

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CYNTHIA RUSSO, LISA BULLARD,
RICARDO GONZALES, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS LOCAL 38 HEALTH AND
WELFARE FUND, INTERNATIONAL
UNION OF OPERATING ENGINEERS
LOCAL 295-295C WELFARE FUND, AND
STEAMFITTERS FUND LOCAL 439, on
Behalf of Themselves and All Others Similarly
Situated,

Plaintiffs,

v.

WALGREEN CO.,

Defendant.

Civil No. 1:17-cv-02246

Judge Edmond E. Chang

ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT

WHEREAS, the Court has considered the Stipulation of Class Action Settlement between Plaintiffs, Class Counsel, and Walgreens, including Exhibits thereto, dated October 31, 2024 (“Settlement Agreement”),¹ which sets forth the terms and conditions for a proposed Settlement²

¹ The Settlement Agreement is attached as Exhibit 1 to the Declaration of Joseph P. Guglielmo in Support of Plaintiffs’ Uncontested Motion for an Order: (1) Granting Preliminary Approval of the Settlement Agreement; (2) Provisionally Certifying a Settlement Class; (3) Preliminarily Appointing Class Counsel; (4) Appointing a Settlement Administrator and Escrow Agent; (5) Approving the Form and Manner of Notice to the Settlement Class; (6) Preliminarily Approving the Plan of Allocation and Distribution; and (7) Scheduling a Fairness Hearing (“Guglielmo Declaration”).

² Unless otherwise defined herein, capitalized terms shall be those defined in the Stipulation of Class Action Settlement.

of the Action, *Russo v. Walgreen Co.*, No. 1:17-cv-02246 (N.D. Ill.), and the termination and dismissal with prejudice of all causes of action against Defendant in the Action;

WHEREAS, the Court has considered Plaintiffs' Uncontested Motion for an Order: (1) Granting Preliminary Approval of the Settlement Agreement; (2) Provisionally Certifying a Settlement Class; (3) Preliminarily Appointing Class Counsel; (4) Appointing a Settlement Administrator and Escrow Agent; (5) Approving the Form and Manner of Notice to the Settlement Class; (6) Preliminarily Approving the Plan of Allocation and Distribution; and (7) Scheduling a Fairness Hearing, the memorandum of law and exhibits filed in support thereof, and all other papers submitted in connection with the Settlement Agreement and the motion for preliminary approval; and

WHEREAS, the Court held a hearing on November 18, 2024, at which the Court heard argument on whether the Settlement Agreement should be preliminarily approved;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DECREED as follows:

1. The Court hereby preliminarily approves the Settlement Agreement. The Court has considered and determined that the Settlement Agreement preliminarily satisfies the class action settlement requirements of Rule 23 of the Federal Rules of Civil Procedure and is "within the range of possible approval," in order to "ascertain whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing." *Synfuel Techs, Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 652 (7th Cir. 2006); *Young v. Rolling in the Dough, Inc.*, No. 1:17-CV-07825, 2020 WL 969616, at *3 (N.D. Ill. Feb. 27, 2020). Based on its consideration, the Court hereby also preliminarily approves the Settlement Agreement for class action settlement purposes, including specifically the Plan of Allocation and Distribution attached as Exhibit A to

the Settlement Agreement, as within the range of a fair, reasonable, and adequate settlement within the meaning of Rule 23 and applicable law, and consistent with due process.

2. The Court has subject matter and personal jurisdiction over Plaintiffs, all members of the Settlement Class provisionally certified below, and Defendant.

3. Based on and pursuant to the class action criteria of Rule 23(a) and 23(b)(3), the Court preliminarily finds that the requirements of Rule 23(a) and 23(b)(3) have been met and therefore provisionally certifies, for Settlement purposes only, the following Settlement Class:

All individuals or entities in the United States and its territories who paid, in whole or in part, at any point in time from January 1, 2007 through [date of preliminary approval of the Settlement or December 31, 2024, whichever comes first] (“Settlement Class Period”), for one or more prescription drugs from Walgreens, where prescription insurance benefits were used in filling the prescription(s).

