

**If you purchased HIV cART drugs directly from the manufacturer,
you may receive a payment from a class action settlement.**

A federal court authorized this notice. This is not a solicitation from a lawyer.

- A proposed settlement (“Settlement”) has been reached in a class action lawsuit (*KPH Healthcare Services, Inc. v. Gilead Sciences, Inc.*, No. 3:20-cv-06961-EMC (N.D. Cal.), coordinated with *Staley v. Gilead Sciences, Inc.*, No. 3:19-cv-02573-EMC (N.D. Cal.)). The lawsuit involves the alleged delay of generic competition for certain HIV cART drugs and the prices paid for those drugs. The lawsuit alleges that Defendants engaged in a variety of allegedly anticompetitive conduct that caused direct purchasers to pay too much for HIV cART drugs. Defendants deny any wrongdoing.
- Generally, the proposed Settlement includes anyone who purchased Atripla, Complera, Evotaz, Reyataz, Sustiva, Stribild, Truvada, or any of their generic equivalents directly from a brand or generic manufacturer from October 6, 2016 until October 19, 2021 (“the Settlement Class”).
- This lawsuit and Settlement concern only direct purchasers, which are typically pharmaceutical wholesalers.
- The lawsuit was filed against Gilead Sciences, Inc.; Gilead Holdings, LLC; Gilead Sciences, LLC; Gilead Sciences Ireland UC; Bristol-Myers Squibb Company; and E. R. Squibb & Sons, L.L.C. The proposed Settlement is only with Bristol-Myers Squibb Company and E. R. Squibb & Sons, L.L.C. (collectively, “BMS”); it does not resolve any of the claims against the other defendants. The lawsuit remains ongoing against Gilead Sciences, Inc.; Gilead Holdings, LLC; Gilead Sciences, LLC; Gilead Sciences Ireland UC (collectively, “Gilead.”)
- If you are a member of the Settlement Class, your legal rights will be affected whether you act or don’t act. Please read this notice carefully.
- The full text of the Settlement is available for inspection at www.HIVcARTDirectPurchaserSettlement.com. This notice is intended to provide a convenient summary of the Settlement. In the event of any inconsistency between this notice and the terms of the Settlement, the terms of the Settlement will control.

YOUR LEGAL RIGHTS AND OPTIONS

SUBMIT A CLAIM	If you are a member of the Settlement Class, you may file a claim by obtaining and submitting a Claim Form. This is the only way to get a payment. The deadline is October 28, 2022 .
OBJECT	<p>You may write to the Court about why you do not like the Settlement. The objection deadline is October 25, 2022.</p> <p>Additionally, you may ask to go to the Final Approval Hearing and speak in Court about the fairness of the Settlement.</p> <p>If you object to the Settlement, you are still a member of the Settlement Class and you must file a claim to receive a payment.</p>
OPT OUT	You may write the Claims Administrator or submit an Opt-Out Form online to exclude yourself from the Settlement Class. Exclusion allows you to file your own lawsuit. You will not receive any payment and will not be bound by the releases contained in the Settlement. The exclusion deadline is October 25, 2022 .
DO NOTHING	If you do nothing, you will not receive any payment. You will be bound by the releases contained in the Settlement and will not be able to pursue your own lawsuit.

- These rights and options are explained in this notice.
- If you do not act by the deadline for an option, you will lose your right to exercise that option.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after the period to appeal has expired and/or all appeals have been resolved. Please be patient.

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BASIC INFORMATION

1. WHAT IS THIS LAWSUIT ABOUT?

This lawsuit is a class action known as *KPH Healthcare Services, Inc. v. Gilead Sciences, Inc., et al.*, Case No. 3:20-cv-06961-EMC (N.D. Cal.) (“the Lawsuit” or “the Action”). The lawsuit has been coordinated with *Staley v. Gilead Sciences, Inc.*, No. 3:19-cv-02573-EMC (N.D. Cal.). Judge Edward M. Chen of the United States District Court for the Northern District of California is overseeing the lawsuit.

The Lawsuit alleges that BMS and Gilead violated federal antitrust laws by conspiring among themselves and with others to extend patent protection for their HIV cART Drugs, delay generic competition, and charge supracompetitive prices. Defendants deny these allegations.

No court or other authority has found that Defendants engaged in any wrongdoing.

