

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HARTIG DRUG COMPANY INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	C.A. No. 14-719-JFB-SRF
SENJU PHARMACEUTICAL CO. LTD.,)	
KYORIN PHARMACEUTICAL CO., LTD.,)	
AND ALLERGAN, INC.,)	
)	
Defendants.)	

**JOINT DECLARATION OF SETTLEMENT CLASS COUNSEL
IN SUPPORT OF PLAINTIFF’S MOTION FOR AN
AWARD OF ATTORNEYS’ FEES AND LITIGATION EXPENSES**

Melinda R. Coolidge, Gregory A. Frank and J. Clayton Athey hereby declare as follows:

1. Pursuant to this Court’s February 27, 2018 Order, our firms were collectively appointed as interim co-lead counsel and liaison counsel to represent the class in this matter. D.I. 56 at ¶ 5. We submit this joint declaration in support of Plaintiff’s motion for an award of attorneys’ fees and expenses in connection with the services rendered, and costs and expenses incurred in *Hartig Drug Co. Inc. v. Senju Pharm. Co. LTD, et al.* (the “Action”).

2. Garden City Group, LLC (“GCG”) was appointed as the Settlement Administrator pursuant to the Court’s Order Granting Preliminary Approval of Class Settlement (the “Preliminary Approval Order”), dated February 27, 2018 (D.I. 56), and in accordance with the Settlement Agreement Between Plaintiff Hartig Drug Co. Inc. (“Hartig”) and Defendants Senju Pharmaceutical Co. Ltd., Kyorin Pharmaceutical Co., Ltd., and Allergan, Inc. (the “Settlement”).

3. As set forth in more detail in the April 30, 2018 Declaration of Brandon Schwartz Concerning Proposed Notice Program and Administration (the “Pre-Notice Declaration”) (D.I. 60), the elements of the Notice Plan included publishing advertising in trade publications that

direct people to the Settlement Website, notice via U.S. Mail, and a dedicated website on which the notice materials have been posted. Pre-Notice Declaration at ¶¶ 9-12 (D.I. 60).

4. The Notice Plan was designed and implemented to not only inform Class Members about the Settlement, but also to inform Class Members that they may exclude themselves from or object to the Settlement. *Id.* at ¶ 8.

5. GCG has informed Settlement Class Counsel that, on June 11, 2018, GCG mailed the Notice Packet to 95 Class Members known or ascertainable through transaction data Defendants previously provided to Plaintiff and GCG.

6. GCG has informed Settlement Class Counsel that, as described in the Pre-Notice Declaration, GCG arranged for the Publication Notice to run in trade journals that provide notice directly to entities that likely purchased Zymar or Zymaxid directly from Defendants during the Class Period. GCG has confirmed with Settlement Class Counsel that Publication Notice was published once in each of the following trade publications: *Pharmacy Purchasing & Products* and *Drug Topics*. *Id.* at ¶ 11.

7. GCG has informed Settlement Class Counsel that GCG established and is maintaining an official website dedicated to this Settlement. The website address was included in the Publication Notice and the Notice Packet sent to Class Members. GCG has confirmed that the Mail Notice, along with other relevant documents, is posted on the website, so that potential claimants may review and download them, and that the website also includes relevant dates and other settlement-related information. *Id.* at ¶ 12.

8. Pursuant to Paragraph 7 of the Notice Order (D.I. 61), Class Members wishing to be excluded from the Settlement were required to submit written requests for exclusion to the Claims Administrator, postmarked no later than October 5, 2018.

9. GCG has informed Settlement Class Counsel that, as of September 24, 2018, GCG has received no requests to be excluded from the Settlement Agreement.

10. Pursuant to Paragraph 7 of the Notice Order (D.I. 61), Class Members wishing to object to the terms of the Settlement Agreement must do so in writing and mail or deliver copies of such objection to Counsel for the Settling Parties and the Clerk of the Court by no later than October 5, 2018.

11. GCG has also informed Settlement Class Counsel that, as of September 24, 2018, GCG is not aware of any objections made to the Settlement Agreement.

12. Hartig retained Settlement Class Counsel prior to filing the complaint in 2014. Since that time, Hartig has been an active participant in the litigation. Hartig had regular conversations with Settlement Class Counsel about the status of the case and was available to answer any questions Settlement Class Counsel had about the market for Zymar/Zymaxid or Hartig's experience purchasing Zymar/Zymaxid.

13. As part of Hartig's participation in the litigation, representatives from Hartig reviewed pleadings and motions regularly throughout the litigation. Hartig also had to preserve numerous documents, as part of its preparation for litigation, and was ready, willing, and able to both produce these documents and respond to any other discovery Defendants were likely to serve, including sitting for a deposition.

14. Hartig was also involved in the settlement process, discussing the settlement with Settlement Class Counsel, both telephonically and in person, on numerous occasions.

15. By filing this lawsuit against large pharmaceutical manufacturers, companies that sell products to Hartig on a regular basis and are thus critical to its business, Hartig took a risk.


The company decided to take action against increased drug prices in a way that was both public and prominent.

16. At no time during the course of this litigation was Hartig promised an incentive award. Hartig, however, expended considerable effort on behalf of the Settlement Class and now moves the Court for an incentive award in the motion filed herewith.

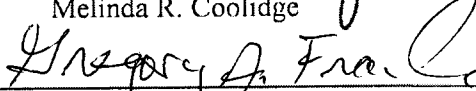
17. The Plan of Allocation previously approved by the Court is a *pro rata* distribution of the Settlement Fund in proportion to the relevant unit purchase total of Zymar and Zymaxid made by each Settlement Class member who files a claim form. Hartig will participate in, and receive its allotted share of, the Settlement, just as any other Class Member who makes a timely claim will.

We declare under penalty of perjury that the foregoing is true and accurate.

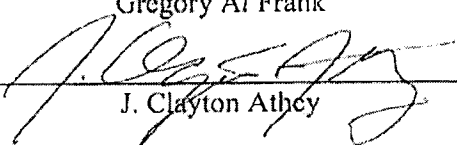
Executed this 25th day of September, 2018.



Melinda R. Coolidge



Gregory A. Frank



J. Clayton Athey