION OF THE NET SETTLEMENT FUND**

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Class Representatives Ontario Teachers' Pension Plan Board and Anchorage Police & Fire Retirement System (together, "Class Representatives") respectfully submit this memorandum in support of their motion for entry of the Proposed Order Authorizing Reserve Distribution of the Net Settlement Fund (the "Reserve Distribution Order").¹

Since the Court entered the Initial Distribution Order (ECF 999) on June 26, 2023, the Claims Administrator, Epiq, has distributed approximately \$207 million of the Net Settlement Fund to Authorized Claimants pursuant to the Initial Distribution Order. Given the passage of the Final Bar Date of July 7, 2023 (ECF 999 ¶5.b), this motion now seeks to resolve the remaining claims so the remaining approximately 35% of the Net Settlement Fund (the "Reserve") can be distributed to Authorized Claimants.

First, this motion seeks the Court's approval of Epiq's administrative recommendations for claims that were not addressed in the Initial Distribution Order. These claims were (a) submitted after December 9, 2022, or (b) subject to ongoing claims administration at the time of the Initial Distribution motion. Epiq's processing of these claims is now complete, and the August 25, 2023 Declaration of Stephanie Amin-Giwner (the "Amin-Giwner Decl.") details Epiq's recommendations to accept or reject these claims. The 1,001 claims now recommended for acceptance (the "Additional Claims") represent a total of \$903,279,302.23 in Recognized Claims.

Second, this motion seeks the Court's authorization for the Reserve Distribution, by which Epiq will distribute the Reserve on a *pro rata* basis to (a) the Additional Claims (if approved by the Court), and (b) the claims previously approved in the Initial Distribution Order that received

¹ Capitalized terms not defined herein shall have the meanings specified in Class Representatives' Motion for Initial Distribution of the Net Settlement Fund (ECF 998) and the supporting papers filed therewith, or the Stipulation of Settlement, dated January 18, 2022 (the "Stipulation," ECF 919-2). Emphasis is added, and citations omitted, unless otherwise noted.

less than their full distributable amount as a result of holding back the Reserve. Both categories of claims will receive payments using the same *pro rata* percentage. To the extent that any checks from the Reserve Distribution (or Initial Distribution) are not timely cashed, any unclaimed funds will be distributed in one or more follow-up distributions to bring the administration of this settlement to its conclusion.

Finally, this motion seeks the Court's approval of additional fees incurred by Epiq and JNL in connection with the settlement.

I. BACKGROUND

A. The Initial Distribution Order and Final Bar Date

On June 26, 2023, the Court entered the Initial Distribution Order, which: (1) approved Epiq's recommendations to accept and reject a total of 413,254 claims submitted through December 9, 2022; (2) directed the initial distribution of the Net Settlement Fund to the Authorized Claimants approved by the Court; (3) set a Final Bar Date of July 7, 2023, meaning that any claims (or adjustments that increase Recognized Claim Amounts) received after this date will be rejected; and (4) approved Epiq's and JNL's fees and expenses to date. (ECF 999.)

Upon entry of the Initial Distribution Order, Epiq updated the Settlement Website to advise: "***The Court has entered a Final Bar Date of July 7, 2023, meaning that any claims postmarked or submitted after July 7, 2023 (and purported cures of deficiencies or responses to data integrity review requests received after July 7, 2023), will be rejected without further notice. No extensions will be granted.***" (Amin-Giwner Decl. ¶6 (emphasis in original).)

B. The Claims in Process

The Initial Distribution Motion excluded certain claims, deemed "Claims in Process," that were filed after December 9, 2022, or that were subject to ongoing claims processing procedures. (See ECF 998-1 at 11-12 of 18.) The Claims in Process included:

- Claims and revisions to claims submitted after December 9, 2022;
- Certain claims subject to the Data Integrity Review where the claimants had not yet provided acceptable (or any) documentation, despite Epiq’s repeated inquiries;
- Ongoing Data Integrity Review for (a) certain claims that were submitted after December 9, 2022, and (b) claims that were submitted by December 9, 2022, but later revised to be large enough to qualify for the Data Integrity Review;
- Claims submitted by certain Franklin Templeton entities; and
- Claims for which the claimants had requested Court review.