2. WHAT IS A CLASS ACTION?

In a class action, one or more people or entities called “named plaintiffs” or “class representatives” (in this case, KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc. or “KPH”) sue on behalf of people and entities with similar claims. These people and entities are called a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

3. ARE YOU PART OF THE SETTLEMENT CLASS?

You are part of the Settlement Class if you are a person or entity in the United States or its territories that purchased Atripla, Complera, Evotaz, Reyataz, Sustiva, Stribild, Truvada, or any of their generic equivalents directly from a brand or generic manufacturer of those drugs at any time from October 6, 2016 until October 19, 2021.

Excluded from the Class are certain BMS, Gilead, and Janssen entities; government entities; Retailer Plaintiffs (Walgreen Co.; The Kroger Co.; Albertsons Companies, Inc.; H-E-B, L.P.; Rite Aid Corporation; Rite Aid Hdqtrs. Corp.; and CVS Pharmacy, Inc.); and the judges in this case, their court personnel, and members of their immediate families.

THE SETTLEMENT

4. WHAT DOES THE SETTLEMENT PROVIDE?

To settle the Action, BMS agreed to pay \$10.8 million into a Settlement Fund, plus up to an additional \$200,000 to pay one-half of the costs of providing notice of the Settlement. BMS also agreed to waive enforcement of a provision in its licensing agreement with Gilead concerning Evotaz. The effect of this waiver is that Gilead may, but will not be required to, market or license a third party to market a fixed-dose combination comprising Gilead's drug Cobicistat and a generic version of the drug atazanavir (whose brand name is Reyataz).

In exchange, the Action against BMS will be dismissed with prejudice, and Settlement Class Members will release BMS from all claims that were asserted against BMS or its affiliates in the Action and all claims with regard to cART drugs that KPH or the Settlement Class could have asserted or could assert against BMS and its affiliates that arise out of the facts, occurrences, transactions or other matters alleged or asserted in the Action, whether known or unknown, and including but not limited to any claim that would be barred by *res judicata* as a result of the dismissal of the Action with prejudice. Settlement Class Members will not release any personal injury claims or any claims arising in the ordinary course of their business with BMS under Article 2 of the Uniform Commercial Code (related to sales).

The Settlement Fund may be reduced or the Settlement may be terminated if a certain percentage of Settlement Class Members exclude themselves from the Class. The Settlement also may be terminated if the Court rejects the Settlement. If the Settlement is terminated, the lawsuit will proceed against BMS as if a settlement had not been reached.

The Settlement is only with BMS. It does not resolve or release any claims against Gilead. The lawsuit remains ongoing against Gilead.

5. WHY IS THERE A SETTLEMENT?

The Court has not decided in favor of Plaintiff or BMS. Instead, both sides have agreed to settle. If the Court approves the Settlement, the parties will avoid the costs and uncertainty of a trial, and Class Members will be eligible to receive a payment from the Settlement. The Settlement does not mean that any law was broken or that BMS did anything wrong. BMS denies all legal claims in this case. Plaintiff and its lawyers think the Settlement is best for everyone who has been affected.

SETTLEMENT PAYMENTS

6. HOW CAN YOU GET A PAYMENT FROM THE SETTLEMENT?

To retain your right to seek a payment from this Settlement, you must submit a Claim Form on or before **October 28, 2022**.

If you have been identified as a Settlement Class Member based on available transactional data, you will receive a Claim Form with pre-populated information you can correct or supplement. If you believe you are a Settlement Class Member, but you do not receive such a Claim Form, you can obtain one from the settlement website (www.HIVcARTDirectPurchaserSettlement.com).

You may complete your Claim Form online, or you may print a copy, fill it out, and send it by U.S. Mail to the Claims Administrator. The Claim Form includes more detailed instructions.

7. HOW MUCH WILL YOU RECEIVE FROM THE SETTLEMENT?

The Settlement Fund will be allocated to Settlement Class Members based on their proportionate unit volume share of brand and generic purchases made during the Claim Period (October 6, 2016 – October 19, 2021) with greater weight assigned to brand purchases to reflect the fact that the alleged damages for brand purchases are significantly greater than those for generic purchases.

At this time, it is unknown how much money each Settlement Class Member will receive. It will depend on the number of Settlement Class Members that submit Claim Forms and the number of qualifying purchases made by each of those Settlement Class Members.

If the Court grants final approval to the Settlement, claims will be paid after the period to appeal has expired and/or all appeals have been resolved.

