

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DR. LOUIS L. SOBOL, M.D.,	)	
individually and as the representative of	)	
a class of similarly-situated persons,	)	
	)	Case No. 16-cv-14339
Plaintiff,	)	
	)	Judge Nancy G. Edmunds
v.	)	
	)	M.J. Elizabeth A. Stafford
IMPRIMIS PHARMACEUTICALS, INC.,	)	
	)	
Defendant.	)	

**ORDER PRELIMINARILY APPROVING CLASS ACTION  
SETTLEMENT, NOTICE TO CLASS,  
AND SETTING DATE FOR FAIRNESS HEARING**

This matter coming before the Court on Plaintiff's Agreed Motion for Preliminary Approval of Class Action Settlement and Notice to the Class (the "Motion"), after review and consideration of the Settlement Agreement, and after hearing statements of the parties' attorneys in open court on March 13, 2019, and having been fully advised in the premises, **IT IS HEREBY ORDERED** and adjudged as follows:

1. Pursuant to Rule 23 (e) of the Federal Rules of Civil Procedure, in light of the factual, legal, practical, and procedural considerations raised by this case, the settlement of this action, as

embodied in the terms of the Settlement Agreement attached to the Motion, is hereby preliminarily approved as a fair, reasonable, and adequate settlement of this case, in the best interests of the Settlement Class.

2. Pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, by stipulation of the parties, and for the purpose of settlement, the Court hereby certifies the following class:

All Persons who were successfully sent by Openfax one or more alleged facsimile advertisements of Imprimis Pharmaceuticals on July 29, 2016, August 31, 2016, September 6, 2016, or November 16, 2016 (the “Faxes”), excluding (a) any Person who first ordered an Imprimis prescription between September 1, 2015, and the date the first facsimile advertisement was sent to that person, and (b) any Person who acknowledges providing express permission to receive facsimile advertisements from Defendant.

Excluded from the Settlement Class are Imprimis Pharmaceuticals, Inc., any of its parents, subsidiaries, affiliates or controlled persons, and its officers, directors, partners, members, agents, servants, and employees of any kind, the immediate family members of such persons, partners, associates, employees and immediate family members of Class Counsel, and the Court and its employees and staff.

3. The Court preliminarily finds that certification for purposes of settlement is appropriate because: (a) the class is so numerous that joinder of all members is impractical; (b) there are questions of law and fact common to the class and they predominate over any questions affecting only individual class members; (c) Plaintiff's claims are typical of the claims of the class; (d) Plaintiff and his attorneys will fairly and adequately protect the interests of the class; and (e) a class action is the superior means of resolving this controversy.

4. The Court preliminarily appoints Louis L. Sobol, M.D., as the representative of the Settlement Class pursuant to Rule 23(a), and preliminarily appoints attorneys Phillip A. Bock of Bock, Hatch, Lewis & Oppenheim LLC and Richard Shenkan of Injury Lawyers, LLC, as Class Counsel pursuant to Rule 23(g).

5. The Court finds that the Settlement Agreement's plan for class notice is the best notice practicable under the circumstances and satisfies the requirements of due process and Rule 23 (e) (1) of the Federal Rules of Civil Procedure. That plan is approved and adopted. This Court further finds that the Class Notice (attached to the Settlement Agreement as Exhibit A) and the Claim Form (attached to the Settlement

Agreement as Exhibit B) comply with Rule 23(e)(1) of the Federal Rules of Civil Procedure, are appropriate as part of the notice plan, and are approved and adopted. The Court orders that the parties notify the Class as proposed.

6. The Court preliminarily appoints KCC, LLC, as the Settlement Administrator. The Settlement Administrator will perform the responsibilities outlined in the Settlement Agreement, including, without limitation, issuing and administering the Notice, responding to class member questions concerning the settlement, including Claim Forms, receiving and processing Claim Forms submitted by class members, reviewing Claim Forms for accuracy, timeliness, and potential fraud, tracking and providing notice to the Parties for any individual or entity opting out of the Settlement Class, providing a list to counsel for the Parties of approved and rejected Claims and the total to be paid to each Claimant, and reporting to the Court concerning the results of Notice, opt outs, and Approved Claims.

7. The Settlement Administrator shall send the Class Notice by facsimile to each of the telephone fax numbers, and if facsimile notice is unsuccessful by U.S. Mail (after updating with the National Change of

Address Database). The Class Notice and Claim Form shall also be made available on the Settlement Administrator's website. The Court finds and orders that no other notice is necessary.

8. The Court hereby sets deadlines and dates for the acts and events set forth in the Settlement Agreement and directs the Parties to incorporate the following deadlines and dates in the Class Notice:

(a) Defendant shall file proof of compliance with the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b), no later than March 27, 2019;

(b) A request by any Class member to opt out of the settlement must be submitted to the Settlement Administrator on or before June 10, 2019;

(c) Plaintiff shall move for an order finally approving the proposed settlement, for attorneys' fees and reimbursement of expenses, and for an incentive award, on or before June 24, 2019;  
and

(d) Any class member may object or move to intervene (including supporting memoranda) by filing in this Court and postmarked and service on Class Counsel and Defendant's counsel

on or before July 15, 2019;

The Fairness Hearing, identified in the Class Notice, is hereby scheduled for August 14, 2019, at 2:00 P.M. in Room 811.

BY ORDER OF THE COURT

s/ Nancy G. Edmunds  
Hon. Nancy G. Edmunds  
United States District Judge

Dated: March 13, 2019