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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

**PAINTERS AND ALLIED TRADES  
DISTRICT COUNCIL 82  
HEALTH CARE FUND, a third-  
party healthcare payor fund,  
ANNIE M. SNYDER, a California  
consumer,  
RICKEY D. ROSE, a Missouri  
consumer,  
JOHN CARDARELLI, a New Jersey  
consumer,  
MARLYON K. BUCKNER, a Florida  
consumer, and  
SYLVIE BIGORD, a Massachusetts  
consumer, on behalf of themselves  
and ALL others similarly situated,**

**Plaintiffs,**

**v.**

**TAKEDA PHARMACEUTICAL  
COMPANY LIMITED, a Japanese  
corporation;  
TAKEDA PHARMACEUTICALS  
USA, Inc., an Illinois corporation  
(fka TAKEDA  
PHARMACEUTICALS NORTH  
AMERICA, Inc.); and  
ELI LILLY & COMPANY, an Indiana  
corporation,**

**Defendants.**

Case No. 2:17-cv-07223-JWH-AS

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR APPROVAL OF  
CLASS NOTICE PLAN [ECF  
No. 394]**

1 Plaintiffs Painters and Allied Trades District Council 82 Health Care  
2 Fund, Annie M. Snyder, Rickey D. Rose, John Cardarelli, Marlyon K. Buckner,  
3 and Sylvie Bigord (collectively “Plaintiffs”) bring this class action against  
4 Defendants Takeda Pharmaceuticals USA, Inc., its parent company Takeda  
5 Pharmaceutical Company Limited, and Eli Lilly & Company (collectively,  
6 “Defendants”), for—in broad strokes—allegedly leading an illegal and  
7 fraudulent enterprise to sell the diabetes medication Actos while concealing the  
8 associated bladder cancer risks.<sup>1</sup>

9 Before the Court is Plaintiffs’ motion for an order of approval of their  
10 class notice plan.<sup>2</sup> The Court concludes that this matter is appropriate for  
11 resolution without a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15. After  
12 considering the papers filed in support and in opposition,<sup>3</sup> the Court orders that  
13 the Motion is **GRANTED**, for the reasons set forth below.

## 14 I. BACKGROUND

### 15 A. Procedural History

16 The parties are familiar with the long history of this case. As relevant  
17 here, in May 2023 the Court certified a National third-party payor (“TPP”)  
18 Class with the following definition:

19 All third-party payers (“TPPs”) in the United States and its  
20 territories, that purchased, paid for, and/or reimbursed all or any

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21  
22 <sup>1</sup> *See generally* Second Am. Compl. (the “Operative Complaint”) [ECF  
No. 127].

23 <sup>2</sup> Pls.’ Mot. for Order of Approval of Class Not. (the “Motion”) [ECF  
24 No. 394].

25 <sup>3</sup> The Court considered the documents of record in this action, including  
26 the following papers: (1) Motion; (2) Defs.’ Opp’n to the Motion (the  
27 “Opposition”) [ECF No. 402]; (3) Pls.’ Reply in Supp. of the Motion (the  
28 “Reply”) [ECF No. 404]; (4) Operative Complaint; and (5) Pls.’ Class Not.  
Plan (the “Long Form Notice”) [ECF No. 394-3].

1 portion of the price for Actos, ActosPlus MET, ActosPlus MET XR,  
2 Duetact, and/or Oseni, for 5 or more *independent prescriptions*,  
3 between July 1, 1999 and September 17, 2010, for purposes other  
4 than resale. Excluded from this class are any TPPs that have released  
5 claims covered by this lawsuit.<sup>4</sup>

6 In that Order, the Court directed Class Counsel to propose a comprehensive  
7 notice plan for the National TPP Class.<sup>5</sup>

8 In June 2023 Plaintiffs filed a motion for approval of a class notice plan.<sup>6</sup>  
9 Before the hearing on that motion, the Court stayed the case pending the  
10 resolution of Defendants' interlocutory appeal of the Court's class certification  
11 order pursuant to Rule 23(f) of the Federal Rules of Civil Procedure.<sup>7</sup> The  
12 Ninth Circuit ultimately affirmed this Court's class certification order,<sup>8</sup> and this  
13 Court lifted the stay in August 2025.<sup>9</sup>

14 In October 2025 Plaintiffs filed the instant Motion, again seeking approval  
15 of the class notice plan.

## 16 **B. Factual Background**

### 17 **1. The Proposed Class Administrator**

18 Plaintiffs propose that Epiq Class Action and Claims Solutions, Inc. serve  
19 as Class Administrator to implement the Notice Plan.<sup>10</sup> Plaintiffs present

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21 <sup>4</sup> Order re Pls.' Mot. for Class Cert. (the "Order") [ECF No. 326] 8  
22 (emphasis added to disputed language).