8. WHAT WILL YOU GIVE UP IN EXCHANGE FOR THE SETTLEMENT?

If you remain in the Settlement Class, you will be bound by all future orders in this case and will be bound by the release as described in Question 4.

More information about the release may be found in the Settlement Agreement, which is available on the settlement website (www.HIVcARTDirectPurchaserSettlement.com).

THE LAWYERS REPRESENTING THE CLASS

9. DO YOU HAVE A LAWYER IN THIS CASE?

The Court appointed the following attorneys as Co-Lead Settlement Class Counsel or “Class Counsel”:

Dianne M. Nast
NastLaw LLC
1101 Market Street, Suite 2801
Philadelphia, PA 19107
Telephone: (215) 923-9300
Email: dnast@nastlaw.com

Michael L. Roberts
Roberts Law Firm Us, PC
1920 McKinney Avenue, Suite 700
Dallas, TX 75201
Telephone: (501) 821-5575
Email: mikeroberts@robertslawfirm.us

Class Counsel are experienced in handling similar cases against other companies.

10. HOW WILL THE LAWYERS BE PAID?

If the Court approves the Settlement, the lawyers will seek reimbursement for litigation expenses up to \$2.5 million and payment of \$10,000 as a service award to the class representative (KPH) in recognition of its assistance with developing and pursuing the case. The lawyers are not seeking an award of attorneys' fees in connection with the Settlement.

If the Court grants the lawyers' requests, these payments will be made from the Settlement Fund. You will not have to pay these lawyers out of your own pocket.

The lawyers' motion for their expense award and the class representative service award will be filed with the Court and made available for download or viewing on or before **September 1, 2022** at www.HIVcARTDirectPurchaserSettlement.com.

WHAT ARE YOUR OPTIONS?

As outlined on Page 2, and as described below, Settlement Class Members have four options: (1) submit a claim; (2) object to the Settlement; (3) ask to be excluded from the Settlement Class; and/or (4) do nothing. The deadline for each option is listed in this notice. If you do not act by the deadline for an option, you will lose your legal right to exercise that option.

11. OPTION 1 – SUBMIT A CLAIM

You can request a payment from the Settlement by submitting a Claim Form. Information about how to do this, and the effect of doing this, is outlined in the "Settlement Payments" section on page 5.

Your Claim Form must be submitted online or postmarked by **October 28, 2022**. If your Claim Form is not submitted online or postmarked by that date, you will lose the ability to get a payment from this Settlement.

12. OPTION 2 – OBJECT TO THE SETTLEMENT

If you are a member of the Settlement Class and do not opt out, you may tell the Court what, if anything, you do not like about the Settlement and/or Class Counsel's requests for an expense award and the class representative service award by filing an objection. The Court will consider your views before making a decision.

To object to the Settlement, you must file a written objection with the Court. Your objection must include the following:

1. Case name and number: *KPH Healthcare Services, Inc. v. Gilead Sciences, Inc.*, Case No. 3:20-cv-06961-EMC (N.D. Cal.), coordinated with *Staley v. Gilead Sciences, Inc.*, No. 3:19-cv-02573-EMC (N.D. Cal.).
2. Your legal name, headquarters address, and place of incorporation (if applicable).
3. Information identifying you as a Settlement Class Member.
4. The specific reasons why you object to the Settlement or any part of it, accompanied by legal support.
5. The identity of all counsel representing you and whether each may appear at the Final Approval Hearing.
6. Whether you are requesting permission to speak at the Final Approval Hearing.
7. A list of all persons who will be called to testify in support of the objection at the Final Approval Hearing.
8. Your signature, or the signature of your duly-authorized attorney or other duly-authorized representative.
9. All documents or writings you want the Court to consider.

You may file an objection by: (1) mailing the objection to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102; (2) filing the objection electronically via the Court's ECF system; or (3) filing the objection in person at any location of the United States District Court for the Northern District of California.

Your objection must be filed by **October 25, 2022**. If your written objection is not filed by that date, you will lose the ability to object to the Settlement.

If you object, you will remain a member of the Settlement Class, so in order to retain your right to seek a payment from the Settlement, you also must file a Claim Form by **October 28, 2022**, as addressed above.

13. OPTION 3 – OPT OUT

You can ask to exclude yourself from the Settlement Class. This is also known as opting out of the Class. This is the only way to avoid being bound by the court orders in this lawsuit, and the only way to keep any right you may have to be part of another lawsuit against BMS for any and all claims released by the Settlement.

