

## If You Purchased Botox<sup>®</sup> Cosmetic Directly From Allergan, Inc., You May Qualify For A Payment From A Proposed Settlement.

*A federal court authorized this Notice. It is not a solicitation from a lawyer.*

- A settlement has been reached in a class action lawsuit against Allergan, Inc. (“Defendant”) alleging that Allergan entered into an exclusive license agreement with Medytox, Inc. to delay of the availability of Medytox’s product in the U.S. market.
- The settlement includes: All purchasers within the United States who purchased Botox<sup>®</sup> Cosmetic directly from Allergan between April 1, 2015 and June 26, 2017 for a price that was based on Allergan’s list price (“Class Members”).
- Allergan has agreed to settle the lawsuit and provide payments to Class Members who purchased Botox<sup>®</sup> Cosmetic directly from Allergan at any time during the period April 1, 2015 through June 26, 2017.
- Your rights are affected whether you act or do not act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<b>DO NOTHING</b>	Receive a settlement payment, if you qualify for one and the settlement is approved and becomes final, and give up the right to sue, continue to sue, or be part of another lawsuit against Allergan about the legal claims resolved by this settlement.
<b>ASK TO BE EXCLUDED DEADLINE: MAY 17, 2018</b>	This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Allergan related to the legal claims this settlement resolves. If you ask to be excluded, you will not receive a settlement payment.
<b>OBJECT TO THE SETTLEMENT DEADLINE: MAY 17, 2018</b>	If you do not exclude yourself from the settlement, you may object to it by writing to the Court about why you do not like the settlement. If you object, you will receive a settlement payment, if you qualify for one and the settlement is approved and becomes final, and give up the right to sue, continue to sue, or be part of another lawsuit against Allergan about the legal claims resolved by this settlement.
<b>GO TO A HEARING ON AUGUST 24, 2018 AT 2:30 P.M.</b>	You may object to the fairness of the settlement and ask the Court for permission to speak at the Final Approval Hearing about your objection.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement.

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**BASIC INFORMATION**

**1. Why was this Notice issued?**

A court authorized this Notice because you have a right to know about the proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to grant final approval of the settlement. This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, and who can get them.

Judge Josephine L. Staton of the United States District Court for the Central District of California is overseeing this class action. The case is known as *Tawfilis v. Allergan, Inc.*, Case No. 8:15-cv-00307. The companies who filed this lawsuit are called the “Plaintiffs” and the company they sued, Allergan, Inc., is called the “Defendant.”

**2. What is this lawsuit about?**

Plaintiffs allege that Allergan’s Botox® Cosmetic product is the overwhelming U.S. market leader for sales of an injectable neuromodulator for use in cosmetic applications, and that Allergan executed a Licensing Agreement with Korean company Medytox, Inc. (“Medytox”) that markets a competing product in certain countries outside of the United States. Plaintiffs allege that the Licensing Agreement resulted in a delay of the availability of Medytox’s product in the U.S. market, reducing competition, and allowing Allergan to maintain its monopoly market power in the U.S. free from any pricing constraints that may have resulted from Medytox competition. Allergan denies each and every one of Plaintiffs’ allegations of unlawful conduct, asserts defenses to Plaintiffs’ claims, and asserts that the conduct challenged

by Plaintiffs did not delay the United States market entry of any Medytox product or cause any injury or damage to any member of the Class.

### **3. What is a class action?**

In a class action, one or more people or companies called Class Representatives (in this case, Adel Tawfilis, DDS d/b/a Carmel Valley Center for Oral and Maxillofacial Surgery, and Hamid A. Towhidian, M.D.) sue on behalf of all other companies with similar claims. Together, the companies included in the class action are called a Class or Class Members. One court resolves the issues for all Class Members, except for those who ask to be excluded from the Class.

### **4. Why is there a settlement?**

The Court did not decide in favor of the Plaintiffs or the Defendant. Instead, both parties agreed to a settlement. This way, they avoid the cost and burden of a trial and the people affected can get benefits. The Class Representatives and their attorneys think the settlement is best for all Class Members.

## **WHO IS INCLUDED IN THE SETTLEMENT**

### **5. How do I know whether I am part of the settlement?**

The settlement includes all purchasers within the United States who purchased Botox Cosmetic directly from Defendant Allergan, Inc. between April 1, 2015 and June 26, 2017 for a price that was based on Allergan's list price.