The Initial Distribution Order provided a reserve of approximately 35% of the Net Settlement Fund to address the Claims in Process, as well as any contingencies that may arise. (See ECF 999 ¶5.a.v.) Epiq has now completed its processing of the Claims in Process and finalized its recommendations for the Claims in Process so that the Reserve may be distributed.

II. THE COURT SHOULD ACCEPT EPIQ’S RECOMMENDATIONS TO APPROVE AND REJECT THE CLAIMS IN PROCESS

As of August 21, 2023, there are 1,805 Claims in Process, which comprise certain claims submitted on or before December 9, 2022, and all claims submitted between December 9, 2022 and August 18, 2023. (Amin-Giwner Decl. ¶7.) The Claims in Process fall into seven mutually exclusive categories. Epiq’s recommended disposition for each category of the Claims in Process is summarized in the following chart:

Payable

1. Claims Between December 9, 2022 and July 7, 2023 Final Bar Date	350	\$15,705,588.00
2. Cured After Initial Distribution Motion	244	\$12,672,527.97
3. Adjusted After Initial Distribution Motion	263	\$17,968,252.61
4. Claims and Cures After Final Bar Date	2	\$14,950.00
5. Data Integrity Review	116	\$416,037,791.21
6. Franklin Templeton	26	\$440,880,192.44
TOTAL:	1001	\$903,279,302.23

Not Payable

1. Defective Claims Between December 9, 2022 and July 7, 2023 Final Bar Date	601	\$16,324.95
3. Adjusted After Initial Distribution Motion (No Recognized Claim)	46	\$0.00
5. Data Integrity Review (No Response or Deficient Response)	134	\$598,586,166.57
6. Franklin Templeton (No Recognized Claim)	19	\$0.00
7. Disputed Claims	4	\$0.00
TOTAL:	804	\$598,602,491.52

Each category of the Claims in Process is detailed below.

A. Category 1: Submitted Between December 9, 2022 and Final Bar Date

Payable: Between December 9, 2022, and July 7, 2023, Epiq received 350 claims with a total Recognized Claim of \$15,705,588.00 that have no defects, or had defects that were timely resolved. (Amin-Giwner Decl. ¶11.) Epiq recommends approving these claims for payment. (*Id.* & Ex. A-1.)

Not Payable: Between December 9, 2022, and July 7, 2023, Epiq received 601 claims that have one or more defects that were not timely resolved. (Amin-Giwner Decl. ¶12.) These claims were subject to the deficiency process previously described (ECF 998-2 ¶¶27-31), including mailing of a Notice of Incomplete Proof of Claim Submission (a “Deficiency Notice”) that described the defect(s) or condition(s) of ineligibility in the Claim and (if applicable) described what was necessary to cure any “curable” defect(s), and advised that the submission of the appropriate information and/or documentary evidence had to be sent within twenty (20) days. (Amin-Giwner Decl. ¶12.) Epiq recommends rejecting these claims. (*Id.* & Ex. A-2.)

B. Category 2: Cured After Initial Distribution Motion

Payable: Epiq recommends for payment 244 claims with a total Recognized Claim of \$12,672,527.97 that were previously rejected by the Court due to one or more uncured defects (*see* ECF 999 ¶4). The defects in these claims were cured after Epiq finalized processing of claims for

inclusion in the Initial Distribution and on or before July 7, 2023. (Amin-Giwner Decl. ¶14.) As a result of curing the defects, Epiq now recommends these claims for payment. (*Id.* & Ex. B.)

