

**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.)	

**SUPPLEMENTAL DECLARATION OF ERIC KIERKEGAARD REGARDING
FINAL CLAIM DETERMINATION & DISTRIBUTION**

I, ERIC KIERKEGAARD, hereby declare and state as follows:

INTRODUCTION

1. I am a Project Director in Client Services for Epiq Class Action & Claims Solutions, Inc.¹. The following statements are based on my personal knowledge and information provided by other experienced GCG employees working under my supervision. If called on to do so, I could and would be competent to testify thereto.

2. This Declaration discusses the administrative work that GCG has performed and the determinations made with respect to the processing of claims filed in connection with the Settlement Agreement Between Plaintiff Hartig Drug Co. Inc. and Defendants Senju Pharmaceutical Co., Ltd., Kyorin Pharmaceutical Co., Ltd., and Allergan, Inc. (the “Settlement”)².

¹ Garden City Group, LLC was acquired by Epiq Class Action and Claims Solutions, Inc. on June 15, 2018. All references to GCG shall indicate the Settlement Administrator both as Garden City Group, LLC and Epiq Class Action and Claims Solutions.

² All capitalized terms not otherwise defined in this document shall have the same meaning ascribed to them in the Agreement.

CLAIMS ADMINISTRATION

3. **Claims Received.** GCG has received and reviewed claims for validity and inclusion in the Settlement. The postmark deadline for Class Members to submit claims was October 5, 2018. To make a claim, Class Members were required to complete the approved Claim Form. The 95 Class Members known or ascertainable through transaction data Defendants provided to GCG were mailed pre-printed Claim Forms that included sales data provided by Defendants. These Class Members were permitted to amend the sales data included on their Claim Form provided they included sufficient documentation to support the change, the accuracy of the supplemental sales data could be verified, and they certified under penalty that the supplemental sales data was true and correct.

4. As of April 4, 2019, GCG has received a total of 436 timely Claim Forms and 37 late Claim Forms, for a total of 473 claims received. GCG reviewed claims for completeness, duplication, timeliness, fraud, and whether the claim could be supported by documentation or defendant data.

5. **Late Claims.** As stated above, 37 claims were received after the postmark deadline (“Late Claims”). None of these claims were received so late as to interfere with the claims administration process.

6. **Audit Process.** While claimants were not initially required to submit supporting documentation for their claimed purchases of Zymar and Zymaxid, the Claim Form required each claimant to agree to provide additional supporting information if requested and certify under penalty of perjury that, among other things, there was documentation to support the claim. GCG audited all claims with claimed purchase values that were not supported by the transaction data provided by Defendants to GCG. Taken together, GCG audited 444 claims. All claims that were audited were claims filed on behalf of claimants who did not appear to have directly purchased

Zymar or Zymaxid according to Defendant's purchase data.

7. For those claimants who did not provide an adequate response to the initial letter, GCG sent a reminder letter requesting supporting documentation. These letters advised claimants that failure to respond or provide the requested documentation would result in rejection of their claims. After the follow-up efforts noted above, 435 of the claimants did not provide sufficient documentation to support their claim, and their claims were therefore rejected.

8. Eligible Claims. After GCG's review of all claims, the total number of claims eligible for payment in the Settlements is 37 for a total of 3,382,734 units purchased. This constitutes settlement claims on approximately 90% of the 3,743,111 units in Defendant's purchase data.

9. Settlement Funds. Under the terms of the Settlement Agreement, the total Settlement Fund initially paid into the Settlement escrow account is \$9,000,000. The Court's October 16, 2018 Order authorized payment of \$3,000,000.00 in attorneys' fees, \$93,483.23 in expenses and \$10,000.00 for an incentive award. Based on escrow statements provided to GCG, a total of \$5,899,231.70 remain available in the Settlement escrow account.

10. Administrative Fees and Expenses. As of April 4, 2019, GCG has been paid \$33,248.68 from the Settlement escrow account for administrative fees and expenses. Additionally, GCG estimates \$15,392.94 for fees and expenses to conduct the initial distribution of the Net Settlement Fund, assuming there is only one distribution. If a second distribution is requested by Counsel and approved by the Court, those administrative fees would be in addition to the aforementioned amounts

11. Net Settlement Fund. After paying the administrative fees and expenses described above, the total amount available for distribution to claimants at this time (the "Net Settlement Fund") is \$5,883,838.76.

12. Recommended Allocations. GCG has calculated awards in accordance with the Plan of Allocation approved by the Court after consultation with Settlement Class Counsel. GCG has included all claims approved in the review process including late claims. The high, average, and low award amounts are \$2,354,645.92, \$159,022.67, and \$10.44, respectively. Attached as **Exhibit A** is a chart showing information about each claimant's purchases and GCG's application of pro rata awards pursuant to the Plan of Allocation. The chart identifies each claimant by claim number, confirms the total units of approved purchases, and provides the expected award amount.

13. Upon Court approval of the above, GCG is prepared to commence distribution for the Settlements in accordance with the calculations noted above and the Plan of Allocation.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 4th day of April 2019 in Seattle, Washington.



Eric Kierkegaard

Exhibit A

GCG ID	Approved Purchases	Pro Rata Share	Estimated Award Value
1000011	1,353,732	0.400188723	\$2,354,645.92
1000050	1,143,724	0.338106396	\$1,989,363.52
1000005	541,146	0.159972969	\$941,255.15
1000045	105,720	0.031252827	\$183,886.59
1000058	44,232	0.013075814	\$76,935.98
1000067	32,616	0.009641905	\$56,731.41
1000033	31,728	0.009379395	\$55,186.85
1000073	21,444	0.006339251	\$37,299.13
1000024	21,000	0.006207996	\$36,526.85
1000060	18,612	0.005502058	\$32,373.22
8382539	16,876	0.004988864	\$29,353.67
1000085	11,304	0.003341676	\$19,661.88
8387242	7,834	0.002315878	\$13,626.25
1000069	7,608	0.002249068	\$13,233.16
8387189	5,073	0.001499675	\$8,823.84
1000021	4,752	0.001404781	\$8,265.50
1000015	4,176	0.001234504	\$7,263.62
1000079	3,336	0.000986185	\$5,802.55
1000008	2,028	0.000599515	\$3,527.45
1000022	1,008	0.000297984	\$1,753.29
1000064	816	0.000241225	\$1,419.33
1000046	780	0.000230583	\$1,356.71
3	741	0.000219054	\$1,288.88
1000065	636	0.000188014	\$1,106.24
1000023	612	0.000180919	\$1,064.50
1000003	504	0.000148992	\$876.64
1000066	228	6.74011E-05	\$396.58
8383776	90	2.66057E-05	\$156.54
8386162	87	2.57188E-05	\$151.33
8382552	82	2.42407E-05	\$142.63
8382731	60	1.77371E-05	\$104.36
8382535	48	1.41897E-05	\$83.49
1000037	36	1.06423E-05	\$62.62
8383081	25	7.39047E-06	\$43.48
1000072	24	7.09485E-06	\$41.74
8385686	10	2.95619E-06	\$17.39
1000070	6	1.77371E-06	\$10.44