Your purchase of Botox<sup>®</sup> Cosmetic directly from Allergan was for a price that was based on Allergan's list price unless your purchases were made pursuant to the terms of a custom contract that you entered into with Allergan that set forth a particular price or discount for Botox<sup>®</sup> Cosmetic.

### **6. Are there exceptions to being included?**

Yes. The settlement does not include: (1) all judicial officers assigned to this case, as well as their staff and immediate relatives; and (2) all employees, agents, or officers of Defendant Allergan, Inc., and all federal, state, and local government employee.

### **7. What if I am still not sure whether I am part of the settlement?**

If you are not sure whether you are included, call 1-877-801-8490, go to [www.AestheticAntitrustLitigation.com](http://www.AestheticAntitrustLitigation.com) or write to one of the lawyers listed in Question 13 below.

## **THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY**

### **8. What does the settlement provide?**

Allergan has agreed to create a \$13,450,000 Settlement Fund. After deducting notice and administration costs, incentive awards for the Class Representatives, and attorneys' fees, costs and expenses, the balance will be used to make payments to Class Members who purchased Botox<sup>®</sup> Cosmetic directly from Allergan at any time during the period April 1, 2015 through June 26, 2017 for a purchase price that was based off the list price for Botox<sup>®</sup> Cosmetic ("Qualifying Purchase"). A copy of Class Counsel's Motion For Award Of Attorneys' Fees and Reimbursement of Litigation Expenses will be available for review on the settlement website: [www.AestheticAntitrustLitigation.com](http://www.AestheticAntitrustLitigation.com), as well as publicly viewable on the Public Access to Court Electronic Records ("PACER") docket. Information on how to obtain remote computer access to the PACER electronic docket may be obtained through the PACER website: [www.pacer.gov](http://www.pacer.gov). The PACER electronic docket may also be viewed at the computer terminals located at the Court's Office of the Clerk.

### **9. How much will my payment be?**

Settlement payments will be distributed on a pro rata basis based on the number of vials of Botox<sup>®</sup> Cosmetic included in all of the Qualifying Purchases made by members of the Class who did not submit a timely request for exclusion from the Settlement. For purposes of this pro rata allocation, each 50 unit vial of Botox<sup>®</sup> Cosmetic will be counted as equaling 0.55 times a 100 unit vial of Botox<sup>®</sup> Cosmetic. This multiplier is based on the estimated, recent ratio of the Botox<sup>®</sup> Cosmetic 50 unit vial list price to the Botox<sup>®</sup> Cosmetic 100 unit vial list price.

### **10. When will I receive my settlement payment?**

The Court will hold a hearing on August 24, 2018 at 2:30 p.m. to decide whether to grant final approval to the settlement. If the Court approves the settlement, there may be appeals. It is always uncertain whether appeals will be filed and, if so,

how long it will take to resolve them. Settlement payments will be distributed as soon as possible, only if and when the Court grants final approval to the settlement and after any appeals are resolved. Please be patient.

**11. What rights am I giving up to get settlement payment and stay in the Class?**

Unless you exclude yourself, you are a part of the Class. If the settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuits against Allergan and the Released Parties (*see* next question) about the legal issues resolved by this settlement. The rights you are giving up are called Released Claims.

**12. What are the Released Parties and the Released Claims?**

If and when the settlement becomes final, Class Members will permanently release Allergan and its respective past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, general partners, limited partners, officers, directors, management, supervisory boards, insurers, employees, agents, servants, trustees, associates, attorneys and any of their legal representatives, or any other representatives thereof (and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing) (the "Released Parties") from all past, present, or future liabilities, claims, demands, obligations, suits, damages, levies, executions, judgments, debts, charges, actions, or causes of action, at law or in equity, whether class, individual, or otherwise in nature, and whether known or unknown, arising out of or relating to any conduct, events, or transactions, related to the allegations in the First Amended Complaint, prior to the Effective Date, (a) alleged, or which could reasonably have been alleged, in the Class Action, (b) concerning the Medytox-Allergan License Agreement, or (c) purchases of Botox<sup>®</sup> Cosmetic and arising under the Sherman Act, 15 U.S.C. §§ 1 & 2, et seq., or any other federal or state statute or common law doctrine relating to antitrust or unfair competition, unjust enrichment, or consumer protection (the "Released Claims").