The following groups are excluded from the Settlement Class:

(1) Walgreens and its management and affiliates, and employees of Walgreens and its affiliates; (2) the Court, members of their immediate families, and judicial staff (but not members of the immediate families of judicial staff); (3) all pharmacy benefit managers (e.g., A&A Services, LLC d/b/a Sav-Rx Prescription Services; Caremark, LLC; Castia Rx (f/k/a Leehar Distributors Missouri, LLC); Express Scripts, Inc.; Medco Health Solutions, Inc.; MedImpact Healthcare Systems, Inc.; MedTrak Services, LLC; and/or OptumRx, Inc.); (4) individuals who paid for all of their prescription drugs from Walgreens during the Settlement Class Period without using insurance benefits; (5) federal and state government entities other than government-funded employee benefit plans; and (6) all individuals and entities, except for the Plaintiffs, that have sued, filed an arbitration demand, or participated in a settlement in a suit against Walgreens relating to its determination of usual and customary prices in connection with the Prescription Savings Club (this exception to the exclusion from the Settlement Class does not apply to individuals or entities that have voluntarily dismissed their claims without prejudice in any suit or arbitration).

4. The Court finds and concludes that Plaintiffs will fairly and adequately represent and protect the interests of the Settlement Class and appoints them to serve as the representatives of the Settlement Class. The Court appoints the law firms of Scott+Scott Attorneys at Law LLP

and Robbins Geller Rudman & Dowd LLP to serve as Class Counsel, finding and concluding that they meet the requirements to be Class Counsel pursuant to Rule 23(g).

5. In the event the Settlement Agreement is terminated pursuant to the terms thereof, or fails to become effective for any reason, then: (a) all orders of the Court preliminarily or otherwise approving the Settlement and/or preliminarily or otherwise certifying a settlement class shall be vacated; (b) the Settling Parties shall be returned to the *status quo* that existed in the Action immediately prior to January 12, 2024; and (c) the Settling Parties shall retain all of their respective rights and defenses as of immediately prior to January 12, 2024, including Defendant's right to contest certification of any class and/or subclass on any grounds. The Settling Parties shall then proceed in all respects as if the Settlement Agreement and any related orders had not been executed and/or entered.

6. The notice required by the Class Action Fairness Act of 2005, 28 U.S.C. §1715, shall be accomplished by November 22, 2024.

7. The Court appoints A.B. Data, Ltd. as the Settlement Administrator to effectuate and administer the Notice Plan delineated in the Declaration of Eric Miller³ and the exclusion process for opt-outs, and to effectuate and administer the claims process for members of the Settlement Class.

8. The Court appoints Huntington Bank to serve as Escrow Agent.

9. The Court determines that Notice should be provided to members of the Settlement Class with opt-out rights afforded to them as to their participation in the Settlement Class.

³ See Declaration of Eric Miller in Support of Settlement Notice Plan ("Miller Declaration").

10. The Court approves the method of Notice to be provided to the Settlement Class as described in the Settlement Agreement and in the Notice Plan delineated in the Miller Declaration, including use of the summary notices and long-form notice substantially in the form attached as Exhibits C and D to the Settlement Agreement. The Court finds and concludes that such notice: (a) is the best notice that is practicable under the circumstances, and is reasonably calculated to reach the members of the Settlement Class that would be bound by the Settlement Agreement and to apprise them of the Action, the terms and conditions of the Settlement Agreement, their right to opt-out and be excluded from the Settlement Class, and to object to the Settlement Agreement; and (b) meets the requirements of Rule 23 and due process.

11. Consistent with the Notice Plan, the Court directs the Settlement Administrator, as soon as practicable following the Court's entry of this Preliminary Approval Order, but before publication or dissemination of the summary notice, to establish a case website, post office box, and toll-free telephone line for providing notice and information to members of the Settlement Class and receiving opt-out requests and other filings or communications from members of the Settlement Class. All Notice and Administration Expenses shall be paid as set forth in the Settlement Agreement.

