NIGH GOLDENBERG RASO & VAUGHN

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: VALSARTAN PRODUCTS LIABILITY LITIGATION	HON. ROBERT B. KUGLER
	Civil No. 19-2875 (RBK/JS)

CASE MANAGEMENT ORDER NO. 11 APPROVING THIRD PARTY PAYOR PLAINTIFF'S FACT SHEET AND ESTABLISHING SHOW CAUSE PROCESS

1. Third Party Payor Plaintiff's Fact Sheet

The Court hereby approves the Third Party Payor Plaintiff's Fact Sheets for the Third Party Payor Plaintiffs, in the form attached hereto as Exhibit A. The Third Party Payor Plaintiffs identified in the Consolidated Amended Economic Loss Master Complaint shall have ninety (90) days from the entry of this order to complete the Third Party Payor Plaintiff's Fact Sheet. All other Third Party Payor Plaintiffs shall complete the Third Party Payor Plaintiff's Fact Sheet sixty (60) days after such party's first appearance in the above-captioned litigation.

2. Show Cause Process

Within six (6) weeks of receipt of a completed Third Party Payor Plaintiff's Fact Sheet, Defendants shall notify that Plaintiff of any core deficiencies. Defendants shall serve the following with a copy of the deficiency letter via email: (1) Adam M. Slater, Esq. (aslater@mazieslater.com); (2) David Stanoch, Esq. (dstanoch@golombhonik.com); and (3) counsel of record for the individual Plaintiff completing said fact sheet. Plaintiff shall respond by letter within three (3) weeks of the date of service of Defendants' letter.

If the dispute is not resolved, Defendants shall put the dispute on the agenda for the next in-person conference. If a case appears on the agenda for two in-person conferences, the Defendants may request that an Order to Show Cause be entered as to the delinquent party. That Order to Show Cause shall be returnable at the next in-person conference and require the delinquent party to show cause why his complaint should not be dismissed with prejudice.

ORDERED this 28th day of October, 2019.

Joel Schneider

HON. JOEL SCHNEIDER
UNITED STATES ~~DISTRICT~~ JUDGE
MAGISTRATE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: VALSARTAN PRODUCTS LIABILITY LITIGATION **This Document Relates to:**	MDL No. 2875 Honorable Robert B. Kugler, District Judge Honorable Joel Schneider, Magistrate Judge

THIRD PARTY PAYOR PLAINTIFF'S FACT SHEET[1]

This Fact Sheet must be completed by each plaintiff who has filed a lawsuit claiming the right to recovery as a Third Party Payor ("Third Party Payor") related to the use of Valsartan products by covered insureds and/or members. Please answer every question to the best of your knowledge. In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge. If you cannot recall all of the details requested, please provide as much information as you can. You must supplement your responses if you learn that they are incomplete or incorrect in any material respect. For each question, where the space provided does not allow for a complete answer, please attach additional sheets so that all answers are complete. When attaching additional sheets, clearly label to what question your answer pertains. Please do not leave any blank spaces; if a question does not apply, respond "N/A".

In filling out this form, please use the following definitions:

(1) "**health care provider**" means any hospital, clinic, medical center, physician's office, infirmary, medical or diagnostic laboratory, provider of telemedical services, whether real-time telemedicine, remote patient monitoring, or store-and-forward service, or other facility that provides medical, dietary, psychiatric, or psychological care or advice, and any pharmacy, weight loss center, x-ray department, laboratory, physical therapist or physical therapy department, rehabilitation specialist, physician, psychiatrist, osteopath, homeopath, chiropractor, psychologist, nurse, physician's assistant, nutritionist, dietician, or other persons or entities involved in the evaluation, diagnosis, care, or treatment of the plaintiff or plaintiffs' decedent;

(2) "**Document**" has the meaning set forth in Federal Rule of Civil Procedure 34.

(3) "**Valsartan product**" means any Valsartan-containing product, including but not limited to Valsartan, Amlodipine/Valsartan, Valsartan/Hydrochlorothiazide (HCTZ), or Amlodipine/Valsartan/Hydrochlorothiazide (HCTZ);

(4) "**Complaint**" means the operative complaint filed in your case, whether an original or amended or subsequent complaint;

(5) "**Plan**" means any employee welfare benefit plan, whether or not in writing, whether or not governed by ERISA, FEHBA, contract, or any other statute, which was established or maintained for the purpose of providing covered individuals, through the purchase of insurance or otherwise, prescription drug coverage medical, surgical, or hospital care, services, supplies or benefits in the event of sickness, accident, or injury;

(6) "**Recipient**" means any person to whom services or products are or were provided

[1] For plaintiff MSP Recovery Claims Series, LLC, the information and documents requested in this fact sheet only applies to the assignors alleged in the operative complaint. MSP Recovery Claims Series, LLC must identify all other assignors separately, and agrees to produce the assignment agreements for these assignors upon request from Defendants.

under any Program;

(7) "**Contracting Parties**" means those private employers, political subdivisions and all other contracting parties, which have contracted with you concerning health care for members of their group or their dependents;

(8) "**Contract**" means each master contract or insurance contract between you and any employer, person, pharmacy, Pharmacy Benefit Manager, or Plan whereby you undertake to insure or administer health coverage obligations with respect to individual recipients, and includes all documents normally associated with such agreements and obligations, including Subscriber, Recipient or participant certificates, summaries of benefits, summary plan descriptions, and other documents normally attached to or considered by you to be a part of such contracts;

(9) **"Member ID (anonymized)"** means an ID number which has been de-identified in accordance with the § 164.514(b) of the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule.

