

If You Bought or Provided Reimbursement for the Dry-Eye Disease Drug Restasis® between May 1, 2015 and the Present,

You Could Be Included in a Class Action Lawsuit

A Federal Court authorized this notice. This is not a solicitation from a lawyer.

*Para conseguir una notificación en español, llame a 1-877-868-6810 o visite el sitio web:
www.RestasisLitigation.com.*

- Please read this Notice carefully as it provides you with information regarding a class action lawsuit against Allergan, Inc. (“Allergan”), the manufacturer of Restasis, and impacts your rights if you are included in the Class.
- **No one is claiming that Restasis is unsafe.**
- A court has certified the lawsuit as a class action that includes persons or entities who purchased, paid for, and/or reimbursed some or all of the purchase price for Restasis. *See* Question 5 for the full Class definition.
- The lawsuit claims that Allergan engaged in a monopolization scheme that kept generic versions of Restasis off the market and made Restasis prices higher than they otherwise would have been.
- The Court has not decided that Allergan did anything wrong; rather, the case is currently being litigated. There is no money available now, and whether any becomes available to anyone will depend on the outcome of this lawsuit.
- Your rights and options—and the deadlines to exercise them—are explained in more detail in this Notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	Stay in this lawsuit. Await the outcome. Possibly share in benefits, if any become available. Give up certain rights. By staying in the lawsuit, you keep the possibility of recovering money that may result from a trial or settlement. But you give up any rights to sue Allergan on your own about the same legal claims in this lawsuit.
EXCLUDE YOURSELF	Get out of this lawsuit. Get no benefits from it. Keep your rights. If you ask to be excluded from the lawsuit, and if any money later becomes available through trial or settlement, you won’t be eligible to share in it. But you keep any rights to sue Allergan on your own about the same legal claims in this lawsuit. The deadline to exclude yourself from the lawsuit is August 18, 2021.

QUESTIONS? CALL 1-877-868-6810 OR VISIT WWW.RESTASISLITIGATION.COM

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BASIC INFORMATION

1. Why did I get this Notice?

This Notice is to inform you that this lawsuit has been “certified” as a Class Action. This means that the lawsuit meets the requirements for class actions and may proceed to judgment on a group basis. If you are included in the Class, you may have legal rights and options before the Court decides whether the claims being made against Allergan are correct. This Notice explains all of these things.

Judge Nina Gershon of the United States District Court for the Eastern District of New York is overseeing this case. The case is known as *In Re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation*, Case No. 18-md-2819. The Plaintiffs in this case are 1199SEIU National Benefit Fund; 1199SEIU Greater New York Benefit Fund; 1199SEIU National Benefit Fund for Home Care Workers; 1199SEIU Licensed Practical Nurses Welfare Fund; American Federation of State, County, and Municipal Employees District Council 37 Health and Security Plan; Fraternal Order of Police, Miami Lodge 20, Insurance Trust Fund; Ironworkers Local 383 Health Care Plan; Self-Insured Schools of California; Sergeants Benevolent Association Health & Welfare Fund; St. Paul Electrical Workers’ Health Plan; and United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund. The Defendant is Allergan, Inc.

2. What is the lawsuit about?

Plaintiffs allege that Allergan obtained an illegal monopoly on Restasis by submitting fraudulent patent applications to the U.S. Patent and Trademark Office (the PTO), obtaining fraudulent patents, and then listing those fraudulent patents in the Food and Drug Administration’s (the FDA’s) “Orange Book.” Specifically, Plaintiffs allege that Allergan procured these fraudulent patents by submitting misleading declarations, presentations, and filings to the PTO that falsely claimed to have found new and unexpected results for an old invention. During the same period, Plaintiffs also allege that Allergan submitted lengthy, baseless citizen petitions to the FDA—a tactic that Plaintiffs allege can delay generic competition. Lastly, Plaintiffs allege that Allergan transferred ownership of its fraudulently acquired patents to the Saint Regis Mohawk Tribe and then claimed that its patents could not be challenged or thrown out because the Tribe was immune from certain types of patent challenges.

Plaintiffs claim that Class Members were injured as a result of the challenged conduct because they paid more for branded Restasis than they would have paid for generic Restasis during the class period absent Allergan’s misconduct. A copy of Plaintiffs’ Corrected First Amended Consolidated Class Action Complaint and Demand for Jury Trial, dated December 6, 2018, is available at www.RestasisLitigation.com.

Allergan denies all of these allegations, including that Plaintiffs or Class Members are entitled to damages or any other relief. Among other things, Allergan contends that its actions in pursuing its patent rights were reasonable and had a legitimate basis, that its citizen petitions filed with the FDA had scientific and legal merit, and that generic versions of Restasis have not been delayed by the conduct Plaintiffs challenge.

The Court has certified this case as a class action. The Court has not determined who is right or whether either side “won.” Plaintiffs will have to prove their claims in Court.