C. Category 3: Adjusted After Initial Distribution Motion

Payable: Epiq recommends for payment 309 claims with a total Recognized Claim of \$17,968,252.61 that were accepted in the Initial Distribution Order but were held back from the Initial Distribution because a late adjustment caused a change in the Recognized Claim. (Amin-Giwner Decl. ¶15 & Ex. C-1.)²

Not Payable: Epiq recommends rejection of 46 claims that, as a result of such adjustments, no longer calculate to a Recognized Claim under the Plan of Allocation. (*Id.* ¶15 & Ex. C-2.)

D. Category 4: Claims and Cures After Final Bar Date

Payable: Between the Final Bar Date of July 7, 2023 and August 18, 2023, Epiq has received 2 new claims and cures of defective claims with a total Recognized Claim of \$14,950.00. (*Id.* ¶16.) Epiq and Class Counsel recommend these claims for payment because, while they were submitted (or defects were cured) after July 7, 2023, the Reserve Distribution will not be materially delayed thereby. (*Id.* & Ex. D; *see also* Stipulation ¶5.8.)

E. Category 5: Data Integrity Review

As previously described (ECF 998-2 ¶19), Epiq's Quality Assurance team conducted a Data Integrity Review of large claims, which required providing Epiq with additional documentation to support approximately 3 transactions per claim.

Initially, 778 claims were subject to the Data Integrity Review; 569 of those 778 claims were resolved in the Initial Distribution Motion. (Amin-Giwner Decl. ¶17.) In addition to the 209 remaining claims that were subject to the Data Integrity Review, the Data Integrity Review

² This category includes 16 claims with a total Recognized Claim of \$1,196,310.46 that were previously rejected due to a processing error. (*Id.* n.2.)

population expanded as a result of adjustments and claims submitted after December 9, 2022. (*Id.* ¶19.)

This motion addresses the remaining 250 claims subject to the Data Integrity Review:

Payable: 116 claims with a total Recognized Claim of \$416,037,791.21 have been found acceptable, and Epiq recommends approving these claims for payment. (*Id.* ¶20 & Ex. E-1.) While certain of the Data Integrity Review responses were provided after July 7, 2023, Epiq and Class Counsel recommend these claims for payment because the Reserve Distribution will not be materially delayed thereby. (*See* Stipulation ¶5.8.)

Not Payable: Epiq recommends rejecting 134 claims subject to the Data Integrity Review because, despite Epiq's multiple outreach attempts (including after the Initial Distribution Order), the filers either did not respond at all or did not provide adequate responses. (*Id.* ¶21 & Ex. E-2.)

F. Category 6: Franklin Templeton Claims

Payable: Class Counsel previously advised the Court that certain Franklin Templeton entities submitted claims, and that these entities potentially were (or were affiliated with) the Direct Action Plaintiffs that filed *Franklin Mutual Series Funds, et al. v. Teva Pharmaceutical Industries Ltd., et al.*, No. 3:20-cv-01630-SRU (D. Conn.). (ECF 998-1 at 4-5 of 18.)

Since then, Class Counsel has continued to confer extensively with counsel for the Franklin Templeton claimants, including by correspondence, email, and video meetings. Based on the information provided, Epiq and Class Counsel have determined that the Franklin Templeton claimants have adequately demonstrated that these claims were not filed by Direct Action Plaintiffs. (Amin-Giwner Decl. ¶24.) As a result, Epiq and Class Counsel now recommend these claims for acceptance to the extent the claims are otherwise eligible. (*Id.*) Epiq recommends 26 claims for acceptance, with a total Recognized Claim of \$440,880,192.44, and recommends 19 claims for rejection because they do not calculate to a Recognized Claim. (*Id.* & Ex. F.)

G. Category 7: Disputed Claims Seeking Judicial Review

Finally, 4 claims have outstanding requests for Court review. (*Id.* ¶27.) Each of these claims should be rejected because the claim has no eligible purchases of Teva Securities during the Class Period, as required, or otherwise has no Recognized Claim under the Court-approved Plan of Allocation. Epiq reached out to each of these claimants by email and phone to resolve the issues, but 3 of the 4 claimants did not respond, and the fourth indicated that he understood the calculation but wished to maintain his request for Court review. (*Id.* ¶28.) Because none of these claims has a Recognized Claim Amount, Epiq recommends rejecting them. (*Id.* & Ex. G.)