23 <sup>5</sup> *Id.* at 43.

24 <sup>6</sup> Pl.'s Mot. for Order for Approval of Class Not. Plan [ECF No. 338].

25 <sup>7</sup> Order Granting Joint Stip. to Stay Case & Vacating Class Not. Hr'g  
26 Pending Appeal [ECF No. 358].

27 <sup>8</sup> Memo. from Ninth Circuit [ECF No. 370].

28 <sup>9</sup> Min. Order re Hr'g re Pls.' Mot. to Lift Stay [ECF No. 387].

<sup>10</sup> Motion 2:5.

1 evidence—in the form of expert testimony—that Epiq has “handled some of the  
2 most complex notice programs in recent history and has experience in more than  
3 700 cases, including more than 75 multidistrict litigation settlements.”<sup>11</sup>  
4 Plaintiffs also present evidence that Epiq has prepared notices that have  
5 appeared in 53 languages and that it has distributed notices to almost every  
6 country, territory, and dependency in the world.<sup>12</sup> Epiq maintains a TPP  
7 Mailing Database of approximately 57,000 entities, which includes a physical  
8 mailing addresses for each.<sup>13</sup>

9 Counsel for Plaintiffs, attorney Brett Wisner, asserts that Epiq was chosen  
10 in 2023 after a competitive bidding process led by Class Counsel, in which Class  
11 Counsel considered proposals from two other potential administrators.<sup>14</sup>

12 **2. The Proposed Class Notice Plan**

13 The class notice plan begins with Epiq, utilizing its TPP Mailing  
14 Database, sending a Postcard Notice to the TPPs via United States Postal  
15 Service first class mail.<sup>15</sup> Plaintiffs have proposed a one-page draft Postcard  
16 which contains the following:

- 17 • a bold, slightly summarized description of the certified Class at the top of  
18 the page;  
19 • a paragraph describing “What is the lawsuit about?” which lists the  
20 parties and the grounds for the claims in this action;

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23 <sup>11</sup> *Id.* at 2:6–9 (citing Decl. of Cameron R. Azari re Revised Notice Plan (the  
“Azari Declaration”) [ECF No. 394-5] ¶ 4).

24 <sup>12</sup> Motion 2:9–11.

25 <sup>13</sup> *Id.* at 2:20–22 & 2:24–3:1.

26 <sup>14</sup> *Id.* at 2:13–14 (citing Decl. of R. Brent Wisner in Supp. of the Motion  
27 [ECF No. 394-1] ¶ 5).

28 <sup>15</sup> Motion 2:20–22.



1 individual notice to all members who can be identified through any reasonable  
2 effort.” Fed. R. Civ. P. 23(c)(2)(B). Procedural due process requires that the  
3 notice be “reasonably calculated, under all the circumstances, to apprise  
4 interested parties of the pendency of the action and afford them an opportunity  
5 to present their objections.” *In re Apple Inc. Device Performance Litig.*, 50 F.4th  
6 769, 779 (9th Cir. 2022) (internal quotations omitted). But “neither Rule 23 nor  
7 the Due Process Clause requires actual notice to each individual class member.”  
8 *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1128 (9th Cir. 2017).

9 Rule 23 also requires that the notice must state in clear, concise, plain,  
10 and easily understood language: (1) the nature of the action; (2) the definition of  
11 the class certified; (3) the class claims, issues, or defenses; (4) the fact that a  
12 class member may enter an appearance through an attorney if the member so  
13 desires; (5) the fact that the court will exclude from the class any member who  
14 requests exclusion; (6) the time and manner for requesting exclusion; and (7) the  
15 binding effect of a class judgment on members under Rule 23(c)(3). *See Kim v.*  
16 *Tinder, Inc.*, 2019 WL 11717129, at \*7 (C.D. Cal. Mar. 1, 2019) (citing  
17 Fed. R. Civ. P. Rule 23(c)(3)).

