

**If You Purchased, Paid for, or Provided Reimbursement for the Dry-Eye Disease Drug Restasis® between May 1, 2015 and July 31, 2021**

**You Could Get Money from a Class Action Settlement**

*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](http://www.RestasisLitigation.com).*

- A Settlement has been reached in a class action lawsuit against Allergan, Inc. (“Allergan”), the manufacturer of Restasis®, about the price that consumers and third-party payors paid for Restasis®. 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. Allergan denies these claims.
- A Settlement totaling \$29,999,999.99 has been reached between the End-Payor Plaintiffs (consumers and third-party payors) and Allergan.
- You may be able to recover money from the Settlement if you are a consumer or third-party payor who purchased, paid for, and/or reimbursed all or part of the cost of Restasis® in certain states during the period from May 1, 2015, through July 31, 2021 (or, in Arkansas, May 1, 2015, through July 31, 2017).
- If you exclude yourself from the Class, you will receive no benefits, but you will retain any rights you currently have to sue Allergan about the claims in this case.
- **No one is claiming that Restasis® is unsafe.**

A Summary of Your Rights and Choices:

*Your Legal Rights Are Affected Even If You Do Not Act.*

YOUR LEGAL RIGHTS AND OPTIONS AND DEADLINES FOR YOU TO ACT		
File a Claim	This is the only way to receive money from the Settlement.	August 11, 2022
Object to the Settlement	Write to the Court explaining why you don’t like the Settlement. Whether or not you object, you must still file a claim by the deadline above to receive money from the Settlement.	June 7, 2022
Exclude Yourself from the Class	You will not be bound by the Settlement and will not receive any benefits from the Settlement. You keep any rights to sue Allergan on your own about the same legal claims in this lawsuit.	May 3, 2022
Attend the Hearing	Ask to speak in Court about your opinion of the Settlement.	June 7, 2022
Do Nothing	You won’t get a payment and will give up your rights to sue Allergan about the claims in this case.	

These rights and options – **and the deadlines to exercise them** – are explained in this Notice.

# BASIC INFORMATION

## 1. Why Did I Get This Notice?

The Court authorized this Notice because you have a right to know about a proposed class action Settlement, and about all of your options, before the Court decides whether to give final approval to the Settlement. This Notice explains the class action lawsuit, the Settlement, and your legal rights.

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 Plaintiffs in this case are sometimes referred to as End-Payor Plaintiffs in the litigation documents because they are at the “end” of the distribution chain—they are consumers and third-party payors who did not sell Restasis® to anyone else. The Defendant is Allergan.

## 2. Why Is This A Class Action?

In a class action, one or more individuals or entities called “Class Representatives” (in this case, the Plaintiffs listed above) sue on behalf of those who have similar claims. All of these individuals or entities are a “Class” or “Class Members.” The court resolves the issues for all Class Members, except for those who properly exclude themselves from the Class (*see* Question 14). The Court has determined that this case can proceed as a class action.

## 3. What Is This 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. Plaintiffs also allege that during the same period Allergan submitted lengthy, baseless citizen petitions to the FDA, and sued potential generic entrants for infringing the fraudulently acquired patents—tactics that Plaintiffs allege contributed to the delay of 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 versions of 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](http://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.

There has been no finding by the Court in this case that Allergan engaged in any wrongdoing.

This case does not involve the safety of Restasis®.

#### 4. What Is The Current Status Of The Lawsuit?

Plaintiffs have agreed to settle with Allergan. The lawsuit is pending in the United States District Court for the Eastern District of New York before Judge Nina Gershon. The Court has set a Final Approval Hearing for the proposed Settlement on July 12, 2022, at 2:00 p.m. EST. As described below in Question 19, the Court will conduct the Hearing virtually, which means no one will be present at the Hearing in person. The Court may change the date or time of the Hearing without further notice so please consult [www.RestasisLitigation.com](http://www.RestasisLitigation.com) for any updates on deadlines.

#### WHO IS IN THE SETTLEMENT?

#### 5. How Do I Know If I Am A Member 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 through July 31, 2021, 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 through July 31, 2021, 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;
- 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; and
- 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 and Settlement Agreement available at [www.RestasisLitigation.com](http://www.RestasisLitigation.com). Additionally, if you timely and validly exclude yourself (or “opt out”) from the Class, you will no longer be a Class Member.

