

## **If You Paid for the Antibiotic Cipro in California You Could Get Money from a Class Action Settlement**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- A \$225,000,000 settlement with Barr Laboratories, Inc. has been reached in a class action lawsuit involving the price of the antibiotic drug Cipro (the “Settlement”).
- The lawsuit claims that Bayer AG (“Bayer”), Barr Laboratories, Inc. (“Barr”), and Hoechst Marion Roussel, Inc., Watson Pharmaceuticals, Inc., and The Rugby Group, Inc. (the “HMR Defendants”) (Bayer, Barr, and the HMR Defendants are collectively referred to in this Notice as the “Defendants”) violated antitrust and consumer protection laws by agreeing not to compete with each other and keeping lower-cost generic versions of Cipro off the market. Defendants deny this. **No one is claiming that Cipro is unsafe or ineffective.**
- You are included if you or your company purchased or paid for the prescription drug Cipro in California between January 8, 1997 and December 31, 2005.
- Please read this Notice carefully. Your legal rights will be affected, and you have a choice to make now.

<b>Summary of Your Legal Rights and Options</b>	
<b>Submit a Claim Form</b>	<b>The only way to receive money from this Settlement.</b>
<b>Object to or Comment on the Settlement</b>	<b>Write to the Court about why you do or do not like the Settlement.</b> You may also ask to speak to the Court at the April 21, 2017 hearing, about the fairness of the settlement, though you do not have to do so. To comment on or object to the settlement, you must act before April 5, 2017.
<b>Do Nothing</b>	<b>Get no payment.</b> Potentially give up your rights to ever recover from Barr for the legal claims in this case.

- **This Notice explains your legal rights and options--and the deadlines to exercise them.**

### **BASIC INFORMATION**

#### **1. Why did I get this Notice?**

You may have purchased, paid, and/or reimbursed for Cipro between January 8, 1997 and December 31, 2005. You have the right to know about this class action lawsuit and about your legal rights and options before the Court decides whether to approve the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights. It also explains what benefits are available, who is eligible for them, and how to obtain them.

The Court has preliminarily approved the Settlement. If you are in fact a Class Member, you have legal rights and options that you may exercise before the Court considers whether it will grant final approval to the proposed Settlement at the “Fairness Hearing.” The Fairness Hearing is to decide whether the proposed Settlement is fair, reasonable, and provides adequate compensation and benefits to the members of the Class.

Judge Ronald L. Styn of the Superior Court of California, County of San Diego, is presiding over these cases. The lawsuits are called *Cipro Cases I & II*, J.C.C.P. Nos. 4154 and 4220.

This is the fourth Notice issued in these cases. Previously, the Court ordered that notice be sent to Class Members to inform them of the order certifying the Class and the opportunity to opt out of the Class. The deadline for opting out of the

class was December 15, 2004. The Court also ordered notice to be sent to Class Members informing them of previous settlements reached with Bayer and with the HMR Defendants.

The people who sued are called the Plaintiffs. The Defendants are: (1) Bayer (no longer a Defendant pursuant to a previous settlement); (2) Barr (whose settlement is the subject of this notice); and (3) the HMR Defendants (Hoechst Marion Roussel, Inc., Watson Pharmaceuticals, Inc., and The Rugby Group, Inc.) (each no longer a Defendant pursuant to a previous settlement).

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

Cipro is an antibiotic drug prescribed by doctors. The lawsuit claims that Defendants violated California's antitrust and consumer protection laws in connection with the sale in California of Cipro, and that Defendants agreed not to compete with each other, which had the effect of keeping lower-cost generic versions of Cipro off the market. Defendants, including Barr, deny these claims and say their conduct was legal.

To obtain more information about the claims in this lawsuit, you can view the complaints in these cases at [www.CiproSettlement.com](http://www.CiproSettlement.com).

## **3. What is a class action and who is involved?**

In a class action lawsuit, one or more people called "Named Plaintiffs" or "Class Representatives" sue on behalf of other people who have similar claims. The people with similar claims together are a "Class" and are called "Class Members." In a class action, the court resolves the issues for all Class Members, except for those who exclude themselves from the Class. The Court appointed Barbara Cohen, Karyn McGaughey, Donna Moore, Deborah Patane, Local 39 of the International Union of Operating Engineers, and the Sheet Metal Workers of Southern California, Arizona, and Nevada as Class Representatives in this case.