### 18 III. ANALYSIS

19 Defendants argue that Plaintiffs’ proposed class notice plan is inadequate  
20 in four ways:

- 21 • recipients of the class notice plan are not provided with information about  
22 a prior settled case that is necessary to determine whether they are  
23 included in the class, and, therefore, recipients cannot decide whether to  
24 opt out;
- 25 • the phrase “independent prescriptions” in the Class definition is not  
26 adequately described, further preventing recipients from determining  
27 their class membership;

28

- 1 • notice should be delayed because Plaintiffs have refused to disclose the
- 2 mailing list;<sup>22</sup> and
- 3 • the opt-out procedures are unduly burdensome.

4 The Court will analyze each in turn.

5 **A. The Prior Settlement**

6 Defendants argue that the class notice plan is deficient because it does  
7 “not provide recipients the information needed to answer whether a [TPP] has  
8 released claims covered by this lawsuit.”<sup>23</sup> Defendants’ primary argument is  
9 that the Long Form Notice does not include enough information for recipients  
10 to determine if their class membership was released by the 2017 settlement of  
11 *Louisiana Health Service and Indemnity Co. v. Takeda Pharmaceuticals Int’l Inc.*  
12 (the “*Louisiana Settlement*”).<sup>24</sup>

13 The *Louisiana Settlement* released claims by Settling Health Plans  
14 (“*SHPs*”), which were defined as two distinct groups.<sup>25</sup> The first group was  
15 comprised of 23 *SHPs* that are known and identifiable.<sup>26</sup> The second group is  
16 “each of the self-funded healthcare plans and/or entities . . . for which one or  
17 more *SHP* provides or provided prescription drug or health benefit services  
18 through administrative services-only contracts or as a third-party administrator  
19 and on whose behalf the *SHP* is authorized to act.”<sup>27</sup>

20 Defendants assert that that second group is problematic because members  
21 who fall into this second group are not identified by the *Louisiana Settlement*,

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23 <sup>22</sup> Opposition 1:14–28.

24 <sup>23</sup> *Id.* at 3:22–24.

25 <sup>24</sup> *Id.* at 4:2–4 (Defendants do not provide a full case citation).

26 <sup>25</sup> *Id.* at 4:11–12.

27 <sup>26</sup> *See id.* at 4:18.

28 <sup>27</sup> *Id.* at 4:21–24.

1 and, thus, they are unknown.<sup>28</sup> As a condition of the *Louisiana* Settlement,  
2 however, members of that second group have nevertheless released their claims  
3 against Defendants.<sup>29</sup> Defendants believe that “[at] the very least, Plaintiffs’  
4 revised Notice Plan should include a detailed explanation of the 2017 Settlement  
5 and information about any other settlements.”<sup>30</sup>

6 With regard to the first group of 23 identified SHPs that settled as a part  
7 of the *Louisiana* Settlement, Plaintiffs respond that they “have no intention of  
8 sending notice to these identified entities.”<sup>31</sup> With regard to the second group,  
9 Plaintiffs argue that entities that fall within that second group did not release  
10 their claims because the *Louisiana* Settlement was a “settlement to which they  
11 never participated. . . . One entity cannot settle the claims of another entity  
12 without their consent or knowledge.”<sup>32</sup>

13 The Court agrees with Plaintiffs. The 23 SHPs that were part of the first  
14 group identified in the *Louisiana* Settlement are a non-issue because Plaintiffs  
15 have no intention of providing notice to them. The second group identified in  
16 the *Louisiana* Settlement also will not be problematic. To the extent that there  
17 exist TPPs that receive notice through the class notice plan that also released  
18 their claims as a part of the *Louisiana* Settlement, that issue can be resolved  
19 during claim administration—as Plaintiffs suggest.<sup>33</sup> The Court further agrees  
20 with Plaintiffs that a long, detailed explanation of the settlement groups from the  
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23 <sup>28</sup> *Id.* at 5:2–4.

24 <sup>29</sup> *See id.*

25 <sup>30</sup> *Id.* at 6:16–21.

26 <sup>31</sup> Reply 3:7–8.

27 <sup>32</sup> *Id.* at 3:15–17.

28 <sup>33</sup> *Id.* at 5:25–28.

1 *Louisiana* Settlement will cause “unwarranted confusion.”<sup>34</sup> Rule 23 provides  
2 that the notice plan must use clear, concise, plain, and easily understood  
3 language. *See* Fed. R. Civ. P. Rule 23(c)(3).