#### 6. What If I Am Still Not Sure If I Am Included In The Class?

If you are still not sure whether you are included, you can get more information at [www.RestasisLitigation.com](http://www.RestasisLitigation.com), or get help by contacting the Notice and Claims Administrator using the contact information listed in Question 22.

## THE BENEFITS OF THE SETTLEMENT

### 7. What Does The Settlement Provide?

Allergan settled with Plaintiffs for a total of \$29,999,999.99. After deducting attorneys' fees, expenses of the litigation, administrative costs, and service awards to Class Representatives, the net fund remaining will be distributed to consumers and third-party payors who submit valid and timely Claim Forms. For more details, please see the Plan of Allocation, which is available at [www.RestasisLitigation.com](http://www.RestasisLitigation.com).

### 8. How Much Will My Payment Be?

Recoveries will generally be calculated based on how much each Class Member purchased, paid for, and/or reimbursed all or part of the cost of Restasis® from May 1, 2015, through July 31, 2021 (or, in Arkansas, May 1, 2015 through July 31, 2017), compared to the amounts paid by all other Class Members who file valid and timely Claim Forms. Additional details of how your recovery will be calculated can be found in the proposed Plan of Allocation, which is available at [www.RestasisLitigation.com](http://www.RestasisLitigation.com). Each Class Member who files a valid and timely Claim Form will receive a payment of at least \$15, subject to the ability of the net fund to pay such amounts given the number of Class Members who file valid and timely Claim Forms in their Allocation Pool, as defined by the Plan of Allocation. Please note that the Court has the authority to modify the proposed Plan of Allocation as part of the approval process, so the calculation of your payment might change.

### 9. What Happens If I Do Nothing?

If you do nothing, you will be bound by the terms of the Settlement and won't get any money from the Settlement.

### 10. What Claims Am I Settling?

If the Settlement becomes final, you will be releasing Allergan from all the claims identified in the Settlement Agreement. The Settlement Agreement is available at [www.RestasisLitigation.com](http://www.RestasisLitigation.com). The Settlement Agreement specifically describes the released claims, in accurate legal terminology, so read it carefully.

## HOW TO GET A PAYMENT

### 11. What Do I Need To Do To Get A Payment?

To be eligible to receive a payment if the Court approves the Settlement, you must complete and submit a valid Claim Form. Claim Forms should be mailed to the address below and must be postmarked by **August 11, 2022**. You can get a Claim Form at [www.RestasisLitigation.com](http://www.RestasisLitigation.com) or by calling 1-877-868-6810 or writing to the address below and requesting a Claim Form.

**Restasis Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 173107  
Milwaukee, WI 53217**

You may also submit a completed Claim Form online at [www.RestasisLitigation.com](http://www.RestasisLitigation.com). If you submit a Claim Form online, you must do so by **August 11, 2022**.

If the Notice and Claims Administrator rejects or reduces your claim and you believe the rejection or reduction is in error, you may contact the Notice and Claims Administrator to request further review. If the dispute concerning your claim cannot be resolved by the Notice and Claims Administrator and Class Counsel, you may request that the Court review your claim.

To request Court review, you must send the Notice and Claims Administrator a signed written statement that (a) states your reasons for contesting the rejection or payment determination regarding your claim; and (b) specifically states that you "request that the Court review the determination regarding this claim." You must include all documentation supporting your argument(s). Your request must be postmarked no later than 30 days after the Notice and Claims Administrator dates its response to your request for it to review your claim. The Notice and Claims Administrator and Class Counsel will present the dispute to the Court for review, which may include public filing with the Court of your claim and the supporting documentation. Please note: Court review should only be sought if you disagree with the Notice and Claims Administrator's determination regarding your claim.

## OBJECTING TO THE SETTLEMENT

### 12. May I Comment On Or Object To The Settlement?

Yes. If you are a Class Member and you did not request to exclude yourself from the Class, you may comment on or object to any aspect of the Settlement, including the fairness of the Settlement, the Plan of Allocation, and/or Class Counsel's requests for attorneys' fees, expenses, and Class Representatives' service awards.