(10) "**Program**" includes all health care policies, health care Contracts, health care Plans, or other health care insurance, employee health benefits, Medicaid, or other health care programs (including their predecessors) or health care expenditures for or with respect to which you seek damages or other relief in this action;

(11) "**Provider**" has the meaning set forth in 42 C.F.R. § 488.1, and includes any vendor or supplier of goods or services paid for or reimbursed by you pursuant to any Plan, Contract, agreement, or policy, whether or not in direct contractual privity, including pharmaceutical manufacturers and suppliers;

(12) "**Damages**" means any form of monetary relief (irrespective of whether labeled as reimbursement, restitution, compensatory damages, punitive damages, or otherwise), and any other form of judicial relief;

(13) "**Damages Period**" means January 1, 2012 to the present.

(14) "You," "your," "plaintiff," and "Third Party Payor" shall be used interchangeably and refer to the plaintiff completing this Fact Sheet.

Information provided by plaintiff will only be used for purposes related to this litigation. This Fact Sheet is completed pursuant to the Federal Rules of Civil Procedure governing discovery (or, for state court cases, the governing rules of the state in which the case is pending) and Case Management Order No. 7 ("CMO-7"), ECF No. 114. Moreover, to the extent information in this Fact Sheet can be provided in spreadsheet format as it is maintained, then plaintiffs may produce the information in that manner.

I. CORE CASE INFORMATION

A. Each Third Party Payor will provide information relating to payments for Valsartan product in the civil action that they filed:

Caption:	
Court and Docket No. (and MDL Docket No. if different):	
Plaintiff's Attorney, Law Firm, Address, Phone Number, and Email Address:	

Date Lawsuit Filed:	
Jurisdiction where suit would have been filed (if direct filed into MDL):	
Basis for jurisdiction in venue where suit would have been filed (if direct filed into MDL):	

II. ORGANIZATIONAL INFORMATION

A. Background Information

1 Name: _____

2 Names of your predecessor entities and those entities' date(s) of inception if you were the product of a merger, consolidation, or other reorganization, and state whether you seek Damages on behalf of such predecessor entities:

_____

_____

_____

3 Location of your headquarters and your principal place of business (if different from headquarters):

_____

_____

_____

_____

III. PROGRAM INFORMATION

A. Program Information

1 Identify the below for each Program, product, and service offered by you that covered Valsartan products during the Damages Period.

Contracting Party	Years Covered	Policy Number	Program, Product, or Service	Type of Business	Drug Name	Manufacturer	NDC Codes	Cost to Recipient	Cost to Insurer	Number of Recipients/ Subscribers who Purchased Valsartan

2 For each individual Recipient as to which you claim, please provide the following:

Member ID (anonymized)	Cost to Recipient	Cost to Insurer

B. Record Retention

To the extent you are unable to provide information requested in Section III.A above, separately identify and describe all record retention policies that you now have or have had at any time during the Damages Period, and of each of the policies identified, also identify the records custodian of and the person(s) most knowledgeable with respect to the policies:

C. Witnesses

1. Identify all persons with knowledge concerning the substance of your allegations against the Defendants in this action.

2. Identify all persons who can testify about the benefits and coverages afforded by, and rules, regulations, requirements, provisions and/or procedures governing, any Programs covering Valsartan products during the Damages Period.

3. Identify all persons who can testify about any policies, programs, procedures, and efforts utilized by you to identify and collect from other persons or sources amounts paid or incurred in connection with Programs covering Valsartan products during the Damages Period.

D. Statements

1 Identify any and all written or oral statements made by you and/or your agent(s) that reflect the TPP's opinions or views regarding Valsartan product, or the defendants' role related to the Valsartan product, including, but not limited to, interviews, speeches, articles, advertisements, and any other form of public statement.

2 Identify all of your agents, if any, who have participated in, or who have had responsibility for, the preparation of press releases, contacts with members of the

press, broadcast or electronic media, social media, internet news outlets, the staging or conduct of press conferences or other activities to publicize or publicly comment upon your position regarding the Valsartan product, or the defendants' role related to the Valsartan product.

E. Awareness of the Recall Condition

1. Describe with particularity when and how you became aware of the presence of nitrosamines in Valsartan product.

2. Identify all of the medications identified on the agreed list, attached as Exhibit A, you purchased for your Recipients or for which you paid reimbursements after becoming aware of the presence of nitrosamines in Valsartan product.

