

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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IN RE SYNTHROID® MARKETING  
LITIGATION

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) Master File No. 97 C 6017  
) MDL No. 1182  
) Judge Elaine E. Bucklo

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING**

**THIS NOTICE MAY AFFECT YOUR RIGHTS.  
PLEASE READ IT CAREFULLY.**

To: All Consumers in the United States and Puerto Rico Who Purchased Synthroid® (USP) At Any Time Between January 1, 1990 and October 21, 1999:

- 1. A PROPOSED SETTLEMENT IN THE AMOUNT OF \$87.4 MILLION PLUS INTEREST HAS BEEN REACHED WITH THE DEFENDANTS. THE COURT HAS PRELIMINARILY APPROVED THIS SETTLEMENT AS POSSIBLY FAIR, REASONABLE AND ADEQUATE.**
- 2. YOU MAY BE ENTITLED TO SHARE IN THIS SETTLEMENT FUND IF THE COURT FINALLY APPROVES THE SETTLEMENT. TO DO SO, YOU MUST RETURN A COMPLETED PROOF OF CLAIM AND RELEASE TO THE PROPER ADDRESS, POSTMARKED NO LATER THAN MARCH 10, 2000. (IF YOU ARE ONE OF THE 420,000 CONSUMERS WHO PREVIOUSLY SUBMITTED A CLAIM FORM IN CONNECTION WITH AN EARLIER PROPOSED SETTLEMENT, YOU NEED TAKE NO ACTION, OTHER THAN UPDATING YOUR ADDRESS IF NECESSARY. YOU MAY UPDATE YOUR ADDRESS OR OBTAIN MORE INFORMATION BY CALLING 1-800-853-4853.)**
- 3. IF YOU WISH TO OBJECT TO THE PROPOSED SETTLEMENT OR REQUEST EXCLUSION FROM THE CLASS, YOU MUST DO SO AS PROVIDED BELOW BY MARCH 10, 2000.**
- 4. A FINAL HEARING ON THE PROPOSED SETTLEMENT AND PLAINTIFF COUNSELS' REQUEST FOR ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES OF LITIGATION WILL BE HELD ON APRIL 27, 2000 AT 2:00 P.M.**

**I. BACKGROUND**

Commencing in April of 1996, consumers filed class action lawsuits against BASF Corporation, Knoll Pharmaceutical Company and others (collectively, "Defendants") claiming, among other things, that Defendants engaged in certain advertising and other conduct which provided inaccurate information to consumers about competitive products. Specifically, these plaintiffs challenged the accuracy of various statements about the superiority of Synthroid® and the non-substitutability of Synthroid® with other levothyroxine sodium products. These cases were later coordinated with other actions pending around the country in this MDL Litigation. In their actions, plaintiffs assert that they paid too much for Synthroid® as a result of the challenged conduct or would have switched to other levothyroxine products. Defendants have denied that information they provided was inaccurate and have denied any wrongdoing or legal liability, but nonetheless have agreed to enter into the settlement in order to put to rest all controversy and to avoid further expense and burden of litigation. **No question is raised about the safety or effectiveness of Synthroid®.**

**II. THE PROPOSED SETTLEMENT**

On October 21, 1999, the Court decided that the proposed class action settlement merits consideration as a possible fair, reasonable and adequate resolution of the pending actions. A prior settlement in these actions was not approved due, in part, to certain issues regarding claims made by state Attorneys General and insurance companies. Those issues now have been resolved as part of this settlement. The following is a summary of certain terms of the Proposed Settlement relating to the Consumer Settlement Class.

Defendants have agreed to establish a settlement fund in the amount of \$87,400,000.00, plus interest, solely for the benefit of consumers (minus Court awarded attorneys' fees and costs). Defendants will also pay the costs of notice to Consumer Settlement Class Members and administration of the settlement. If the Proposed Settlement becomes Final after the settlement hearing, then each member of the Consumer Settlement Class who has submitted a valid claim form will receive a share of the settlement fund, less such Consumer Settlement Class Member's proportionate share of costs and court-awarded attorneys' fees and expenses. Those Class Members who purchased Synthroid® before 1995 will receive a larger award than those Class Members who began taking Synthroid® after January 1, 1995.