4 For those reasons, the Court **DIRECTS** Plaintiffs to refrain from  
5 providing notice to the 23 identified SHPs that already released their claims as a  
6 part of the *Louisiana* Settlement.

7 **B. Independent Prescriptions**

8 Defendants contend that the phrase “independent prescriptions” in the  
9 Class definition does not satisfy Rule 23’s requirements because the phrase  
10 “lacks any clear or readily understandable meaning”<sup>35</sup> The Court does not  
11 agree.

12 Both the Postcard and the Long Form Notice explain that “independent”  
13 means “non-refill” in the following passage: “that purchased, paid for, and/or  
14 reimbursed all or any portion of the price for Actos, ActosPlus MET, ActosPlus  
15 MET XR, Duetact, and/or Oseni, for five or *more independent (i.e., non-refill)*  
16 *prescriptions*, between July 1, 1999, and September 17, 2010, for purposes other  
17 than resale are included in the Class.”<sup>36</sup> Furthermore, the Long Form Notice  
18 explicitly defines the meaning of independent prescriptions in the “Who Is In  
19 The Class” section: “Note: ‘independent’ means non-refill prescriptions.”<sup>37</sup>

20 For those reasons, the Court finds that the phrase “independent  
21 prescriptions” as used in the class notice plan is clearly understandable.  
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25 <sup>34</sup> *Id.* at 5:22.

26 <sup>35</sup> Opposition 7:2–10.

27 <sup>36</sup> *See* Postcard; Long Form Notice 1.

28 <sup>37</sup> Long Form Notice 3.

1 **C. Mailing List**

2 Defendants next assert that Plaintiffs should be required to disclose their  
3 mailing list of entities that will receive the class notice plan.<sup>38</sup> Plaintiffs respond  
4 that Defendants are not entitled to the list.<sup>39</sup> The Court agrees with Plaintiffs.

5 Defendants do not cite to any authority to support the proposition that  
6 the mailing list must be disclosed. The cases that Defendants cite do support  
7 the proposition that Plaintiffs must explain the process by which Epiq obtained a  
8 mailing list or how the list was prepared, supplemented, and updated.<sup>40</sup> But  
9 Plaintiffs have indeed provided such information. Specifically, Plaintiffs explain  
10 that:

11 Epiq has developed and maintains a proprietary third-party payor  
12 (“TPP”) database (“TPP Database”), composed of data related to  
13 TPPs of prescription drugs within a healthcare plan that are obtained  
14 from various resources, in particular the Department of Labor Form  
15 5500 filings (which are used to identify entities sponsoring plans with  
16 100 or more employees participating in health and welfare plans),  
17 third-party administrators for health/welfare plan sponsors,  
18 pharmaceutical benefit managers, health insurance carriers, and  
19 Health Maintenance Organization (HMO) companies, including  
20 medium and large third-party payors who operate on a larger scale.  
21 Epiq’s TPP Database is not overly inclusive and omits entities that  
22 file a Form 5500 with the Department of Labor but would never be  
23 an actual third-party payor of a prescription drug. This means that  
24 self-insured companies that provide dental, life, disability, etc., but  
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26 <sup>38</sup> Opposition 8:9–12.

27 <sup>39</sup> Reply 7:20–22.

28 <sup>40</sup> See Opposition 9:15–27 (collecting cases).

1 no health or prescription drug benefits, are not needlessly sent  
2 notice. In addition, Epiq updates contact and address data regularly  
3 to ensure the TPP Database is accurate and always ready for  
4 mailing.<sup>41</sup>

5 The declaration that Plaintiffs provide clearly states the sources from which  
6 Epiq compiled its mailing list, how it prepared the list so that the list is not  
7 overly inclusive, and how it updated the list.

8 Therefore, the Court finds that Defendants’ lack of access to the mailing  
9 list is not a sufficient reason to disapprove Plaintiffs’ class notice plan.

10 **D. Opt-Out Procedures**

11 Defendants argue that the class notice plan “also erect[s] improper  
12 barrier to opting out.”<sup>42</sup> In support of their position, Defendants point to a  
13 passage in the Long Form Notice that provides instructions to entities that may  
14 have authority to exclude a Class member in a representative capacity.<sup>43</sup>  
15 Plaintiffs respond by asserting that their plan “avoids confusion” and instead  
16 “provides straightforward, step-by-step instructions.”<sup>44</sup> The Court agrees with  
17 Plaintiffs.

