

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BIRMINGHAM RETIREMENT AND RELIEF  
SYSTEM, et al.,

Plaintiffs,

v.

S.A.C. CAPITAL ADVISORS, L.P., et al.,

Defendants.

No. 13 Civ. 2459 (~~VIM~~) (JGK)  
(KNF)

ECF CASE

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DCC #:
DATE FILED: 10/3/2016

**~~PROPOSED~~ FINAL JUDGMENT AND  
ORDER OF DISMISSAL WITH PREJUDICE**

WHEREAS, this matter came before the Court for a hearing pursuant to the Orders of this Court entered on January 7, 2016 (the "Preliminary Approval Order") and April 28, 2016 ("Supplemental Notice Order"), on the application of the Parties for approval of the Settlement set forth in the Stipulation and Agreement of Settlement (the "Settlement Agreement"), executed as of December 21, 2015 and filed with the Court on December 23, 2015;

WHEREAS, all capitalized terms used herein have the meanings set forth and defined in the Settlement Agreement;

WHEREAS, the Court has received declarations attesting to the mailing of the Settlement Notice and publication of the Summary Notice in accordance with the Preliminary Approval Order;

WHEREAS, due and adequate notice having been given to the Class as required by the Preliminary Approval Order and Supplemental Notice Order, and the Court having considered all <sup>relevant</sup> papers filed and proceedings in this Action and otherwise being fully informed of the matters herein, and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction over the subject matter of this Action, including the terms and conditions of the Settlement Agreement and all exhibits thereto and the Plan of Allocation of the Net Settlement Fund, and over all parties to the Action and all Class Members.

2. This Judgment incorporates the following: (a) the Settlement Agreement filed with this Court on December 23, 2015; and (b) the Settlement Notice and Summary Notice, both of which were filed with the Court on December 23, 2015.

3. The Court hereby finally certifies the following class for the purposes of Settlement only (the "Class"), pursuant to Rules 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure:

(a) All persons or entities who sold shares of Wyeth contemporaneously with the SAC Capital Defendants' purchases of Wyeth shares during the period January 14, 2008 through and including July 18, 2008; and

(b) All persons or entities who purchased shares of Wyeth contemporaneously with the SAC Capital Defendants' sales of Wyeth shares during the period July 21, 2008 through and including July 29, 2008 at 4:00 pm EDT.

Excluded from the Class are Defendants; the officers, directors and affiliates of Defendants at all relevant times; members of their immediate families, and their legal representatives, heirs, successors or assigns; and any entity in which Defendants have or had a controlling interest. Also excluded from the Class are those persons and entities listed on Exhibit A hereto who submitted valid and timely requests for exclusion from the Class in accordance with the requirements set forth in the Notice.

4. The Court hereby affirms its appointment of the Wyeth Lead Plaintiffs as Class Representatives for the Class and Scott+Scott, Attorneys at Law, LLP and Motley Rice LLC as Class Counsel for the Class.

5. This Court finds that the distribution of the Settlement Notice, the publication of the Summary Notice, and the notice methodology all were implemented in accordance with the terms of the Settlement Agreement and the Court's Preliminary Approval Order and its Supplemental Notice Order, and: (a) constituted the best practicable notice to Class Members under the circumstances of the Action; (b) were reasonably calculated, under the circumstances, to apprise Class Members of: (i) the proposed Settlement of this class action; (ii) their right to exclude themselves from the Class; (iii) their right to object to any aspect of the proposed Settlement; (iv) their right to appear at the Settlement Hearing, either on their own or through counsel hired at their own expense, if they are not excluded from the Class; and (v) the binding effect of the proceedings, rulings, orders, and judgments in this Action, whether favorable or unfavorable, on all persons who are not excluded from the Class; (c) were reasonable and constituted due, adequate, and sufficient notice to all persons entitled to be provided with notice; and (d) fully satisfied all applicable requirements of the Federal Rules of Civil Procedure (including Rules 23(c) and (d)), the United States Constitution (including the Due Process Clause), Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), the Rules of the Court, and any other applicable law.

6. In light of the benefits to the Class, the complexity, expense and possible duration of further litigation against the SAC Capital Defendants, and the risks of establishing liability and damages, pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby fully

and finally approves the Settlement as set forth in the Settlement Agreement, and finds that the Settlement is, in all respects fair, reasonable and adequate, and in the best interests of the Wyeth Lead Plaintiffs, the Class, and the Class Members. This Court further finds the Settlement set forth in the Settlement Agreement is the result of arm's-length negotiations between experienced counsel representing the interests of the Wyeth Lead Plaintiffs, the Class, and the SAC Capital Defendants. The Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

7. The action captioned *Birmingham Retirement & Relief System v. S.A.C. Capital Advisors, L.P.*, No. 13 Civ. 2459 <sup>(JGK)</sup> ~~(VM)~~ (KNF) (S.D.N.Y.), is hereby dismissed with prejudice. The Parties are to bear their own costs, except as otherwise provided in the Settlement Agreement or this Judgment.

8. The releases, as set forth in paragraphs 3-5 of the Settlement Agreement, together with the definitions contained in paragraphs aa; bb; cc; and nn of the Settlement Agreement relating thereto, are expressly incorporated herein in all respects. Accordingly, this Court orders that:

(a) Without further action by anyone, upon the Effective Date, the Wyeth Lead Plaintiffs' Releasees shall: (i) be deemed to have fully, finally and forever compromised, settled, released, resolved, relinquished, waived, discharged and dismissed each and every one of the Released Wyeth Lead Plaintiffs' Claims, as against each and every one of the SAC Capital Defendants' Releasees; (ii) be barred and enjoined from commencing, instituting, prosecuting or maintaining any of the Released Wyeth Lead Plaintiffs' Claims against any of the SAC Capital Defendants' Releasees; and (iii) be deemed to have covenanted not to sue any of the SAC Capital Defendants' Releasees on the basis of any Released

Wyeth Lead Plaintiffs' Claims or, unless compelled by operation of law, to assist any person in commencing or maintaining any suit relating to any Released Wyeth Lead Plaintiffs' Claims against any of the SAC Capital Defendants' Releasees. The foregoing release is given regardless of whether the Wyeth Lead Plaintiffs or Class Members have: (i) executed and delivered a Proof of Claim; (ii) received the Settlement Notice; (iii) participated in the Settlement Fund; (iv) filed an objection to the Settlement, the proposed Plan of Allocation, or any application by Wyeth Lead Counsel for attorneys' fees and Litigation Expenses; or (v) had their claims approved or allowed. Nothing contained herein shall, however, bar any action or claim to enforce the terms of the Settlement Agreement or this Judgment.

(b) Without further action by anyone, upon the Effective Date, the SAC Capital Defendants' Releasees shall: (i) be deemed to have fully, finally and forever compromised, settled, released, resolved, relinquished, waived, discharged and dismissed each and every one of the Released Defendants' Claims, as against the Wyeth Lead Plaintiffs' Releasees; (ii) be barred and enjoined from commencing, instituting, prosecuting or maintaining any of the Released Defendants' Claims against the Wyeth Lead Plaintiffs' Releasees; and (iii) be deemed to have covenanted not to sue the Wyeth Lead Plaintiffs' Releasees on the basis of any Released Defendants' Claims or, unless compelled by operation of law, to assist any person in commencing or maintaining any suit relating to any Released Defendants' Claims against the Wyeth Lead Plaintiffs' Releasees. Nothing contained herein shall, however, bar any action or claim to enforce the terms of the Settlement Agreement or this Judgment.

9. All Persons whose names appear on Exhibit A hereto are hereby excluded from the Class, are not bound by this Judgment, and may not make any claim with respect to or receive any benefit from the Settlement. The releases set forth in paragraphs 7 and 8 above shall not apply as to those Persons whose names appear on Exhibit A.

10. Neither the Settlement Agreement nor the terms of the Settlement Agreement shall be received into any action or proceeding for any purpose, except: (i) in an action or proceeding arising under the Settlement Agreement or arising out of this Judgment; (ii) in any action or proceeding where the releases provided pursuant to the Settlement Agreement may serve as a bar to recovery; or (iii) in any action or proceeding to determine the availability, scope, or extent of insurance coverage (or reinsurance related to such coverage) for the sums expended for the Settlement and defense of the Action.

11. This Judgment, the Settlement Agreement, the Memorandum of Understanding, and any of its or their respective provisions, and any negotiations, proceedings or agreements relating to the Settlement Agreement and the Settlement, and any matters arising in connection with settlement negotiations, proceedings or agreements, and all acts performed or documents executed pursuant to or in furtherance of the Settlement Agreement: (a) shall not be offered against any of the SAC Capital Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of, any presumption, concession or admission by the SAC Capital Defendants' Releasees with respect to the truth of any fact alleged by Wyeth Lead Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the SAC Capital Defendants' Releasees; (b) shall not be offered against any of the Wyeth Lead Plaintiffs' Releasees, as evidence of a presumption,



concession or admission with respect to any liability, negligence, fault or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Wyeth Lead Plaintiffs' Releasees, in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Settlement Agreement; provided, however, that the Parties and the Releasees and their respective counsel may refer to the foregoing to effectuate the protections from liability granted under the Settlement Agreement and this Judgment or otherwise to enforce the terms of the Settlement or this Judgment; (c) shall not be construed against any of Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and (d) shall not be construed against Wyeth Lead Plaintiffs' Releasees that any of their claims are without merit, that any of the SAC Capital Defendants' Releasees had meritorious defenses, or that damages recoverable under the Joint Consolidated Second Amended Class Action Complaint would not have exceeded the Settlement Amount.

12. A separate order shall be entered regarding Wyeth Lead Counsels' application for attorneys' fees and reimbursement of Litigation Expenses as allowed by the Court. A separate order shall be entered regarding the proposed Plan of Allocation for the Net Settlement Fund. Such orders shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

13. The Court further orders that;

(a) Any and all Persons are permanently barred, enjoined and restrained, to the fullest extent permitted by applicable law, from commencing, prosecuting or asserting any claim for indemnity or contribution against any of the SAC Capital Defendants' Releasees (or any other claim against any of the SAC Capital Defendants' Releasees where the alleged injury

to such Person is that Person's actual or threatened liability to the Class or a Class Member in the Action), based upon, arising out of or related to the Released Wyeth Lead Plaintiffs' Claims, whether arising under state, federal or foreign law, as claims, cross-claims, counterclaims, or third-party claims, whether asserted in the Action, in this Court, in any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere. However, with respect to any judgment that the Class or a Class Member may obtain against such Person based upon, arising out of or relating to any Released Wyeth Lead Plaintiffs' Claim belonging to the Class or a Class Member, that Person shall be entitled to a credit of the greater of (i) an amount that corresponds to the percentage of responsibility of the SAC Capital Defendants for the loss to the Class or the Class Member or (ii) the amount paid by or on behalf of the SAC Capital Defendants to the Class or the Class Member.

(b) Each and every one of the SAC Capital Defendants' Releasees is hereby permanently barred, enjoined and restrained, to the fullest extent permitted by applicable law, from commencing, prosecuting or asserting any claim for indemnity or contribution against any Person (or any other claim against any such Person where the alleged injury to such SAC Capital Defendants' Releasee is that SAC Capital Defendants' Releasee's actual or threatened liability to the Wyeth Class or a Wyeth Class Member in the Action), based upon, arising out of or related to the Released Wyeth Lead Plaintiffs' Claims, whether arising under state, federal, or foreign law, as claims, cross-claims, counterclaims, or third-party claims, whether asserted in the Action, in this Court, in any other federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum in the United States or elsewhere. Notwithstanding the foregoing, the SAC Capital Defendants may seek contribution or indemnity from any Person not an Authorized Claimant in this Action.



(c) Nothing in this paragraph 13 shall prevent any Person who submits a request for exclusion from the Class in connection with the Settlement Notice, who does not withdraw his, her or its request for exclusion, and whose request is accepted by the Court from pursuing any Released Wyeth Lead Plaintiffs' Claim against any of the SAC Capital Defendants' Releasees. If any such Person pursues any such Released Wyeth Lead Plaintiffs' Claim against any of the SAC Capital Defendants' Releasees, nothing herein or in the Settlement Agreement shall operate to preclude such SAC Capital Defendants' Releasees from asserting any claim of any kind against such Person, including any Released Defendants' Claims (or seeking contribution or indemnity from any Person, including, but not limited to, any co-Defendant in the Action, in respect of the claim of such Class Member who is excluded from the Class pursuant to request and who does not opt-back into the Class).

14. This Court finds that the Wyeth Lead Plaintiffs and Wyeth Lead Counsel adequately represented the Class under Rules 23(a)(4) and (g) of the Federal Rules of Civil Procedure for the purpose of negotiating, entering into, and implementing the Settlement and at all times during the pendency of this Action.

15. This Court finds that during the course of the litigation, the Parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

16. Nothing in this Judgment constitutes or reflects a waiver, release or discharge of any rights or claims of the SAC Capital Defendants against their insurers, or their insurers' subsidiaries, predecessors, successors, assigns, affiliates, or representatives.

17. The Parties are hereby authorized, without further approval of the Court, to unanimously agree to and adopt in writing such amendments, modifications, and expansions of

the Settlement Agreement and all exhibits attached thereto, provided that such amendments, modifications, and expansions of the Settlement Agreement are done in accordance with the terms of paragraph 51 of the Settlement Agreement, are not materially inconsistent with this Judgment, and do not materially limit the rights of Class Members under the Settlement Agreement.

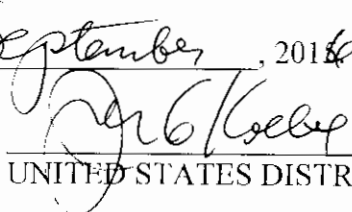
18. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

19. In the event that the Settlement does not become effective in accordance with the terms of the Settlement Agreement, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement and shall be vacated, and in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Settlement Agreement.

20. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (a) implementation of the Settlement and any award or distribution from the Settlement Fund, and interest earned thereon; (b) disposition of the Net Settlement Fund; (c) hearing and determining applications for attorneys' fees, costs, interest and reimbursement of expenses in the Action; and (d) all Parties for the purpose of construing, enforcing and administering the Settlement.

21. The provisions of this Judgment constitute a full and complete adjudication of the matters considered and adjudged herein, and the Court determines that there is no just reason for delay in the entry of judgment. The Clerk is hereby directed to immediately enter this Judgment.

SO ORDERED this 30 day of September, 2016

  
UNITED STATES DISTRICT JUDGE

**EXHIBIT A**

List of all persons and entities who validly and timely filed a Request for Exclusion:

1. James M. Thompson
2. Delores Winter
3. Irene S. Flowers
4. Delbert & Lorraine Murray