<b>How your claim is valued:</b>		
Below are examples of estimated per claim amounts before deducting any Court-awarded pro rata attorneys' fees and expenses. Actual per claim amounts depend on the number of actual claims and when those claimants began taking Synthroid®*:		
<b><u>Number of Claimants</u></b>	<b><u>Post Jan. 1, 1995 Purchasers</u></b>	<b><u>Pre-1995 Purchasers</u></b>
500,000	\$127	\$191
800,000	\$ 79	\$119
* The illustrations above assume that 75% of all claims are made by pre-1995 purchasers. 420,000 claims were filed in the earlier settlement		

### **III. HOW THE SETTLEMENT WAS REACHED**

Plaintiffs' counsel have made a thorough investigation of the law and facts relating to the allegations in this litigation and the denials thereof, and have concluded that the settlement is fair, reasonable and adequate and in the best interests of the Consumer Settlement Class. The Court will not approve this settlement unless it also finds that it is fair, reasonable and adequate to the Class.

### **IV. WHO IS AFFECTED BY THE SETTLEMENT CLASS**

The Consumer Settlement Class ("Consumer Class" or "Class") includes all individuals or the individuals' legal representatives in the United States and Puerto Rico who purchased Synthroid® at any time between January 1, 1990 and October 21, 1999, and do not validly exclude themselves from participation in the settlement. The Class does not include: (i) recipients of Synthroid® exclusively through state-funded pharmaceutical drug programs who made no payments for Synthroid®; (ii) governmental entities and/or agencies represented by state Attorneys General; (iii) insurance companies; or (iv) the Defendants.

### **V. YOUR RIGHTS AND OPTIONS**

You may choose whether or not to remain a member of the Consumer Class.

#### **A. To Participate In the Settlement:**

**To receive payment from the settlement fund**, you need only mail the claim form accompanying this Notice, postmarked no later than March 10, 2000, to the Settlement Administrator at:

**Synthroid® Marketing Litigation**  
**P.O. Box 7090**  
**San Rafael, CA 94912-7090**

You may also be required to take further action if the court deems it necessary to participate in the recovery. You do not need to attend the settlement hearing unless you want to. **If you do not exclude yourself from the Consumer Settlement Class, in the manner described below, you will be bound by the settlement.**

If you previously submitted a claim form in connection with the prior settlement, and want to participate in this settlement, you do not need to take any further action, other than updating your address if necessary. Your prior proof of claim will be deemed filed. If your address has changed since you submitted your prior claim, and you have not already done so, you should provide the settlement administrator with your new address. You may do so by telephoning the Settlement Administrator at 1-800-853-4853, or by writing the Settlement Administrator at the address above. If you do not request exclusion, and if you so desire, you may enter an appearance through counsel of your own choosing at your own expense.

**B. If You Wish to Exclude Yourself from the Settlement:**

To exclude yourself from the class and not be included as a Consumer Settlement Class Member, you must complete and mail a written request for exclusion postmarked by March 10, 2000. Even if you filed a claim in connection with the earlier settlement, you nonetheless have a right to exclude yourself from this settlement. **If you wish to exclude yourself from this settlement, you must file an exclusion request even if you did so in connection with the previous settlement.** The written request for exclusion must include your name, address and signature. The written request for exclusion must be sent by first-class mail, postage prepaid, to the Settlement Administrator at:

**Synthroid® Marketing Litigation  
P.O. Box 7090  
San Rafael, CA 94912-7090**

If you timely exclude yourself from the Consumer Settlement Class, you will not receive the payment described above. **IF YOU WISH TO BE ELIGIBLE TO RECEIVE YOUR SHARE OF THE SETTLEMENT PROCEEDS, DO NOT FILE A REQUEST FOR EXCLUSION.**

Defendants may withdraw from and terminate the settlement if, among other things, those persons who elect to exclude themselves from the Consumer Settlement Class are excessive.

**C. If You Wish to Object to the Proposed Settlement or to Plaintiff Counsels' Request for Attorneys' Fees and Costs:**

To object to the Proposed Settlement, the fairness or adequacy of representation or the applications for attorneys' fees and expenses, on or before March 10, 2000, you must send to the Clerk for the United States District Court, Northern District of Illinois, Eastern Division, at 219 South Dearborn Street, Chicago, Illinois 60604, a written statement of objection, along with any other supporting materials, and must on the same date send copies to:

Marvin A. Miller, Esq. Miller Faucher Cafferty and Wexler LLP 30 North LaSalle Street Suite 3200 Chicago, Illinois 60602	and	Tyrone C. Fahner, Esq Mayer, Brown & Platt 190 South LaSalle Street Chicago, Illinois 60603
One of the Attorneys for the Class		Attorney for Defendants

If you have requested exclusion from the Class you may not object to the Proposed Settlement.