18 The Long Form Notice that will be provided by the Class website  
19 provides step-by-step instructions for how to opt out of the class in clear,  
20 concise, plain, and easily understandable language. The instructions direct  
21 those who wish to opt out to provide the following information:

- 22 • The full name of your entity (including any predecessor entities from  
23 July 1, 1999, forward), FEIN, and address.

24  
25 <sup>41</sup> Azari Declaration ¶¶ 20.

26 <sup>42</sup> Opposition 10:2–3.

27 <sup>43</sup> *Id.* at 10:9–15.

28 <sup>44</sup> Reply 9:18–20.

- 1 • A statement saying that your entity wants to be excluded from the Class in  
2 *Painters & Allied Trades Dist. Council 82 Health Care Fund v. Takeda*  
3 *Pharm. Co. Ltd.*, No. 2:17-cv-07223-JWH-AS.
- 4 • Your signature on behalf of the entity.
- 5 • If your entity claims to have authority to exclude a Class Member in a  
6 representative capacity, the request for exclusion must provide all  
7 information requested above for that Class Member and provide written  
8 evidence of your entity’s authority to exclude the Class Member in a  
9 representative capacity. For example, your entity must provide a list of all  
10 self-funded healthcare plans (“SFPs”) or other entities (if any), for which  
11 it is authorized to opt out of the Class, including the name and Employer  
12 Identification Number (“EIN”) of each entity on whose behalf your  
13 entity is authorized to act.
- 14 • The amount of Actos and Actos combination products your entity (or the  
15 entity or entities you are authorized to act for) purchased during the  
16 period between July 1, 1999, and September 17, 2010. A list of relevant  
17 National Drug Codes (“NDCs”) associated with Actos to be used for this  
18 purpose is available at [www.xxxxxxxxxx.com](http://www.xxxxxxxxxx.com).<sup>45</sup>

19 Those step-by-step instructions are in plain English and are easily  
20 understandable. Defendants’ main argument revolves around the language of  
21 the fourth step. That step, however, is also straightforward. The term  
22 “representative capacity” is appropriate to include all types of representatives.  
23 The rest of step four provides exact instructions regarding how a representative  
24 can opt out on behalf of its entity.

25 Therefore, the Court finds that the opt-out procedures are not unduly  
26 burdensome.

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28 <sup>45</sup> See Long Form Notice 4.

**IV. DISPOSITION**

For the foregoing reasons, the Court hereby **ORDERS** as follows:

1. Plaintiffs’ Motion for Approval of Class Notice Plan [ECF No. 394] is **GRANTED**.

2. Specifically:

a. Plaintiffs are **DIRECTED** to refrain from providing notice to the 23 identified SHPs that already released their claims as part of the *Louisiana Settlement*.

b. The Court confirms Epiq Class Action and Claims Solutions, Inc. as the Class Notice Administrator.

c. The Court approves, as to form and content, the “Long Form Notice,” “Postcard Notice,” and “Email Notice” that were lodged with the Court. Plaintiffs are **DIRECTED** to update those exhibits with the Notice Date, the notice website, and the toll-free telephone number.

d. The Notice Date shall commence on March 6, 2026. The class notice shall provide until April 6, 2026, for a proposed member of the Class to opt out of the Class.

e. Accordingly, the Court implements the following schedule:

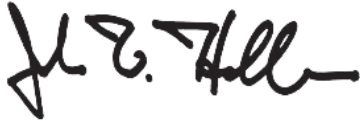
| Event   | Timing         |
|---|----------------|
| Notice Date: (i) last day for claims administrator to mail / email class notice to class members; (ii) class notice website to be operational and available to the public; (iii) toll-free telephone number to be operational; (iv) commencement of internet digital notice campaign; and (iv) issuance of informational release. | March 6, 2026  |
| Last day for Class Notice Administrator to file declaration   | March 20, 2026 |

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| confirming completion of mailing and emailing Class Notice.                           |               |
| Last day for Class Notice Administrator to complete internet digital notice campaign. | April 6, 2026 |
| Last day for class members to submit requests for exclusion from the Class.           | April 6, 2026 |

**IT IS SO ORDERED.**

Dated: February 3, 2026



John W. Holcomb  
UNITED STATES DISTRICT JUDGE