

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**IN RE SUBOXONE (BUPRENORPHINE
HYDROCHLORIDE AND NALOXONE)
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

End Payor Plaintiff Actions

MDL No. 2445

Master File No. 2:13-MD-2445-MSG

**MEMORANDUM IN ADVANCE OF FEBRUARY 6, 2026 HEARING REGARDING
END-PAYOR PLAINTIFFS' MOTION TO AUTHORIZE
DISTRIBUTION OF THE NET SETTLEMENT FUND TO THE CLASS**

In response to this Court's request for further details regarding the claims administration process, Class Counsel respectfully submit this Memorandum in Advance of February 6, 2026 Hearing Regarding End-Payor Plaintiffs' Motion to Authorize Distribution of the Net Settlement Fund to the Class (ECF No. 1012). Class Counsel also bring to the Court's attention an additional Consumer Claimant requesting Court review.

A. Introduction

A claims administrator (the Settlement Administrator in this case) is considered to be a subcontractor of Plaintiffs' counsel. As such, it "must perform diligently with a fiduciary duty to the Class as the Class Counsel's agent." *Rougvie v. Ascena Retail Group, Inc.*, 2019 WL 944811, at *5 (February 21, 2019, E.D. Pa.).¹ In this role, a claims administrator has the responsibility to implement procedures for the detection of fraudulent claims. It must ensure the payment of eligible claims and also guard against the dilution of funds caused by paying claimants having no legal

¹ A claims administrator is sometimes deemed an agent of the Court appointing it, not counsel. *See, e.g.* *Douglas v. Western Union Co.*, 328 F.R.D. 204, 217 (N.D. Ill. 2018). Either way, it must act to protect the interests of the Class.

right to such payment.

The Third Circuit has recognized the unfortunate truth that "no matter how inspired a concept the class action device may be, it is not entirely resistant to the designs of fraudsters bent on abusing it--in this case, by impostors claiming settlement proceeds to which they had no lawful right." *United States v. Camarata*, 145 F. 4th 345, 356 (3d Cir. 2025). Thus, the court stated, "[a]n administrator of a settlement reviews each claim . . . to ensure that the claimant fits within the definition of a class as set forth in the court order certifying the class." *Id.* at 357. *See also In re National Football League Players Concussion Injury Litig.*, 962 F.3d 94, 104 (3d Cir. 2020) (affirming appropriateness of claim administrator's revised rules intended to detect fraud, prevent fraudulent claims, and "deliver benefits quickly and correctly to settlement class members who deserve them," as opposed to those who don't). In furtherance of this result, the Advisory Committee Notes to Rule 23 (e)(2)(C) state that a claims administrator must, *inter alia*, impose processing methods that "deter or defeat unjustified claims." Fed. R. Civ. P. 23(e)(2)(C) Advisory Committee's Notes (2018).

When Plaintiffs sought the appointment of A.B. Data as Settlement Administrator, they alerted the Court that, as part of fulfilling its administrative responsibilities, A.B. Data would "have the authority to contact claimants as necessary to confirm information provided in the Claim Forms or to seek additional information as required." *See* ECF. 929, at 27-28. Class Counsel also proposed, and this Court scrutinized and approved, a Claim Form which repeatedly told claimants they could be requested to provide documentation of their purchases to guard against fraud or as part of a selective audit. *See* Exemplar Claim Form (ECF No. 930-10) at Sections D and E, submitted with End Payor Plaintiff's Motion for Preliminary Approval of End Payor Settlement and For Other Relief (ECF No. 928), which motion the Court granted (ECF No. 935). *See also*

Final Claim Form (ECF No. 1018-3) at Sections D and E, which was posted to Settlement Website.² The Claim Form thus advised Consumers that the Settlement Administrator could act, if necessary, to preserve the settlement fund for distribution only to Class members.