12. Within 60 days following the Court's entry of this Preliminary Approval Order, ("Notice Deadline") the Settlement Administrator shall complete publication and dissemination of notice to members of the Settlement Class that are described in the Notice Plan using the summary notice and long-form notice contained in Exhibits C and D attached to the Settlement Agreement.

13. As explained in the summary notices and long-form notice, any member of the Settlement Class that wishes to participate in the Settlement Class shall have until 150 days after

the Court's entry of the Preliminary Approval Order (the "Settlement Claims Period" or "Claim Filing Deadline") – *i.e.*, 90 days after the last date for the Settlement Administrator to complete publication and dissemination of notice to members of the Settlement Class as provided in Paragraph 12 – to submit a Claim Form.

14. As explained in the summary notices and long-form notice, any member of the Settlement Class that does not wish to participate in the Settlement Class shall have until 120 days after the Court's entry of this Preliminary Approval Order (the "Class Exclusion Period" or "Exclusion Deadline") – *i.e.*, 60 days after the last date for the Settlement Administrator to complete publication and dissemination of notice to members of the Settlement Class as provided in Paragraph 12 – to submit a request to become an opt-out and be excluded from the Settlement Class. Settlement Class Members shall not be permitted to exclude other Settlement Class Members. Moreover, group or class-wide exclusions shall not be permitted. A request for exclusion must be submitted by each Settlement Class Member on an individual basis, and any request for exclusion by a purported authorized agent or representative of a Class Member must include proof of the representative's legal authority and authorization to act and request exclusion on behalf of each Class Member for which the representative requests exclusion.

15. (a) A member of the Settlement Class may affect such an opt-out by sending a written request to the Settlement Administrator: *In re Walgreens Savings Club Litigation*, Settlement Administrator, EXCLUSIONS c/o A.B. Data, Ltd. P.O. Box 173001 Milwaukee, WI 53217 by: (i) first-class U.S. mail with postage prepaid and postmarked within the Class Exclusion Period, or (ii) overnight delivery shown as sent within the Class Exclusion Period. The written

request must be signed by a person authorized to do so and must provide all of the following information:

(i) If a Settlement Class Member is an individual: (1) the individual's full name, current mailing address, telephone number, and social security number; (2) a statement that the individual purchased and paid for one or more prescription drugs from Walgreens during the Settlement Class Period; (3) a statement that the individual wishes to be excluded from the Settlement Class, and (4) the individual's signature.

(ii) If a Settlement Class Member is an entity: (1) the entity's full name, current mailing address, telephone number, and taxpayer identification number; (2) a statement that the entity wishes to exclude itself from the Settlement; (3) a signature from the authorized representative of the entity along with a statement of that person's position or authority by which he or she has the power to exclude the entity from the Settlement Class; and (4) data (i) sufficient to establish Class membership, and (ii) reflecting all of their purchases of, and payments for, prescriptions purchased at Walgreens using insurance during the Settlement Class Period.

(b) A request for exclusion that does not include all of the foregoing information, that does not contain the proper signature, that is sent to an address other than the one designated above, or that is not sent within the time specified shall be invalid; the individual or entity filing such an invalid request shall be a Settlement Class Member and shall be bound by the Settlement, if the Settlement is approved.

16. As also explained in the summary notices and long-form notice, any Settlement Class Member shall have until 120 days after the Court's entry of the Preliminary Approval Order (the "Class Objection Period") – *i.e.*, 60 days after the last date for the Settlement Administrator

to complete publication and dissemination of notice to members of the Settlement Class as provided in Paragraph 12 – to submit an objection to: (i) the Settlement Agreement, (ii) any request for Attorneys’ Fees and Expenses, and/or (iii) any request for Service Awards (be an “Objector”), and to file any notice to appear.