If you exclude yourself from the Settlement Class, you will not be eligible to receive a payment from this settlement with BMS. You also will not be eligible to object to the Settlement or speak at the hearing.

If you wish to exclude yourself from the Settlement Class, you must mail a letter to the Claims Administrator (Direct Purchaser cART Drug Antitrust Settlement Claims Administrator, P.O. Box 990, Corte Madera, CA 94976-0990) or submit an Opt-Out Form online at the settlement website (www.HIVcARTDirectPurchaserSettlement.com).

Your letter must include the following:

1. Case name and number: *KPH Healthcare Services, Inc. v. Gilead Sciences, Inc.*, Case No. 3:20-cv-06961-EMC (N.D. Cal), coordinated with *Staley v. Gilead Sciences, Inc.*, No. 3:19-cv-02573-EMC (N.D. Cal.).
2. Your legal name, headquarters address, and place of incorporation (if applicable).
3. Information identifying you as a Settlement Class Member.
4. Your intent to opt out of the Settlement Class.
5. Your signature, or the signature of your duly-authorized attorney or other duly-authorized representative.

To be effective, your written opt-out letter must be postmarked or submitted online no later than **October 25, 2022**. If the opt-out letter is not postmarked or submitted online by that date, you will lose the ability to exclude yourself from the Settlement Class.

14. OPTION 4 – DO NOTHING

If you are a Settlement Class Member and you do nothing, you will remain in the Settlement Class and be bound by all orders in this lawsuit. You will also give up the right to seek a share of the Settlement, to object to the Settlement, to speak at the hearing about the Settlement, or to be part of another lawsuit against BMS for any and all claims released by this Settlement Agreement.

FINAL APPROVAL HEARING

15. WHAT IS A FINAL APPROVAL HEARING?

At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider Class Counsel's request for reimbursement of expenses and payment of the class representative's service award. If there are objections, the Court will consider them at that time.

After the hearing, the Court will decide whether to grant final approval to the Settlement. It is unknown how long this decision will take.

16. WHEN IS THE FINAL APPROVAL HEARING?

The Court will conduct the Final Approval Hearing at the United States District Court for the Northern District of California, San Francisco Courthouse, Courtroom 5 – 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102.

The Court has scheduled the Final Approval Hearing for **November 17, 2022** at 1:30 p.m. PT, but the date and time may change without further notice to the Settlement Class. For updated information on the hearing, you may check the settlement website, contact Class Counsel, or access the court docket for this case as described in the “Getting More Information” section on Page 8.

17. DO YOU HAVE TO ATTEND THE HEARING?

You do not need to attend the Final Approval Hearing. Class Counsel will answer any questions the Court may have.

If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper address, and it complies with the other requirements provided in this notice, the Court will consider it.

But if you want to attend, you are welcome to do so at your own expense. You may also pay another lawyer to attend for you, but you will be responsible for hiring and paying that lawyer.

18. MAY YOU SPEAK AT THE HEARING?

If you object to the Settlement, you may ask the Court for permission to speak at the hearing. Your objection must include a request to speak, be timely submitted, and comply with the other requirements provided in this notice.

Your objection submission must include information or materials responsive to all nine of the items listed in the “Option 2 - Object to the Settlement” section on Page 6, including not only your identifying information and the reasons for your objection, but also the identification of all counsel representing you and all persons who may appear and/or testify at the hearing, as well as copies of all documents or writings you want the Court to consider.

Ultimately, the Court will decide who will be allowed to speak at the hearing.

GETTING MORE INFORMATION

19. HOW DO YOU GET MORE INFORMATION?

This notice summarizes the proposed Settlement. The precise terms and conditions of the Settlement are detailed in the Settlement Agreement. If there are any inconsistencies between this notice and the terms of the Settlement Agreement, the terms of the Settlement Agreement will control.

You can view the Settlement Agreement by: (1) visiting the settlement website (www.HIVcARTDirectPurchaserSettlement.com); (2) calling Class Counsel (1-501-821-5575); or (3) accessing the Court docket for this case, for a fee, through the Court’s PACER system at <https://ecf.cand.uscourts.gov> or visiting the Clerk of the Court at the address listed above between 9:00 a.m. and 4:00 p.m. on Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.