### 13. How Do I Comment On Or Object To The Settlement?

To comment on or object to the Settlement, you (or your lawyer if you have one) must send a written comment or objection to the Court and the counsel identified below, by mail or email. You must send your comment or objection postmarked on or before **June 7, 2022**. Your written comment or objection can include any supporting materials, papers, or briefs that you want the Court to consider. Your written comment or objection must include:

- Your name, address, telephone number, and an explanation of your objection;
- The case name and number: *In Re Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation.*, Civil No. 18-md-2819; and
- Documentation demonstrating that you are a member of the Class and/or this statement, followed by your signature: "I declare under penalty of perjury under the laws of the United States of America that [insert your name] is a member of the Class."

You must mail or email your comment or objection to the Court (mailing and email address immediately below) and mail or email copies to the counsels' addresses below, and it must be emailed or postmarked by **June 7, 2022**.

Court	Class Counsel	Defense Counsel
Victor Joe Courtroom Deputy of Judge Gershon U.S. District Court Eastern District of New York 225 Cadman Plaza East Brooklyn, New York 11201 Email: <a href="mailto:Victor.Joe@nyed.uscourts.gov">Victor.Joe@nyed.uscourts.gov</a>	Lieff Cabraser Heimann & Bernstein, LLP 275 Battery Street, 29th Floor San Francisco, CA 94111-3339 Attn: Eric Fastiff Telephone: (415) 956-1000 Facsimile: (415) 956-1008 Email: <a href="mailto:efastiff@lchb.com">efastiff@lchb.com</a>	Gibson, Dunn & Crutcher LLP 200 Park Avenue New York, NY 10166-0193 Attn: Eric J. Stock Telephone : (212) 351-2301 Email: <a href="mailto:estock@gibsondunn.com">estock@gibsondunn.com</a>

Any lawyer representing a Class Member for the purpose of making comments or objections must also file a Notice of Appearance with the Court using the Court's Case Management/Electronic Case Files (CM/ECF) system.

You may file a claim even if you object to, or comment on, the Settlement. Whether or not you object, you must still file a claim by the deadline in Question 11 above to receive money from the Settlement.

## EXCLUDING YOURSELF FROM THE CLASS

### 14. What If I Don't Want To Be A 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 but you will keep your right to sue Allergan. The Court will exclude from the Class anyone who makes such a 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 and Claims Administrator at [info@RestasisLitigation.com](mailto:info@RestasisLitigation.com) or:

Restasis Settlement  
EXCLUSIONS  
c/o A.B. Data, Ltd.  
P.O. Box 173001  
Milwaukee, WI 53217

Your email or letter must 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 **May 3, 2022**. This will 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, rather than sending an email or letter themselves, must submit additional information.

**Please also continue to check [www.RestasisLitigation.com](http://www.RestasisLitigation.com) for important updates.**

### 15. Additional Exclusion (“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 exclude (or “opt out”) from the Class 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 email this information to the Notice and Claims Administrator at [info@RestasisLitigation.com](mailto:info@RestasisLitigation.com), or mail their letter postmarked (to the Notice and Claims Administrator at the address in Question 14), no later than **May 3, 2022**.

### 16. 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.

## THE LAWYERS REPRESENTING YOU

### 17. Do I Have A Lawyer Representing My Interests?

Yes. The Court appointed Girard Sharp LLP, Lieff Cabraser Heimann & Bernstein, LLP, and Joseph Saveri Law Firm, Inc. as “Class Counsel,” and Zwerling, Schachter & Zwerling, 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: <a href="mailto:dsharp@girardsharp.com">dsharp@girardsharp.com</a>	Lieff Cabraser Heimann & Bernstein, LLP 275 Battery Street, 29th Floor San Francisco, CA 94111-3339 Telephone: (415) 956-1000 Facsimile: (415) 956-1008 Email: <a href="mailto:efastiff@lchb.com">efastiff@lchb.com</a>
---	--

<p>Joseph Saveri Law Firm, Inc.  601 California Street, Suite 1000  San Francisco, CA 94108  Tel: (415) 500-6800  Fax: (415) 395-9940  Email: <a href="mailto:jsaveri@saverilawfirm.com">jsaveri@saverilawfirm.com</a></p>	<p>Zwerling, Schachter &amp; Zwerling, LLP  41 Madison Avenue, 32nd Floor  New York, NY 10010  Tel: (212) 223-3900  Fax: (212) 371-5969  Email: <a href="mailto:rschachter@zsz.com">rschachter@zsz.com</a></p>
--	--

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

## 18. How Will The Lawyers Be Paid?

Class Counsel will request an award from the Court for attorneys' fees not to exceed one-third of the total amount of the Settlement Fund plus any accrued interest, plus reimbursement for the costs and expenses they advanced in litigating the case not to exceed \$5,250,000. All awards for attorneys' fees and expenses shall be paid from the Settlement Fund after the Court approves them.