17. Such an Objector must: (i) file or send a written statement of objections by first-class U.S. mail and postmarked within the Class Objection Period to the Clerk of the United States District Court for the Northern District of Illinois, United States Courthouse, 219 South Dearborn Street, Chicago, IL 60604, and (ii) send a copy of the statement of objections to the following designees of Class Counsel and Defendant’s Counsel, by first-class U.S. mail and postmarked within the Class Objection Period:

Designees of Class Counsel:

Joseph P. Guglielmo
Erin Green Comite
SCOTT+SCOTT
ATTORNEYS AT LAW LLP
The Helmsley Building
230 Park Avenue, 24th Floor
New York, NY 10169

David Mitchell
Arthur L. Shingler
ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-3301

Designee of Defendant’s Counsel:

Selina P. Coleman
REED SMITH LLP
1301 K Street, N.W.
Suite 1000 – East Tower
Washington, D.C. 20005-3373

18. The Objector’s written statement of objections shall provide the following information: (a) the objector’s name, address, email address, and the identity of and contact information for any attorney representing the objector; (b) the legal or factual basis for the objection; (c) documentation sufficient to prove the objector’s membership in the Settlement Class

(such as evidence of relevant prescription purchases or payments); (d) a list of any witnesses, exhibits, or legal authority that the objector intends to offer; (e) whether the objector intend to appear, either in person or through counsel, at the Fairness Hearing; (f) whether the objection applies only to the objector, to a subset of the Class, or to the Class as a whole; and (g) a list of all class action settlements to which the objector and/or their counsel have previously objected.

19. In addition, any Objector or counsel for an Objector that desires to appear at the Fairness Hearing must file with the Court within the Class Objection Period, and send to the designees of Class Counsel and Defendant's Counsel identified above, by first-class mail and postmarked within the Class Objection Period, a separate notice of intention to appear in *Russo et al. v. Walgreen Co.*, No. 1:17-cv-02246 (N.D. Ill.) that identifies by name, position, address, email address, and telephone number each person who intends to appear at the Fairness Hearing on behalf of the Objector as well as the objector's signature.

20. Prior to 14 days before the end of the Class Exclusion Period and Class Objection Period, Class Counsel will file all motions and supporting papers seeking the Court's approval of any Attorneys' Fees and Expenses and Service Awards ("Fee Brief") with respect to their representation of Plaintiffs that culminated in the Settlement Agreement.

21. To the extent the Triggering Criteria referenced in ¶7.3 of the Settlement Agreement and defined in the Parties' confidential side agreement continue to be met after 90 days from the Exclusion Deadline, Defendant shall have 30 days (i.e., 120 days from the Exclusion Deadline) to notify Class Counsel whether or not Defendant decides to make a final decision to terminate the Settlement ("Termination Deadline").

22. Within 14 days after the Termination Deadline, the Settlement Administrator shall prepare a report (“Settlement Administrator Report”) and provide it to the designees of Class Counsel and Defendant’s Counsel as listed above. Within 21 days after the Termination Deadline, Class Counsel shall file the report with the Court.

23. The Settlement Administrator’s Report shall:

(a) Confirm that the Notice Plan was carried out and that Notice to members of the Settlement Class was provided in the manner directed by the Court;

(b) Identify the date on which content on the case website was made available to members of the Settlement Class and identify the dates on which Notice occurred;

(c) List each member of the Settlement Class that sought to become an opt-out and be excluded from the Settlement Class, on what date the request to be excluded was postmarked and received, and whether the Settlement Class Member’s request for exclusion was timely and validly made; and

(d) Attach for the Parties a copy of all documentation concerning each request for exclusion that the Settlement Administrator received; however, this documentation will not be filed with the Court.

24. The Settlement Administrator’s expenses for the foregoing Notice and exclusion activities, including those of any third-party vendors it uses to perform tasks necessary for the implementation or effectuation of its duties, shall be paid from the Escrow Account. In no event shall Defendant’s Released Persons have any obligation, responsibility, or liability with respect to the Settlement Administrator, the Notice Plan, or the exclusion procedures for members of the Settlement Class, including with respect to the costs, Notice and Administration Expenses, or any

other charges for any notice and exclusion procedures, except as otherwise set forth in ¶2.13 of the Settlement Agreement.