If you file and serve a written objection you may also appear at the Settlement Hearing. Class Members or their attorneys intending to appear at the Settlement Hearing must deliver to counsel listed above, and file with the Court no later than March 10, 2000, a notice of intention to appear, setting forth: (i) the name, address and telephone number of the Consumer Settlement Class Member, (ii) the objection, including any papers in support thereof, and (iii) the name and address of any witnesses to be presented at the Settlement Hearing, together with a statement as to the matters on which they wish to testify and a summary of the proposed testimony. Any Consumer Settlement Class Member who does not timely file and serve a written objection and a notice of intention to appear shall not be permitted to object or appear at the Settlement Hearing, except for good cause shown.

**VI. SETTLEMENT HEARING**

**A hearing will be held on April 27, 2000 at 2:00 p.m. (or such adjourned dates as the Court may direct**

without further notice to the Class) in Courtroom 1725 at 219 South Dearborn Street, Chicago, Illinois 60604:

- A. To determine whether the Proposed Settlement is fair, reasonable and adequate and in the best interests of the Consumer Settlement Class;
- B. To determine whether the Consumer Settlement Class has been fairly and adequately represented by the named plaintiffs and by attorneys for the plaintiffs and the Class; and
- C. To consider the applications of counsel for an award of attorneys' fees and reasonable expenses.

#### VII. ATTORNEYS' FEES, EXPENSES AND OTHER COSTS

At the Settlement Hearing, counsel for the consumer plaintiffs in the above-entitled action will apply to the Court for an award of attorneys' fees of 29% of the settlement fund and reimbursement of expenses not to exceed \$2,500,000.00. As part of the expenses of litigation, Counsel will apply to the Court for an award of not more than \$2,500.00 per person to be paid to those persons who have served as representative plaintiffs. Plaintiffs' counsel may make supplemental applications to the Court for attorneys' fees and expenses. All awards of attorneys' fees and expenses in the action shall be paid exclusively out of the settlement fund.

#### VIII. SCOPE OF RELEASE AND DISMISSAL

If the Proposed Settlement is approved by the Court, then this litigation and other similar litigations will be dismissed with prejudice and all of the claims will be dismissed that arise from or are connected with the claims asserted in these actions, and all of the Defendants shall be released. This means, among other things, that consumers who do not exclude themselves from the Class will be barred by this settlement from bringing lawsuits or claims, whether known or unknown, relating to the advertising, marketing, promotion, labeling, distribution, branding, lobbying, research, bioequivalency, testing, pricing and/or sale of Synthroid®, whether based upon state or federal statute or common law. A full explanation of the release is set forth on the attached claim form, is available on the Internet at [www.synthroidclaims.com](http://www.synthroidclaims.com) and is also set forth in detail in the settlement agreement, which is available to the public for review at the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, at 219 South Dearborn Street, Chicago, Illinois 60604. **The settlement does not release any personal injury claims or product defect claims.**

#### IX. HOW TO OBTAIN FURTHER INFORMATION

**This Notice contains only a summary of the Proposed Settlement.** The terms of the Proposed Settlement are set forth in detail in the settlement agreement, which is available to the public for review at the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, at 219 South Dearborn Street, Chicago, Illinois 60604.

**If you have questions concerning how to make a claim, you can call 1-800-853-4853 to listen to a prerecorded message summarizing the claims procedures. You may leave a message and receive a return phone call from one of plaintiffs' co-lead counsel from the law firms of Milberg Weiss Bershad Hynes & Lerach LLP; Lief, Cabraser, Heinmann & Bernstein, LLP; Allan Kanner & Associates, PC; Miller Faucher Cafferty and Wexler LLP; and Cohen, Milstein, Hausfeld & Toll, PLLC. You may also access information on the Internet at [www.synthroidclaims.com](http://www.synthroidclaims.com). PLEASE DO NOT CONTACT THE COURT, THE CLERK'S OFFICE OR THE JUDGE.**

DATED: November 1, 1999

By Order of the Honorable Elaine E. Bucklo  
Judge, United States District Court for the Northern  
District of Illinois, Eastern Division