Class Counsel will also request a service award of up to \$20,000 to be paid to each of the Class Representatives who worked on behalf of the entire Class to achieve the results of the Settlement. The aggregate amount will not exceed \$200,000.

Class Counsel filed a Motion for Entry of a Set-Aside Order, a copy of which is available at [www.RestasisLitigation.com](http://www.RestasisLitigation.com) or by contacting the Notice and Claims 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 a Set-Aside Order must be submitted by June 7, 2022 to the Court via email at [Victor\\_Joe@nyed.uscourts.gov](mailto:Victor_Joe@nyed.uscourts.gov) and to Class Counsel at [dsharp@girardsharp.com](mailto:dsharp@girardsharp.com). Class Counsel will file any reply in support of the motion by June 21, 2022, and will make a copy of the reply available on the case website. Class Counsel's motion will be heard at the Final Approval Hearing (*see* Question 19 for details).

## The Final Approval Hearing

### 19. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Final Approval Hearing on **July 12, 2022, at 2:00 p.m. Eastern Time**. The Court will hold the Final Approval Hearing virtually, not in person. Information about how to access the virtual hearing will be posted at [www.RestasisLitigation.com](http://www.RestasisLitigation.com) when it becomes available. The Court may reschedule the Final Approval Hearing without further written notice, so you should check [www.RestasisLitigation.com](http://www.RestasisLitigation.com) or call 1-877-868-6810 if you want to find out if the Final Approval Hearing has been rescheduled.

The purpose of the Final Approval Hearing is to:

- Decide if the Settlement is fair, reasonable, adequate, and in the best interests of the Class;
- Consider the proposed Plan of Allocation;
- Consider Class Counsel and Liaison Counsel's requests for an award of attorneys' fees and reimbursement of expenses;
- Consider the request for service awards for the Class Representatives;
- Consider Class Counsel's Motion for Entry of a Set-aside Order;
- Consider any motions in opposition to requests for exclusion;
- Consider all comments and objections; and
- Consider any other issues that the Court thinks are necessary.

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

No. Attendance is not required. Class Counsel is prepared to answer questions on your behalf. Class Members who filed and served written comments or objections may (but do not have to) attend the Final Approval Hearing virtually, themselves or through an attorney hired at their own expense.

## 21. Can I Attend The Final Approval Hearing?

Yes, anyone can attend the Final Approval Hearing virtually and observe. If you want to attend the Final Approval Hearing and comment or object, yourself or through an attorney hired at your own expense, you need to file a Notice of Intent to Appear through the Court's Case Management/Electronic Case Files (CM/ECF) system by **June 7, 2022**. Instead of filing the Notice of Intent to Appear, you may mail the Notice of Intent to Appear postmarked, or email it, to the mailing or email addresses listed in Question 13, by the same date. The Notice of Intent to Appear must contain the following information:

- The name, address, and telephone number of the Class Member and, if applicable, the name, address, and telephone number of the Class Member's attorney (who must file a Notice of Appearance);
- The comment or objection, including any supporting papers; and
- The name and address of any witnesses to be presented at the Final Approval Hearing, together with a statement as to the matters on which they wish to testify and a summary of the proposed testimony.

## GETTING MORE INFORMATION

## 22. How Do I Get More Information?

This Notice only summarizes the Settlement. You can get a copy of the Settlement Agreement, Plan of Allocation, Claim Forms, and other important documents at [www.RestasisLitigation.com](http://www.RestasisLitigation.com). You may also write to Restasis Settlement, c/o A.B. Data, Ltd., P.O. Box 173107, Milwaukee, WI 53217, email [info@RestasisLitigation.com](mailto:info@RestasisLitigation.com), or call the Notice and Claims Administrator at 1-877-868-6810.

Complete copies of public pleadings, Court rulings, and other filings are available for review and copying at the Clerk's office during normal business hours, but subject to any closures caused by the current health crisis. The address is United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201.

*Please do not contact the Court or the Judge regarding this Notice.*

DATED: JANUARY 18, 2022

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