

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CARPENTERS AND JOINERS
WELFARE FUND, UNIVERSAL CARE
INC., NANCY GERDTS individually and
for minor A.G., CINDY SLAVENS
individually and for minor J.S., ALAN and
LAURISSA CHILSON, LEIGH ANN
ENGH, DARCENE and GREG LENSING,
on behalf of themselves and all others
similarly situated,

Plaintiffs

v.

SMITHKLINE BEECHAM
CORPORATION d.b.a.
GLAXOSMITHKLINE and
GLAXOSMITHKLINE plc,
Defendants

CIVIL ACTION

No. CV 04-3500 MJD/SRN

**ORDER ON MOTION FOR
APPROVAL OF ATTORNEY FEES AND COSTS**

AND NOW, this 30th day of September, 2008, upon consideration of the Plaintiffs' Motion for Approval of Attorney Fees and Costs, the evidence and arguments submitted at the hearing on September 30, 2008, and all matters of record, it hereby is Ordered and Decreed that the Motion is GRANTED.

Upon consideration of the parties' separate Joint Motion for Final Approval of Class Action Settlement, the Court approved the settlement and entered findings of fact

and conclusions of law. Those findings and conclusions are incorporated herein. The Court hereby makes the following additional findings and conclusions.

1. The settlement, as approved by the Court, provided that counsel for plaintiffs (“Class Counsel”) would request Court approval for payment of counsel fees and reimbursement of litigation costs as well as class notice and administration costs, to be paid out of the \$40 Million Settlement Fund.

2. Class Counsel has requested approval for 1/3 of the Fund, or \$13,333,333.33, to cover counsel fees, litigation costs, and incentive payments. At the time the Motion was filed, the plaintiffs documented incurred costs and requested incentive awards for the class representatives, as follows:

Total Allowance for Fees and Costs	\$ 13,333,333.33
Litigation Costs	\$ 339,993.28
Class Representative Incentive Awards	\$ 215,000.00
Counsel Fee Award	\$ 12,778,340.05
Fee Percentage	31.95%

3. Plaintiffs seek approval of the requested fee award, as a reasonable percentage of the amount of recovery obtained for the class through the settlement.

4. The Court finds that the attorneys’ fees sought in this matter are reasonable. “Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the

recovery.” 4 Alba Conte and Herbert B. Newberg, *Newberg on Class Actions* § 14:6 (4th ed. 2002).

5. This Court finds that Class Counsel took great risk in the prosecution of this case, devoting an enormous amount of time and expense without any guarantee of compensation and that this case presented highly complex questions of law and fact, requiring attorneys with extensive skill and experience in complex litigation. This Court finds that the requested attorneys’ fees and expense reimbursement is fair and reasonable under applicable legal standards and in light of the risks incurred, results achieved and effort expended.

6. The Court further finds that the results obtained are excellent, in that the Class Counsel have obtained a substantial recovery for a large class of prescription benefit payors, without the aid of previous comparable settlements in prescription drug off-label promotion cases. In addition, plaintiffs obtained this result despite vigorous defenses raised by GSK, including defenses that the Complaint did not state a claim, that defendant owed no duty to plaintiffs, that defendant did nothing wrong, that defendant did not cause any damages, that damages could not be proven on a class basis or at all, that plaintiffs’ claims were pre-empted, that the class should not be certified, and all of which defenses were vigorously pursued by defendant.

7. In particular, the Court takes note that the theories of recovery advanced by Class Counsel challenged “off-label” usage of Paxil for a particular subset of patients, namely, patients under the age of 18, where the drug has not been recalled, and

where treating physicians could legally prescribe such usage. Plaintiffs undertook the burden of proving that defendant, by improper promotion of such off-label prescriptions, had caused physicians to prescribe the drug, whereas defendant contended that such physicians exercised independent judgment.

8. Based on the legal and factual risks faced by plaintiffs, the settlement which allows class members to recover a portion of their costs for all Paxil dispensed to underage patients, without any proof of the circumstances leading to the prescription, or any proof of side-effects sustained by patients, is an excellent result and supports the award requested.

9. Furthermore, the court finds that this settlement is a result of the collective efforts of the Class Counsel in four separate class actions, all of which contributed to the result by prosecuting similar claims against defendant GSK in different jurisdictions.

10. The ability of the various Class Counsel to cooperate in negotiating and presenting the settlement in this case produced an efficient resolution and conserved judicial resources by avoiding duplicative proceedings.

11. Plaintiffs have submitted evidence of costs incurred in prosecuting this litigation, amounting to a total of \$ 339,993.28. The Court finds that these expenditures were reasonable and necessary and should be reimbursed from the Settlement Fund.

12. Plaintiffs have also submitted detailed evidence of the efforts and time invested in prosecuting these actions by the participating law firms.

13. Based on typical, generally accepted hourly rates, considering the skill and experience of the attorneys involved, a reasonable evaluation of the total hourly fees incurred is \$ 8,510,026.50. The total counsel fee requested thus represents a multiplier over the lodestar of 1.50. The Court finds that this multiplier is very reasonable, and well below the multiplier figures allowed in comparable cases, considering the efforts, results, risks, and all other relevant factors.

14. The Court approves the payment of the following incentive awards and settlements to the named Plaintiffs and individual consumers who were named plaintiffs in the pending settled cases, for their special efforts that benefited the absent Class members, such amounts to be paid from the portion of the award approved for attorneys' fees and costs:

Nancy Gerdts	\$10,000
Cindy Slavens	\$10,000
Laurissa Chilson	\$10,000
Beverly Smith	\$10,000
Leigh Engh	\$10,000
Darcene and Greg Lensing	\$10,000
Universal Care, Inc.	\$85,000
Carpenters & Joiners Fund	\$45,000
Philadelphia Firefighters Local 22	\$25,000
TOTAL	\$ 215,000.00

Accordingly, it is hereby ORDERED, ADJUDGED AND DECREED:

15. The Motion for Approval of Attorney Fees And Costs is GRANTED. Upon final approval and funding of the Settlement Fund, payments shall be made in accordance with the following, to be paid solely out of the Settlement Amount in accordance with the terms of the Settlement.

Total Allowance for Fees and Costs	\$ 13,333,333.33
Litigation Costs	\$ 339,993.28
Class Representative Incentive Awards	\$ 215,000.00
Counsel Fee Award	\$ 12,778,340.05

BY THE COURT:

s/Michael J. Davis
 Chief District Judge Michael J. Davis