To facilitate the ability to make a claim against the Net Settlement Fund, the Claim Form specified that it could be submitted in the first instance without documentation and, indeed, such a claim could be accepted.³ *See* Claim Form (ECF Nos. 930-10 & 1018-3), Section D. Nevertheless, the Claim Form advised potential claimants that they “should” submit documentation of their purchases if possible, and examples of such documentation were given: pharmacy records showing a purchase or doctor records describing the amount of Suboxone (branded or generic) prescribed. *Id.* The Claim Form directly stated, “if you do not provide the above documentation, the Settlement Administrator may ask for additional documentation after you submit your Claim Form, so please keep all records of your purchases.” *Id.* Further, “[c]laims may be selected for audit and rejected because of fraud concerns, or potentially inaccurate amounts based on expected average purchases.” *Id.* Every person who submitted a Claim Form was required to acknowledge this fact by making the following representation before signing: “I agree to supplement this Claim Form by furnishing documentary backup for the information provided herein, upon request of the Settlement Administrator.” *See* Claim Form (ECF Nos. 930-10 & 1018-3), Section E.

At the same time, potential claimants were told they must be a Class member to recover; *i.e.*, for a Claim Form to be valid and eligible for payment, the claimant must be a member of the

² ECF No. 1018-3 is the final version of the Claim Form posted on the Settlement Website. *See* Declaration of Kenneth A. Wexler (ECF No. 1018-1) at ¶8. The Exemplar and Final Claim Form are hereinafter referred to collectively as the “Claim Form.”

³ As a matter of fact, some 5,692 claims submitted without documentation have been deemed eligible for payment.

Consumer Class certified by the Court. *See* Claim Form (ECF Nos. 930-10 & 1018-3), Section B. That Class is defined as those persons who paid all or part of the purchase price of Suboxone or its generic equivalent in one of the Class States during the Class Period (December 22, 2011 through August 21, 2023). The Settlement Administrator was bound to deny payment of the claim if a potential claimant did not meet these criteria, in order to preserve the settlement funds for payment to actual members of the Consumer Class. *Camarata*, 145 F. 4th at 357. Only if a claimant met the Class definition could the Settlement Administrator be satisfied that a claim was legitimate and ultimately represent to this Court that payment would not be made for unjustifiable claims.

It is against this backdrop that A.B. Data performed its functions as the Settlement Administrator. Whether 10, 10,000, or 10 million Claim Forms were submitted with respect to the settlement, if there was any doubt about a claimant's Class membership, A.B. data was duty-bound, as described in the Claim Form, to obtain the information necessary to resolve that doubt. It had a responsibility to detect fraud and weed out fraudulent claims to effectuate this purpose. This is what Class Counsel retained A.B. Data to do; it is what the Consumer Class relied on A.B. Data to do; and it is what the Court appointed A.B. Data to do: protect the class from fraudulent claims. *See Camarata*, 145 F. 4th at 373 (the victim of fraudulent settlement claims is the class, not anyone else).

B. The Claim Administrator Fulfilled Its Duty To Detect Fraudulent Claims And Protect The Class.

There was an unusually large number of claims submitted by Consumers against the Net Settlement Fund.⁴ Of those, as set forth in the Claim Form, not one was rejected merely because

⁴ To answer the question posed by the Court on January 20, 2026, Class Counsel consulted with Plaintiffs' economist, who calculated, using various assumptions and scenarios, the number of Consumers potentially in the Class that was certified for settlement purposes. The analysis yielded a range from 761,529 to 993,153 if the treatment regimen was strictly Suboxone, in contrast to 943,188 to 1,230,066 if the treatment regimen

it was not accompanied by purchase documentation. But the Claim Form only began the analysis. From the volume of claims submitted, it was readily apparent to A.B. Data, which has tools in place designed to detect these things, that a substantial number were generated by bots or otherwise exhibited indicia of fraud and/or other irregularities. January 20, 2026 Hearing Tr., 7:17-8:4. That 1.5 million of the 2.3 million claims were generated by bots was a surprise to A.B. Data. January 20, 2026 Hearing Transcript, 8:12-14. This signaled to A.B. Data that, to fulfill its role as a fiduciary to the Class, it would be required to take all necessary actions to satisfy itself that each person submitting a claim really was a Class member and entitled to payment. January 20, 2026 Hearing Tr. 18:3-5. Excluding claims generated by Bots and fraud farms, A.B. Data audited each submission to verify Class membership and the legitimacy of amounts claimed. A.B. Data ultimately determined that 10,524 Consumer claimants are eligible to receive the distribution of the Net Settlement Fund as requested by Class Counsel.