III. RESERVE DISTRIBUTION OF THE NET SETTLEMENT FUND

As shown above, Epiq has determined that 1,001 of the Claims in Process, with a total Recognized Claim of \$903,279,302.23, are acceptable in whole or in part, while 804 should be wholly rejected. These claims and their recommended disposition are listed in Exhibits A-G to the Amin-Giwner Declaration.

Class Representatives respectfully request that the Court approve Epiq's administrative recommendations to (a) accept the 1,001 claims deemed acceptable in whole or in part, and (b) reject the 804 claims that Epiq has wholly rejected.

Upon entry of the Reserve Distribution Order, Epiq will execute the following reserve distribution plan (the "Reserve Distribution Plan") (Amin-Giwner Decl. ¶29):

- i. Epiq will calculate award amounts to all Authorized Claimants (whether pursuant to the Initial Distribution Order or Reserve Distribution Order) by calculating their *pro rata* share of the Net Settlement Fund at the time of the Initial Distribution, in accordance with the Plan of Allocation, based on the (a) amount of the Authorized Claimant's Recognized Claim divided by (b) the total of Recognized Claims of all Authorized

Claimants, multiplied by (c) the total amount in the Net Settlement Fund at the time of the Initial Distribution after deducting any further payments approved by the Court (including payments authorized by the Reserve Distribution Order), taxes, the costs of preparing appropriate tax returns, and any escrow fees;

- ii. Epiq will eliminate from the Reserve Distribution any Authorized Claimant whose *pro rata* share of the Net Settlement Fund as calculated under subparagraph (i) above is less than \$10.00. Such claimants will not receive any distribution from the Net Settlement Fund and Epiq will send letters to those Authorized Claimants (if not already sent) advising them of that fact.
- iii. Pursuant to the Initial Distribution Order, Epiq will eliminate from the Reserve Distribution all Claims Paid in Full.
- iv. After eliminating claimants who would have received less than \$10.00 and all Claims Paid in Full, Epiq will calculate the *pro rata* share for each remaining Authorized Claimant pursuant to the calculations described in subparagraph (i) above (the “Distribution Amount”).
- v. Each remaining Authorized Claimant will receive the Distribution Amount, less any amount previously distributed to such Authorized Claimant pursuant to the Initial Distribution Order.
- vi. In order to encourage Authorized Claimants to promptly deposit their payments, all Reserve Distribution checks will bear the following notation: “DEPOSIT PROMPTLY, VOID AND SUBJECT TO RE-

DISTRIBUTION IF NOT NEGOTIATED WITHIN 90 DAYS OF ISSUE DATE.”

- vii. Authorized Claimants who do not cash their Reserve Distribution checks within the time allotted will irrevocably forfeit all recovery from the Settlement. The funds allocated to all such stale-dated checks will be available to be re-distributed to other Authorized Claimants in one or more follow-up distributions.

IV. PAYMENTS TO EPIQ AND JNL

Finally, Class Representatives respectfully request authorization to pay Epiq \$29,372.96 from the Settlement Fund, which represents Epiq’s estimated fees related to the Reserve Distribution (Amin-Giwner Decl. ¶30); should this estimate exceed actual fees and costs, Epiq shall refund the difference to the Settlement Fund once the Reserve Distribution is completed. Class Representatives also respectfully request authorization to pay JNL \$19,125.00 from the Settlement Fund, which reflects JNL’s ongoing work—including continued participation in regular status calls with Epiq and Lead Counsel—to provide reasonable assurance that the settlement administration process is fair and accurate and facilitate the conclusion of the administration.

V. CONCLUSION

For the foregoing reasons, Class Representatives respectfully request that the Court enter the Reserve Distribution Order submitted herewith.

Dated: New York, New York
August 25, 2023

Respectfully submitted,

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