More detail about the claims you will be releasing are described in Section 11 of the Class Action Settlement Agreement, which is available at [www.AestheticAntitrustLitigation.com](http://www.AestheticAntitrustLitigation.com), or in the public court records on file in this lawsuit. You can also talk to the lawyers listed in Question 13 below for free or you can, of course, talk to your own lawyer at your own expense if you have questions about the Released Claims or what they mean.

**THE LAWYERS REPRESENTING YOU**

**13. Do I have a lawyer in this case?**

Yes. Judge Staton appointed Roy Katriel of The Katriel Law Firm and Ralph Kalfayan of Krause, Kalfayan, Benink & Slavens, LLP to represent you and other Class Members as "Class Counsel." These law firms and these lawyers are experienced in handling similar cases. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense. Class Counsel's contact information is below:

Roy A. Katriel  
The Katriel Law Firm  
4660 La Jolla Village Drive, Suite 200  
San Diego, CA 92122  
Tel.: 1-858-546-4436

Ralph B. Kalfayan  
Krause, Kalfayan, Benink & Slavens, LLP  
550 West C Street, Suite 530  
San Diego, CA 92101  
Tel.: 1-619-232-0331

**14. How will the lawyers be paid?**

Class Counsel will ask the Court for an award of attorneys' fees of up to 33.33% of the Settlement Fund plus reimbursement of reasonable fees and costs. They will also ask the Court to approve \$5,000 incentive awards to each of the Class Representatives. Allergan has agreed to take no position on a fee request that does not exceed the foregoing amounts. The Court may award less than these amounts. Any amounts awarded by the Court, as well as the costs associated with administering the Settlement, will be paid from the Settlement Fund before making settlement payments to qualifying Class Members. A copy of Class Counsel's Motion For Award Of Attorneys' Fees and Reimbursement of Litigation Expenses will be available for review on the settlement website: [www.aestheticantitrustlitigation.com](http://www.aestheticantitrustlitigation.com), as well as publicly viewable on the Public Access to Court Electronic Records ("PACER") docket. Information on how to obtain remote computer access to the PACER electronic docket may be obtained through the PACER website: [www.pacer.gov](http://www.pacer.gov). The PACER electronic docket may also be viewed at the computer terminals located at the Court's Office of the Clerk.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue Allergan or the Released Parties about the legal claims in this lawsuit, and you do not want to receive a settlement payment, you must take steps to get out of the Class. This is called excluding yourself from, or opting out of, the settlement.

### 15. How do I get out of the settlement?

To exclude yourself from the Class, you must submit a written request for exclusion. Your request for exclusion must include: (1) your name, address, telephone number and email address; (2) the total number of vials of Botox<sup>®</sup> Cosmetic you purchased between April 1, 2015 and June 26, 2017; (3) a statement that you are a Class Member and wish to be excluded from *Tawfilis v. Allergan, Inc.*, Case No. 8:15-cv-00307; and (4) your signature. Your request for exclusion must be mailed to the Settlement Administrator at the address below, postmarked no later than **May 17, 2018**:

Botox Antitrust Settlement Administrator  
c/o KCC Class Action Services  
P.O. Box 404000  
Louisville, KY 40233-4000

### 16. If I exclude myself, can I still get a settlement payment if I qualify?

No. If you exclude yourself, you are telling the Court that you do not want to be part of the Class in this settlement. You can only get settlement payment if you stay in the Class and made a Qualifying Purchase, as described above.

### 17. If I do not exclude myself, can I sue Allergan or the Released Parties for the same legal claims later?

No. Unless you exclude yourself, you are giving up the right to sue Allergan and the Released Parties for the claims that this settlement resolves. You must exclude yourself from *this* Class to start or continue with your own lawsuit or be part of any other lawsuit against Allergan or any of the Released Parties.

## OBJECTING TO THE SETTLEMENT

You can tell the Court if you do not agree with the settlement or any part of it.