A step-by-step description of A.B. Data's efforts will follow. Suffice it to say, A.B. Data's first priority was to ensure that those Consumers submitting claims were members of the Consumer Class. To that end, A.B. Data employed various fraud detection techniques designed to identify both valid and fraudulent or suspicious claims. As part of its process, A.B. Data weeded out duplicate claims and suspect IP addresses. January 20, 2026 Hearing Tr. 7:17-8:4. It verified email addresses. January 20, 2026 Hearing Tr., 11:5-17; 14:21-15:5. *See also* ECF No. 1012-2, Declaration of Eric J. Miller in Support of End-Payor Plaintiffs' Motion to Authorize Distribution of the Settlement Fund to the Class ("Miller Decl.") at ¶¶12, 13. It then notified claimants if there

involved Suboxone in combination with other medications. Combining the two possibilities, the estimated number of class members is somewhere between 761,529 to 1,230,066.

were deficiencies in their Claim Forms,⁵ requesting information and/or documentation necessary to confirm the information contained in those Claim Forms. January 20, 2026 Hearing Tr. 10:14-17; 11:5-8. *See also* Miller Decl. ¶¶15-17. Some claimants provided that information and others did not. Those who did not were given multiple opportunities to cure. Miller Decl. ¶¶19. Even now, claimants may still submit documentation or information to confirm the eligibility of their claims.

Attached in chart form as Exhibits 1 and 2 are descriptions of A.B. Data's efforts to determine the eligibility of Consumer Claims and the steps it took to verify that eligibility. Unless the Court permits this to occur over Zoom, Representatives of the Settlement Administrator will be present on February 6 to testify more specifically about these steps through direct examination by Class Counsel. If Exhibits 1 and 2 are in any way insufficient for the Court's purposes, or if the Court prefers another approach, Class Counsel respectfully request being advised in advance so as to make efficient use of the Court's valuable time.

C. Additional Court Review Request

Class Counsel bring to the Court's attention that an additional Consumer Claimant has requested Court review – Claim No. 276484208. This Consumer Claimant, who requested Court review through the Settlement Administrator, is identified by their claim number and the summary information and documents regarding their claim, attached to the Declaration of Kenneth A. Wexler (“Wexler Decl.”), is filed under seal.

Claimant No. 276484208 filed three claims, two of which were flagged as duplicates. *See*

⁵Such deficiencies included missing information, excessive amounts sought that needed justification, clearly manipulated supporting documentation, and otherwise insufficient documentation. A.B. Data's vigilance was heightened where it was familiar with claimants having histories of fraudulent filings.

Wexler Decl. at ¶¶ 4-6, Exhibits A and B. All three claims were audited, and the Claimant was asked to provide documentation showing payment for Suboxone or its generic equivalent. Wexler Decl. at ¶7, Exhibit B. Claimant No. 276484208 supplied purported receipts, but all appeared to be fraudulent. *Id.* As a result, A.B. Data recommends denying this claim due to lack of documentation. *Id.*

Dated: February 4, 2026

Kenneth A. Wexler
Wexler Boley & Elgersma LLP
311 South Wacker Drive, Suite 5450
Chicago, IL 60606
(312) 346-2222
kaw@wbe-llp.com

Marvin A. Miller
Miller Law LLC
145 South Wells Street, Suite 1800
Chicago, IL 60606
(312) 332-3400
mmiller@millerlawllc.com

Michael M. Buchman
Motley Rice LLC
777 Third Avenue, 27th Floor
New York, New York 10017
mbuchman@motleyrice.com

Steve D. Shadowen
Hilliard Shadowen LLP
1135 W. 6th Street, Suite 125
Austin, TX 78703
steve@hilliardshadowenlaw.com

Co-Lead Counsel for the End-Payor Class

Respectfully submitted,

/s/ Diana J. Zinser
Diana J. Zinser
Spector Roseman & Kodroff, P.C.
2001 Market Street, Suite 3420
Philadelphia, PA 19103
Tel: (215)-496-0300
dzinser@srkattorneys.com

Liaison Counsel for End-Payor Class

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2026, a true and correct copy of the foregoing document was electronically filed, will be available for viewing and downloading from the Court's ECF system and will be served by CM/ECF upon all counsel of record.

/s/ Diana J. Zinser