25. Provided Defendant has not made a final decision to terminate the Settlement, within 21 days after the Termination Deadline, Class Counsel will file all motions and supporting papers seeking final approval of the Settlement Agreement (“Final Approval Brief”) as well as an updated motion for approval of any Attorney’s Fees and Expenses and Service Awards (“Updated Fee Brief”). Class Counsel will provide notice of the motions referred to in this Paragraph and any additional details to members of the Settlement Class by causing all such motions and supporting papers, and any additional details regarding the Plan of Allocation and Distribution, to be posted prominently on the case website within 48 hours of their filing with the Court.

26. Provided Defendant has not made a final decision to terminate the Settlement, within 21 days after the conclusion of the Termination Deadline, the Parties may file papers responding to objections (“Response to Objections”), if any, to any aspect of the Settlement Agreement or Plan of Allocation and Distribution, or to any aspect of Class Counsel’s requests for approval of Attorneys’ Fees and Expenses and/or Service Awards with respect to their representation of Plaintiffs that culminated in the Settlement Agreement.

27. Provided Defendant has not made a final decision to terminate the Settlement, the Court will hold a Fairness Hearing no earlier than 35 days after the Termination Deadline, at 12:15 P.M. on September 10, 2025, in Courtroom 2341 at the United States District Court for the Northern District of Illinois, Dirksen U.S. Courthouse, 219 S. Dearborn Street, Chicago, IL 60604. At the Fairness Hearing, the Court will conduct an inquiry as it deems appropriate into the fairness, reasonableness, and adequacy of the Settlement Agreement, determine whether the Settlement

Agreement and the Plan of Allocation and Distribution should be finally approved, whether, for purposes of the Settlement only, the Action should be certified as a class action on behalf of the Settlement Class, whether final Judgment should be entered thereon, and whether to approve any motions for Attorneys' Fees and Expenses and Service Awards. At the Fairness Hearing, the Court also will address any objections to the foregoing matters.

28. The Court may adjourn the Fairness Hearing without further notice to the Settlement Class and may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Settlement Class. The Court may decide to hold the Fairness Hearing by telephone or video conference without further mailed notice to the Settlement Class. If the Court adjourns the Fairness Hearing or orders that the Fairness Hearing be conducted telephonically or by video conference, that decision will be posted on the website to be developed for the Settlement. Any Settlement Class Member (or his, her, or its counsel) who wishes to appear at the Settlement Hearing should consult the Court's docket and/or the Settlement website for any change in date, time, or format of the hearing.


29. Pending the Court's determination of whether the Settlement Agreement should finally be approved or Defendant's termination of the Settlement Agreement as allowed in the Settlement Agreement, the Court enjoins the members of the Settlement Class from challenging in any action or proceeding any matter covered by the Settlement Agreement's release and covenant not to sue provisions, and from commencing, maintaining, or participating in, or permitting another to commence, maintain, or participate in on its behalf, any claims being released by Plaintiffs' Released Persons, except for proceedings in this Court related to effectuating and complying with the Settlement Agreement.

30. As described above, the following deadlines are set:

Notice Deadline:	January 17, 2025
Objection Deadline:	March 18, 2025
Exclusion Deadline:	March 18, 2025
Claim Filing Deadline:	April 17, 2025
Fee Brief Deadline:	March 4, 2025
Termination Deadline:	July 16, 2025
Settlement Administrator Report Deadline:	July 30, 2025
Deadline to File Settlement Administrator Report	August 6, 2025
Final Approval Brief, Updated Fee Brief, and Responses to Objections Deadline:	August 6, 2025
Fairness Hearing	September 10, 2025 at 12:15 PM

IT IS SO ORDERED.

DATED: 11/18/2024


 THE HONORABLE EDMOND E. CHANG
 UNITED STATES DISTRICT JUDGE