## **4. Why is there a Settlement?**

While the case is still currently pending before the San Diego Superior Court, in order to avoid the uncertainty of continuing the litigation, Plaintiffs and Barr have agreed to settle. That way, they avoid the cost of further litigation, and Class Members will get the benefits of the Settlement. Plaintiffs' attorneys think the Settlement with Barr is best for all Class Members.

### **WHO IS IN THE SETTLEMENT**

## **5. Am I part of this Settlement?**

In general, persons and entities who bought the prescription antibiotic drug Cipro in California between January 8, 1997 and December 31, 2005 are Class Members and are eligible for a payment from the Settlement. The Class includes both consumers and third-party payors.

Consumer Class Members are people that paid for some or all of the cost of Cipro in California. A Consumer Class Member purchased Cipro from a pharmacy or was administered Cipro in a hospital. These Class Members must have lived in California at any time between January 8, 1997 and December 31, 2005, and paid for some or all of the total cost of a Cipro prescription in California during that time.

A Third-Party Payor Class Member is an entity that is a party to a contract, issuer of a policy, or sponsor of a plan, and that must pay or reimburse all or part of the cost of Cipro dispensed to its California members. Third-Party Payor Class Members could include:

- Entities with self-funded plans that contract with a health insurance company or other firm to serve as a third-party claims administrator to administer such entities' prescription drug benefits; or
- Insurance companies, union health and welfare benefit plans, and other organizations that paid for all or part of a Cipro prescription obtained by one of their California members between January 8, 1997 and December 31, 2005.

## **6. Are there any exceptions to being included?**

You are **not** a Class Member if any of the following is true:

- You previously asked to be excluded from (to opt out of) the Class in a timely and proper manner.
- You obtained Cipro through MediCal.
- You bought Cipro in order to resell it.
- You are a governmental entity.
- You paid a flat co-payment for Cipro and you would have paid the same co-payment for a generic substitute under the terms of your health insurance policy.
- You are a judge or justice who is or was assigned to hear any part of this litigation.
- You are a current or former officer or director of one of the Defendants, or the complaint alleges you participated in the conspiracy that is the subject of the lawsuit. (The complaint is available at [www.CiproSettlement.com](http://www.CiproSettlement.com).)

## **7. If I previously asked to be excluded from the Class, can I change my mind now?**

If you previously asked to be excluded from the Class (in response to the Court's 2004 notice of class certification), you are not a Class Member. If you previously asked to be excluded from the Class and want to pursue claims against the non-settling Defendant, you must do so in a separate lawsuit. In deciding whether to pursue any individual claim, or whether an individual claim is still viable, you should consult your own attorney.

## **8. If I previously did *not* ask to be excluded from the Class, can I change my mind now?**

If you are a Class Member, you cannot exclude yourself from the Class because the deadline to exclude yourself has passed. Requests for exclusion needed to be postmarked by December 15, 2004, according to the previous Notice issued in this case. However, as a Class Member you may choose not to submit a claim. If you choose not to submit a claim you will not receive any money or benefits from the proposed Settlement, however you are still bound by the settlement and will not be permitted to pursue an individual claim.

## **9. I'm still not sure if I am included?**

If you are still not sure whether you are included, you can get help at [www.CiproSettlement.com](http://www.CiproSettlement.com) or by calling 1-866-404-0135.

## **10. What are my rights as a Class Member?**

You can file a claim for a payment from the Settlement Fund (*see* Question 15). You can also comment on or object to the proposed Settlement (*see* Question 20).

## **THE SETTLEMENT BENEFITS**

## **11. What does the Settlement provide?**

Barr will pay \$225,000,000 into a Settlement Fund (the "Fund"). After deducting attorneys' fees, costs, and other fees and expenses (*see* Question 19), the Fund will be distributed to Class Members who file valid claims.

As a Class Member, you "release" your claims against Barr, whether or not you file a valid claim for a portion of the settlement (*see* Question 8). Those releases include any claims made (or that could have been made) in this lawsuit. The release is described in more detail in the Settlement Agreement in Paragraph 12 (Releases). The Settlement Agreement is available at [www.CiproSettlement.com](http://www.CiproSettlement.com).

## **12. How much money can I get from the Settlement?**

Your payment amount cannot be calculated at this time. Your share will depend on (a) the amount of Cipro you purchased between January 8, 1997 and December 31, 2005; (b) the total number of valid claims that are submitted; and (c) the fees, costs and expenses approved by the Court. It is impossible to accurately predict how many people will file claims and the

amount of any Court-approved award of attorneys' fees and costs. However, the proposed Plan of Allocation provides for a minimum payment of \$25 to any Class Member who submits a valid claim, regardless of its size, with limited exceptions. The proposed Plan of Allocation is available for review at [www.CiproSettlement.com](http://www.CiproSettlement.com), and will be presented for approval by the Court at the Fairness Hearing (*see* Question 21).

## SUBMITTING A CLAIM FORM

### 13. How can I get money from the Settlement?

To receive money from the Settlement, you must complete and submit a Claim Form (attached). Claim Forms are also available at [www.CiproSettlement.com](http://www.CiproSettlement.com). Please read this Notice and the Claim Form carefully, fill out the form, include all the information and documents it asks for, sign it, and mail it postmarked no later than **May 31, 2017**. For more information or to submit your Claim Form online visit [www.CiproSettlement.com](http://www.CiproSettlement.com).

#### Consumers

- If you previously filed a Claim Form without supporting documentation and received a \$25 payment from the Bayer Settlement for purchases between January 8, 1997 and October 31, 2004, you may receive an additional \$25 payment for these purchases. You may also submit your purchase information and the required documentation for purchases from November 1, 2004 through December 31, 2005 for additional funds from this settlement, or you may file a claim for purchases from November 1, 2004 through December 31, 2005, and state you do not have the supporting documentation, and you may be entitled to an additional payment.
- If you filed a Claim Form in the Bayer Settlement and you received an amount other than \$25, and did not complete a Claim Form for the HMR Settlement listing purchases between November 1, 2004 and December 31, 2005, you should complete a Claim Form and provide additional information related to your purchases from November 1, 2004 through December 31, 2005. If you do not provide additional purchase information for November 1, 2004 through December 31, 2005, your payment will be based on the purchase information that you previously provided.
- If you filed a Claim Form in the Bayer or HMR Settlements and have no other Cipro purchases from January 8, 1997 through December 31, 2005, your claim is complete and you need not submit another Claim Form. Your claim will be calculated based on the information you previously provided.
- If you did not file a claim from the Bayer or HMR Settlements and wish to receive money from this settlement, you must complete and submit a Claim Form (attached). Claim Forms are also available at [www.CiproSettlement.com](http://www.CiproSettlement.com).

#### Third-Party Payors

- If you previously filed a Claim Form and received payment from the Bayer Settlement and did not complete a Claim Form for the HMR Settlement including information from November 1, 2004 through December 31, 2005, you should complete and submit a Claim Form with that information.
- If you did not file a claim from the Bayer or HMR Settlements and wish to receive money from this settlement, you must complete and submit a Claim Form (attached). Claim Forms are also available at [www.CiproSettlement.com](http://www.CiproSettlement.com).
- If you filed a Claim Form in the Bayer or HMR Settlements and have no other Cipro purchases from January 8, 1997 through December 31, 2005, your claim is complete and you need not submit another Claim Form. Your claim will be calculated based on the information you previously provided.

### 14. When will I get my payment?

The Court will hold a hearing on April 21, 2017, to decide whether to approve the Settlement. If the Court approves the Settlement, there still may be appeals of that decision. It is hard to estimate how long it might take for any appeals to be resolved, but it can take a lot of time, perhaps more than a year.

Updates regarding the Settlement and when payments will be made will be posted on the Settlement website, [www.CiproSettlement.com](http://www.CiproSettlement.com).

## THE LAWYERS REPRESENTING YOU

### 15. Must I Attend The Final Approval Hearing?

You do not have to attend the Final Approval Hearing. The Court appointed the following law firms as Class Counsel to represent the Class:

Eric B. Fastiff LIEFF CABRASER HEIMANN & BERNSTEIN, LLP 275 Battery Street, 29 <sup>th</sup> Floor San Francisco, CA 94111 (415) 956-1000 efastiff@lchb.com	Dan Drachler ZWERLING, SCHACHTER & ZWERLING, LLP 1904 Third Avenue, Suite 1030 Seattle, WA 98101-1170 (206) 223-2053 ddrachler@zsz.com	Joseph R. Saveri JOSEPH SAVERI LAW FIRM, INC. 555 Montgomery Street, Suite 1210 San Francisco, CA 94111 (415) 500-6800 jsaveri@saverilawfirm.com
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Class Members are also represented by the following law firm:

Ralph Kalfayan  
Krause, Kalfayan, Slavens &  
Benink, LLP  
550 West C Street, Suite 530  
San Diego, CA 92101  
(619) 232-0331  
rkalfayan@kkbs-law.com

Together these law firms are called "Plaintiffs' Counsel."

### 16. Should I get my own lawyer?

You do not need to hire your own lawyer because Plaintiffs' Counsel is working on your behalf. If you want your own lawyer, you may hire one, but you will be responsible for any payment for that lawyer's services. For example, you can ask him or her to appear in Court for you if you want someone other than Plaintiffs' Counsel to speak for you. You may also appear for yourself without a lawyer.

### 17. How will the lawyers be paid?

Plaintiffs' Counsel will ask the Court to approve payment of up to one third of the Settlement Fund to them for attorneys' fees, as well as to reimburse them for litigation costs they advanced in pursuing the claims. The fees would compensate Plaintiffs' Counsel for investigating the facts, litigating the case (including through appeals), and negotiating and administering this Settlement. Plaintiffs' Counsel will also ask the Court to approve payments of \$2,500 to each of the individual Class Representatives and \$15,000 to the Third-Party Payor Class Representatives to compensate them for their service to the Class.

Plaintiffs' Counsel may seek additional attorneys' fees, costs, and expenses from any future settlement or recovery obtained from non-settling defendants.

The costs of providing this Notice and administering this Settlement are being paid from the Settlement Fund.

## OBJECTING TO THE SETTLEMENT

### 18. How do I tell the Court if I don't like the Settlement?

If you are a Class Member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

To object, you must send a letter saying that you object to the proposed Settlement in *Cipro Cases I & II*. Be sure to include:

- Your name, address, telephone number, and signature;
- A detailed statement of your objection, including the grounds for the objection together with any documents you think support it.

Mail the objection by First Class U.S. Mail, postmarked no later than **April 5, 2017**, to:

Cipro Settlement  
OBJECTIONS  
P.O. Box 173017  
Milwaukee, WI 53217

## THE COURT'S FAIRNESS HEARING

### 19. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at 2:00 p.m. on April 21, 2017 in Department 62 of the Superior Court of California, County of San Diego, located at 330 West Broadway, San Diego, California 92101.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing.

The Court may also decide how much to pay to Plaintiffs' Counsel in fees and expense reimbursements. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

The Court may reschedule the Fairness Hearing or change any of the deadlines described in this Notice. Be sure to check the website, [www.CiproSettlement.com](http://www.CiproSettlement.com), for news of any such changes.

### 20. Do I have to come to the Fairness Hearing?

No. Plaintiffs' Counsel will answer any questions the Court may have. Of course, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### 21. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Cipro Cases I & II*." You must mail your Notice of Intention to Appear, postmarked no later than **April 5, 2017** to the addresses shown in the answer to Question 18 above. Be sure to include your name, address, telephone number, and your signature.

You cannot speak at the hearing if you previously excluded yourself from the Class.

## IF YOU DO NOTHING

### 22. What happens if I do nothing at all?

If you are a Class Member who did not previously opt out, did not previously file a claim form in the Bayer or HMR Settlements, and you do nothing now, you'll get no money from this Settlement and you won't be able to collect any damages from Barr for its alleged Cipro overcharges in California. If you previously filed a claim form in this action, see Question 13 above.

## GETTING MORE INFORMATION

### 23. Are more details about the Settlement available?

Yes. This Notice summarizes the proposed Settlement; more details are in the proposed Settlement Agreement itself. You can get a copy of the Settlement Agreement at [www.CiproSettlement.com](http://www.CiproSettlement.com).

### 24. How do I get more information?

The website [www.CiproSettlement.com](http://www.CiproSettlement.com) provides answers to common questions about the Settlement, Claim Forms, and other information to help you determine whether you are a Class Member and whether you are eligible for a payment.

You may also call or write to the Claims Administrator at:

Cipro Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173017  
Milwaukee, WI 53217  
1-866-404-0135  
[info@CiproSettlement.com](mailto:info@CiproSettlement.com)

**PLEASE DO NOT CONTACT THE COURT. ANY QUESTIONS ABOUT THIS NOTICE OR THE SETTLEMENT SHOULD BE DIRECTED TO THE CLAIMS ADMINISTRATOR AND/OR TO COUNSEL.**

You may also seek the advice and counsel of your own attorney at your own expense, if you desire.

Dated: March 3, 2017 By Order of the Court  
Judge of the Superior Court of California  
County of San Diego