### 18. How do I tell the Court that I do not like the settlement?

If you are a Class Member and do not request exclusion, you can object to the settlement if you do not like it or a portion of it. You can give reasons why you think the Court should not approve it. The Court will consider your views before making a decision. To object, you must prepare and sign a written objection stating that you object to the settlement in *Tawfilis v. Allergan, Inc.* Your written objection must include: (1) the case name and number (*Tawfilis v. Allergan, Inc.*, Case No. 8:15-cv-00307); (2) your name, address, telephone number and email address; (3) the name, address, and telephone number of your attorney, if you are represented by counsel; (4) a signed declaration stating that you are a Class Member; (5) all of the reasons why you object to the settlement, including any supporting documents and any legal support for the objection known by you or your attorney; (6) a statement indicating whether you or your attorney intend to appear at the Court's Final Approval Hearing; and (7) your handwritten, dated signature (electronic signatures or the signature of your attorney's signature will not be accepted). To be timely, you must mail your objection to the addresses below, postmarked on or before **May 17, 2018**.

Class Counsel	Settlement Administrator
Ralph B. Kalfayan Krause, Kalfayan, Benink & Slavens, LLP 550 West C Street, Suite 530 San Diego, CA 92101	Botox Antitrust Settlement Administrator c/o KCC Class Action Services P.O. Box 404000 Louisville, KY 40233-4000

### 19. May I come to Court to speak about my objection?

Yes. You or your attorney may speak at the Final Approval Hearing about your objection. To do so, you must include a statement in your objection indicating that you or your attorney intends to appear at the Final Approval Hearing, and follow the requirements included in the response to Question 22 below.

**20. What is the difference between objecting to the settlement and asking to be excluded from it?**

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you remain a Class Member (that is, do not exclude yourself). Excluding yourself is telling the Court that you do not want to be part of the settlement. If you exclude yourself, you cannot object because the settlement no longer affects you.

**THE COURT'S FINAL APPROVAL HEARING**

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you are not required to do so.

**21. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval Hearing at 2:30 p.m. on August 24, 2018 at the Ronald Reagan Federal Building and United States Courthouse, 411 W. Fourth St., Santa Ana, California, 92701. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. It will also consider whether to approve Class Counsel's request for an award of attorneys' fees and reimbursement of reasonable fees and expenses, as well as the Class Representative's service awards. If there are objections, the Court will consider them. Judge Staton will listen to people who have asked to speak at the hearing (*see* Questions 19 and 22). After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

**22. Do I have to come to the hearing?**

No. Class Counsel will answer any questions Judge Staton may have about the settlement. However, you are welcome to come to the hearing at your own expense. If you send an objection, you do not have to appear in court to talk about it. As long as you mailed your written objection on time, signed it and provided all of the required information (*see* Question 18), the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

**23. May I speak at the hearing?**

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. If you properly submitted an objection (*see* Question 18 above), then you must also file a "Notice of Intention to Appear at the Final Approval Hearing in *Tawfilis v. Allergan, Inc.*" with the Court, and send a copy to Class Counsel and Allergan's Counsel. Your Notice of Intention to Appear must include your name, address, phone number, and signature. If you plan to have your own attorney speak for you at the Final Approval Hearing, then you must also include the name, address, and telephone number of the attorney who will appear on your behalf. Your Notice of Intention to Appear must be filed and postmarked on or before **May 17, 2018**.

**IF YOU DO NOTHING**

**24. What happens if I do nothing at all?**

If you are Class Member and you do nothing, you will give up the rights explained in Question 12, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Allergan and the Released Parties about the legal issues resolved by this settlement.

**GETTING MORE INFORMATION**

**25. How do I get more information?**

This Notice summarizes the proposed settlement. Complete details are provided in the Class Action Settlement Agreement. The Settlement Agreement and other related documents are available at [www.AestheticAntitrustLitigation.com](http://www.AestheticAntitrustLitigation.com). Additional information is also available by calling 1-877-801-8490 or by writing to Botox Antitrust Settlement Administrator c/o KCC Class Action Services P.O. Box 404000 Louisville, KY 40233-4000. Publicly-filed documents can also be obtained by visiting the Ronald Reagan Federal Building and United States Courthouse during business hours or by accessing the Court's online docket via PACER at [www.pacer.gov](http://www.pacer.gov). You can also contact Class Counsel or visit Class Counsel's website for more information.