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3. Why is this a class action?

In a class action, one or more individuals called “Class Representatives” (in this case, the Plaintiffs listed above) sue on behalf of those who have similar claims. All of these individuals are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who properly exclude themselves from the Class (*see* Question 9). The Court has determined that this case can proceed as a class action.

This case does not involve the safety of Restasis.

4. What are Plaintiffs asking for?

Plaintiffs are asking for money from Allergan for the Class.

WHO’S INCLUDED IN THE LAWSUIT?

5. Who is part of the Class?

The Class includes Consumers and third-party payors (entities such as employers or insurers). Specifically, the Class includes:

1. Consumers: all persons who, from May 1, 2015 to the present, purchased Restasis in a pharmacy for their own use, or received Restasis by mail-order prescription for their own use, in any of the following states: Arizona, Arkansas,* California, Colorado, the District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.
2. Third-party payors: all entities that from May 1, 2015 to the present, paid for and/or provided reimbursement for some or all of the purchase price for Restasis for use by their members, employees, insureds, participants, or beneficiaries, where such persons purchased the drug in a pharmacy or received Restasis by mail-order prescription, in the following states: Arizona, Arkansas,* California, Colorado, the District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, West Virginia, and Wisconsin.

**With respect to Arkansas only, Class Members must have purchased, paid for, and/or provided reimbursement for Restasis between May 1, 2015 and July 31, 2017.*

The Class does not include:

- Allergan, its officers, directors, employees, subsidiaries, and affiliates;
- Federal and state government entities except for cities, towns, municipalities, or counties with self-funded prescription drug plans;
- All persons or entities who purchased Restasis for purposes of resale or directly from Allergan or its affiliates;

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- Fully insured health plans (*i.e.*, payors that purchased insurance covering 100% of their reimbursement obligation to members);
- Any “flat copay” consumers who purchased Restasis only via a fixed dollar copayment that does not vary on the basis of the drug’s status as brand or generic;
- Pharmacy benefit managers (“PBMs”);
- Judges assigned to this case and their chambers staff and any members of the judges’ or chambers staff’s immediate families.

More information concerning the Class definition is included in the Certification Order available at www.RestasisLitigation.com.

6. I’m still not sure if I’m included in the lawsuit.

If you are not sure whether you are included in the lawsuit, you may call 1-877-868-6810 with questions or visit www.RestasisLitigation.com. You may also send questions to Restasis Antitrust Lawsuit Notice Administrator at c/o A.B. Data, Ltd., P.O. Box 173107, Milwaukee, WI 53217, or via email at info@RestasisLitigation.com.

7. Is there any money available now?

No money is available now because the Court has not yet decided whether Allergan did anything wrong, and the two sides have not settled the case. Plaintiffs are asking for money. There is no guarantee that money will ever be obtained.

YOUR RIGHTS AND OPTIONS

If you are a member of the Class, you have a choice whether to remain a member of the Class and be represented by the Class Representatives and by Class Counsel, or to exclude yourself. Either choice will have its consequences, which you should understand before making your decision.

8. What happens if I do nothing?

If you do nothing you will automatically remain in the Class. You will be legally bound by all Court orders (including any judgment entered for or against the Class or any future settlement), which means you won’t be able to sue, or continue to sue, Allergan about the legal claims in this case.

9. What if I don’t want to be part of the Class?

If you decide not to participate in the lawsuit, you must exclude yourself from the Class. If you exclude yourself, you will not receive any benefits that may result from this lawsuit. You will not be bound by any Court orders and you keep your right to sue Allergan on your own regarding the legal claims in this case. The Court will exclude from the Class anyone who makes that request.

To exclude yourself from the Class, you must send an email or mail a letter stating that you want to exclude yourself from the Class to the Notice Administrator at info@RestasisLitigation.com or:

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Restasis Antitrust Lawsuit Notice Administrator
EXCLUSIONS
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217

Your email or letter must also include:

- Your full name, current mailing address, email address, and telephone number; and
- A statement that you want to be excluded from this class action lawsuit (e.g., “I/we hereby request that I/we be excluded from the Class in *In Re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation.*”).

You must send your email or mail your letter postmarked by **August 18, 2021**. This may be the only opportunity you will have to exclude yourself from the Class.

As noted in the following section, Third-Party Payors wishing to exclude themselves from the Class through another entity (or to submit a request for exclusion on behalf of another entity), rather than sending an email or letter themselves, must submit additional information.

Please also continue to check www.RestasisLitigation.com for important updates.

10. Additional Opt-Out Procedures for Some Third-Party Payors

A separate exclusion request must be submitted by each Third-Party Payor electing to be excluded from the Class. Any Third-Party Payor included in the Class that does not submit a valid request for exclusion providing all necessary information will remain a member of the Class.