IV. FRAUD CLAIMS

1. Are you claiming fraud or consumer fraud in this action on the basis of Plaintiff-specific allegations other than those set forth in the Master and Short Form Complaints?

Yes ☐ No ☐

If yes, please answer the following questions:

2. What representation(s) do you claim was falsely or fraudulently made and to whom was it made?

_____

_____

3. By whom?

_____

_____

4. How was it made?

_____

_____

5. When was the alleged representation(s) made? Identify approximate date(s).

_____

_____

6. Were these representations in writing? Yes ☐ No ☐

7. If the representations(s) was in writing, did you retain and currently have the original or a copy of those representations? Yes ☐ No ☐

V. DECLARATION

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that all of the information provided in this Plaintiff Fact Sheet is true and correct to the best of my knowledge, information and belief formed after due diligence and reasonable inquiry, that I have supplied all the documents requested in Part V of this Plaintiff Fact Sheet, to the extent that such documents are in my possession or in the possession of my lawyers.

Further, I acknowledge that I have an obligation to supplement the above responses if I learn that they are in some material respects incomplete or incorrect.

_____ _____

Name of Plaintiff's Representative (Signature) Date

_____

Name of Plaintiff's Representative (Printed)

_____

Title of Plaintiff's Representative

V. DOCUMENT DEMANDS

Please provide the following Documents, whether written or in electronic form, in the possession, custody or control, of you or your attorneys'. Please indicate by answering "Responsive Documents Attached" or "I have no Documents responsive to this request" by checking/marking the appropriate box provided, and attach a copy of each of the Documents you have to this Fact Sheet with your responses to the questions above:

1. All non-privileged Documents you reviewed that assisted you in the preparation of the answers to this Fact Sheet.

   Responsive Documents Attached ☐

   I have no Documents responsive to this request ☐

2. A copy of all records and/or Documents relating to each Recipient's reimbursement for Valsartan, Amlodipine/Valsartan, Valsartan/Hydrochlorothiazide (HCTZ), and/or Amlodipine/Valsartan/Hydrochlorothiazide (HCTZ) in the past ten (10) years.

   Responsive Documents Attached ☐

   I have no Documents responsive to this request ☐

3. All Documents sufficient to identify the procedures in medical insurance Programs during the Damages Period used to coordinate benefits with other potential payers, including procedures to verify that a beneficiary is not covered by any other insurance policy, as well as any manuals or policy statements concerning such procedures, and all Documents concerning the effectiveness of those procedures.

   Responsive Documents Attached ☐

   I have no Documents responsive to this request ☐

4. All Documents sufficient to identify the procedures in medical insurance Programs during the Damages Period, other than coordination of benefits procedures, used to identify and pursue other potentially liable parties, including any manuals, guidelines or policy statements concerning such procedures, and all Documents concerning the effectiveness of those procedures.

   Responsive Documents Attached ☐

   I have no Documents responsive to this request ☐

5. All Documents that concern, explain, evaluate, criticize, or suggest improvements to the policies, programs, procedures, and efforts utilized during the Damages Period by you to identify and collect from persons or third-party resources amounts paid or incurred in connection with any medical insurance Program.

   Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

6. All Documents that concern your right (or lack thereof) to seek to recover from other persons or sources any portion of medical insurance Program costs of providing services, including samples of all forms executed by applicants from time to time during the Damages Period assigning their rights of recovery or undertaking any duties, such as the duty to cooperate, with you.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

7. All Documents, databases, summaries, or compilations of data concerning any claim of contribution, indemnification, lien, subrogation, or other alleged right of recovery asserted by you against any person or entity concerning costs paid for Valsartan product or incurred during the Damages Period.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

8. All Documents in your possession which mention any alleged health risks related to or the recall of Valsartan, Amlodipine/Valsartan, Valsartan/Hydrochlorothiazide (HCTZ), or Amlodipine/Valsartan/Hydrochlorothiazide (HCTZ), or any alleged health risks or hazards related to Valsartan, Amlodipine/Valsartan, Valsartan/Hydrochlorothiazide (HCTZ), or Amlodipine/Valsartan/Hydrochlorothiazide (HCTZ) in your possession, other than legal Documents, Documents provided by your attorney, or Documents obtained or created for the purpose of seeking legal advice or assistance.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

9. All Documents in your possession regarding the medications identified on the agreed list, attached as Exhibit A, purchased for your Recipients or for which you paid reimbursements after discovering the possible presence of nitrosamines in valsartan medications. This Request includes, but is not limited to, all Documents identifying or discussing the price of such replacement medications and the cost incurred by you in purchasing such medications or in making reimbursement payments for the same.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

10. All contracts between you and any pharmacy or Pharmacy Benefit Manager related to any actual or potential claims asserted by you in this litigation.

Responsive Documents Attached subject to attorneys'-eyes-only protection ