

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
Southern Division

IN RE CARDIZEM CD ANTITRUST  
LITIGATION

MASTER FILE NO. 99-MD-1278  
MDL DOCKET NO. 1278

THIS DOCUMENT RELATES TO:

Hon. Nancy G. Edmunds

*Billy Joe Lightner, et al. v. Hoechst A.G.,  
et al.*, E.D. Mich. No. 99-CV-75070  
(M.D. Ala. No. 2:99-T-754)

*Sunshine Pharmacy of NY v. Hoechst A.G.,  
et al.*, E.D. Mich. No. 99-CV-73845  
(E.D.N.Y. No. 99-CV-1641)

*Betner, Inc. et al. v. Hoechst A.G., et al.*,  
E.D. Mich. No. 99-CV-73422  
(N.D. Cal. No. 3:98-CV-3609)

*Joseph D'Esposito, et al. v. Hoechst A.G.,  
et al.*, E.D. Mich. No. 99-CV-73713  
(S.D.N.Y. No. 99-CV-2088)

*Aetna U.S. Healthcare, Inc., et al. v. Hoechst  
A.G., et al.*, E.D. Mich. No. 99-CV-73412  
(N.D. Cal. No. 3:98-CV-4729)

*Shirlean Glover, et al. v. Hoechst A.G., et al.*,  
E.D. Mich. No. 99-CV-74377  
(W.D.N.C. No. 3:99-CV-00169)

*Galloway, Inc., et al. v. Hoechst A.G., et al.*,  
E.D. Mich. No. 99-CV-73871  
(S.D. Cal. 99-CV-0645-TW)

*Eugenia Wynne Sams v. Hoechst A.G., et al.*,  
E.D. Mich. No. 99-CV-73190  
(E.D. Tenn. No. 2:98-CV-348)

*Aetna U.S. Healthcare, Inc. v. Hoechst A.G.,  
et al.*, E.D. Mich. No. 99-CV-74262  
(D.D.C. No. 1:99-CV-193)

*Larry S. Sizemore v. Hoechst A.G., et al.*,  
E.D. Mich. No. 99-CV-73345  
(M.D. Tenn. No. 3:99-CV-42)

*Jan Gabriel v. Hoechst A.G., et al.*,  
E.D. Mich. No. 99-CV-73667  
(N.D. Ill. No. 1:98-CV-7147)

*Albert Eirich v. Hoechst A.G., et al.*,  
E.D. Mich. No. 99-CV-73981  
(E.D. Wis. 2:98-CV-1027)

*Charles Zuccarini, et al. v. Hoechst A.G.,  
et al.*, E.D. Mich. No. 98-CV-74043

*United Wisconsin Services, Inc., et al. v. Hoechst  
A.G., et al.*, E.D. Mich. No. 99-CV-73666  
(E.D. Wis. No. 99-CV-389)

*Aetna U.S. Healthcare, Inc. v. Hoechst A.G.,  
et al.*, E.D. Mich. No. 99-CV-73239  
(D. Minn. No. 0:99-CV-124)

*Marshall J. Ross v. Hoechst Marion Roussel, Inc., et al.*,  
E.D. Mich. No. 01-CV-70490  
(D. Mass. No. 00-12312-JLT)

*State of New York, et al. v. Aventis, S.A., et al.*,  
E.D. Mich. No. 01-CV-71835

2003 Nov 13

**FINAL JUDGMENT AND ORDER CERTIFYING SETTLEMENT CLASS,  
APPROVING PROPOSED SETTLEMENT AND DISMISSING ACTIONS**

Pursuant to Rules 23(e) and 54 of the Federal Rules of Civil Procedure, and in  
accordance with the terms of the Settlement Agreement entered into as of January 24, 2003, it is  
hereby ORDERED, ADJUDGED and DECREED:

1. This Final Judgment and Order of Dismissal hereby incorporates by reference the  
definitions in the Settlement Agreement among the parties to these actions on file with this

Court, and all capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Settlement Agreement.

2. The Court has jurisdiction over these actions and over each of the Parties and over all members of the Settlement Class.

3. The Notices of Settlement (in the form presented to this Court as Attachment H to the Settlement Agreement and Exhibit A to Plaintiffs' motion in support of preliminary approval of the settlement (the "Preliminary Approval Motion")) and the Summary Notices of Settlement (in the form presented to this Court as Attachment I to the Settlement Agreement and Exhibit A to Plaintiffs' Preliminary Approval Motion) (collectively the "Notices") directed to consumer and Third Party Payer members of the Settlement Class in accordance with the Notice Plan submitted to the Court as Exhibit A to Plaintiffs' Preliminary Approval Motion, constituted the best notice practicable under the circumstances. In making this determination, the Court finds that the Notices and the Notice Plan provided for individual notice to all members of the Settlement Class who could be identified through reasonable efforts. Pursuant to, and in accordance with, Rule 23 of the Federal Rules of Civil Procedure, the Court hereby finds that the Notices and the Notice Plan provided to the members of the Settlement Class due and adequate notice of the Settlement Agreement and these proceedings and the rights of members of the Settlement Class to object to the Settlement Agreement.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby approves the settlement, as set forth in the Settlement Agreement (the "Settlement"), and finds that the Settlement is, in all respects, fair, reasonable and adequate to the members of the Settlement Class. Accordingly, the Settlement shall be consummated in accordance with the terms and provisions of the Settlement Agreement.

5. For purposes of the Settlement and the Settlement Agreement only, the Court certifies a Settlement Class consisting of:

All consumers and Third Party Payers (including any assignees of such consumers or Third Party Payers) who purchased and/or paid all or part of the purchase price of Cardizem CD Products dispensed pursuant to prescriptions in the United States (including Puerto Rico) during the period January 1, 1998 through the date of the Preliminary Approval Order and all Designated Governmental Agencies. Excluded from the Settlement Class are Defendants and any of their officers and directors. Included in the Settlement Class are any and all members of any class or classes asserted in any of the State Actions.

6. The Court finds that the proposed Settlement Class meets all the requirements of Fed. R. Civ. P. 23.

7. The Court approves Aetna, Inc., Cobalt Corporation and Charles Zuccarini as class representatives. In addition to any *parens patriae* or functionally equivalent authority that any of the Attorneys General of the Plaintiff States may have under state law, the Court further approves the Attorneys General of Alaska, Arkansas, California, Connecticut, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Montana, Nebraska, Nevada, North Carolina, Oklahoma, South Carolina, Utah, Wisconsin, and Wyoming as additional class representatives (collectively, with Aetna, Inc., Cobalt Corporation and Charles Zuccarini, the "Class Representatives") on behalf of natural person members of the Settlement Class residing in their respective states.

8. The Court finds that the below-listed counsel have fairly and adequately represented the interests of the Class Representatives and the members of the Settlement Class and appoints them as Co-Lead Counsel for the Settlement Class:

Paul Novak, Esq.  
Assistant Attorney General  
State of Michigan

Consumer Protection Division, Antitrust Section  
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Joseph J. Tabacco, Jr., Esq.  
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425 California Street, Suite 2025  
San Francisco, CA 94104

9. The following actions are dismissed with prejudice, as provided in the Settlement Agreement, and without costs, except as provided for herein and in the Settlement Agreement:

- *Sunshine Pharmacy of NY v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73845 (E.D.N.Y. No. 99-CV-1641)
- *Joseph D'Esposito, et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73713 (S.D.N.Y. No. 99-CV-2088)
- *Shirlean Glover, et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-74377 (W.D.N.C. No. 3:99-CV-00169)
- *Eugenia Wynne Sams v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73190 (E.D. Tenn. No. 2:98-CV-348)
- *Larry S. Sizemore v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73345 (M.D. Tenn. No. 3:99-CV-42);
- *Albert Eirich v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73981 (E.D. Wis. 2:98-CV-1027);
- *United Wisconsin Services, Inc., et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73666 (E.D. Wis. No. 99-CV-389);
- *Marshall J. Ross v. Hoechst Marion Roussel, Inc., et al.*, E.D. Mich. No. 01-CV-70490 (D. Mass. No. 00-12312-JLT);
- *Billy Joe Lightner, et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-75070 (M.D. Ala. No. 2:99-T-754);

- *Betnor, Inc. et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73422
- (N.D. Cal. No. 3:98-CV-3609);
- *Aetna U.S. Healthcare, Inc., et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73412 (N.D. Cal. No. 3:98-CV-4729);
- *Galloway, Inc., et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73871 (S.D. Cal. 99-CV-0645-TW);
- *Aetna U.S. Healthcare, Inc. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-74262 (D.D.C. No. 1:99-CV-193);
- *Jan Gabriel v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73667
- (N.D. Ill. No. 1:98-CV-7147);
- *Charles Zuccarini, et al. v. Hoechst A.G., et al.*, E.D. Mich. No. 98-CV-74043
- *Aetna U.S. Healthcare, Inc. v. Hoechst A.G., et al.*, E.D. Mich. No. 99-CV-73239 (D. Minn. No. 0:99-CV-124) and
- *State of New York, et al. v. Aventis, S.A., et al.*, E.D. Mich. No. 01-CV-71835

10. Each of the foregoing dismissals shall become effective upon the date the Settlement Agreement becomes Effective according to the provisions of Section I.K of the Settlement Agreement. State Law Releasers have covenanted and agreed that they shall not hereafter seek to establish liability or assert Claims, on behalf of themselves or any other person or entity, against any of the State Law Releasees, in whole or in part, for any of the Released Claims. Upon the Effective Date of this settlement, if State Law Releasers, or any member of the Settlement Class who has not timely and validly excluded themselves from the Settlement Class and the settlement, seeks to establish liability or assert any of the Released Claims as set forth in Section II.B of the Settlement Agreement, then this Court or any court of competent jurisdiction may enter an injunction restraining prosecution of such proceeding.

11. On the date that the Settlement Agreement becomes Effective in accordance with Section I.K of the Settlement Agreement, the State Law Releasers shall release the State Law Releasees of the Released Claims as set forth in Section II.A of the Settlement Agreement.

12. The Court retains exclusive jurisdiction over the Settlement and the Settlement Agreement as described therein, including the administration and consummation of the Settlement.

13. Pursuant to Fed. R. Civ. P. 54(b), there being no just reason for delay, this judgment of dismissal shall be entered as final and appealable.

IT IS SO ORDERED.

Dated: 21 OCT 2003

  
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THE HONORABLE NANCY EDMUNDS  
UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

**Pursuant to Rule 77(d), Federal Rules of Civil Procedure, copies have been mailed to:**

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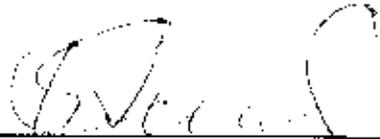
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Date

21 JUL 2003

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE: CARDIZEM CD ANTITRUST  
LITIGATION,

Master File No. 99-md-1278  
MDL No. 1278

THIS DOCUMENT RELATES TO:  
ALL ACTIONS,

Honorable Nancy G. Edmunds

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**SCHEDULING ORDER NO. 48**

At a status conference held on October 15, 2003, the Court:

1. Set the following deadlines in the Blue Cross Blue Shield/State Law Individual Plaintiffs' Action:

- 11/12/03 - Dispositive Motions Due
- 12/03/03 - Responses to Dispositive Motions Due
- 12/17/03 - Replies to Dispositive Motions Due
- 01/23/04 - Oral Argument on Dispositive Motions

2. Scheduled a telephonic status conference to be held on Tuesday, December 2, 2003, at 11:00 a.m. The parties are to submit a proposed agenda for the status conference to the Court at least 24 hours before its scheduled date and time listing all issues to be discussed and any disputed matters. Liaison counsel, Kathryn Wood,

Dickinson Wright PLLC, shall provide counsel with the appropriate call-in number.

SO ORDERED.

  
\_\_\_\_\_  
Nancy G. Edmunds  
U.S. District Judge

Dated: 21 OCT 2003

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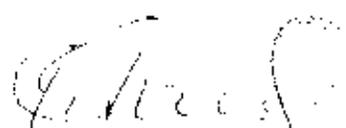
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