Any entity (whether a member of the Class or not) that wants to opt out the claims of Class Members the entity represents (e.g., welfare funds or employers for whom the entity acts as an Administrative Services Organization), must also provide a declaration under oath from an authorized representative of each such Class Member attesting to the entity’s authority to opt the Class Member’s claims out of the Class, and include the language in any written agreement that provides the entity with such authority. The entity seeking to opt out the Class Member must e-mail this information to the Notice Administrator at info@RestasisLitigation.com no later than **August 18, 2021**.

11. If I don’t exclude myself, can I sue later?

No. Unless you exclude yourself, you give up any right to sue Allergan separately from this class action, individually or on a class basis, for the claims being resolved by this lawsuit.

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THE LAWYERS REPRESENTING THE CLASS

12. Do I have a lawyer in this lawsuit?

Yes. The Court appointed Girard Sharp LLP, Lief Cabraser Heimann & Bernstein, LLP, and Joseph Saveri Law Firm, Inc. as “Class Counsel,” and Zwering, Schachter & Zwering, LLP as “Liaison Counsel” to represent the interests of the Class. Their contact information is below:

Girard Sharp LLP 601 California Street, 14th Floor San Francisco, CA 94108 Telephone: (415) 981-4800 Facsimile: (415) 981-4846 Email: dsharp@girardsharp.com	Lief Cabraser Heimann & Bernstein, LLP 275 Battery Street, 29th Floor San Francisco, CA 94611-3339 Telephone: (415) 956-1000 Facsimile: (415) 956-1008 Email: efastiff@lchb.com
Joseph Saveri Law Firm, Inc. 601 California Street, Suite 1000 San Francisco, CA 94108 Tel: (415) 500-6800 Fax: (415) 395-9940 Email: jsaveri@saverilawfirm.com	Zwering, Schachter & Zwering, LLP 41 Madison Avenue, 32nd Floor New York, NY 10010 Tel: (212) 223-3900 Fax: (212) 371-5969 Email: ddrachler@zsz.com

If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

13. How will the lawyers be paid?

You do not have to pay Class Counsel. Class Counsel will seek an award of fees and reimbursement of costs from the Court, to be paid by Allergan separately or out of the recoveries made by Class Members, if any.

Class Counsel filed a Motion for Entry of a Set-Aside order, a copy of which is available at www.RestasisLitigation.com or by contacting the Notice Administrator. Class Counsel’s motion requests that 12.5% of any settlement or recovery obtained by a Class Member that excluded itself from the Class be deposited into an escrow account, and that Class Counsel be permitted to seek payment from that amount as compensation for the work they performed that benefitted the Class Member that excluded itself.

Any response to Class Counsel’s Motion for Entry of Set-Aside Order must be submitted by August 18, 2021 to the Court via email at Victor.Joe@nyed.uscourts.gov and to Class Counsel at dsharp@girardsharp.com, efastiff@lchb.com, and/or jsaveri@saverilawfirm.com. Class Counsel will file any reply in support of the motion by **August 25, 2021**, and will make a copy of the reply available on the case website. If you have filed opposition to the set-aside motion, please visit the website, www.RestasisLitigation.com, to see whether a hearing date has been scheduled, and if so, the manner in which the hearing will be held. Any Class Member that responds to Class Counsel’s motion may appear at the hearing on their own or through their attorney.

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THE TRIAL

14. When and where will the trial take place?

If the case is not dismissed or settled, Plaintiffs will have to prove their claims at a trial that will take place at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201. Please check www.RestasisLitigation.com or call 1-877-868-6810 to be kept up-to-date on the date, time, and location of the trial. During the trial, a jury will hear all of the evidence, so that a decision can be reached about whether Plaintiffs or Allergan are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win at trial.

15. Will I get money after the trial?

There is no way to know at this time. If you do not exclude yourself from the Class, and if Plaintiffs win at trial, you will need to submit a claim to recover any money from Allergan. You will be notified about how and when to make your individual claim for money damages and what your other options are at that time.

If Allergan wins at trial, you will not be able to make an individual claim for money damages. Important information about the case will be posted on the website, www.RestasisLitigation.com, as it becomes available.

GETTING MORE INFORMATION

16. How do I get more information about the lawsuit?

This Notice summarizes the lawsuit. You can get a copy of the complaint and other important information about the lawsuit at www.RestasisLitigation.com. You may also contact the Notice Administrator directly if you have any questions. Before doing so, however, please read this Notice carefully.

Restasis Antitrust Lawsuit Notice Administrator
c/o A.B. Data, Ltd.
P.O. Box 173107
Milwaukee, WI 53217
1-877-868-6810
info@RestasisLitigation.com

PLEASE DO NOT WRITE TO OR CALL THE COURT OR THE CLERK'S OFFICE FOR INFORMATION. INSTEAD, PLEASE DIRECT ANY INQUIRIES TO ANY OF THE COUNSEL LISTED ABOVE OR TO A.B. DATA LTD. AT 1-877-868-6810.

DATE: MARCH 23, 2021

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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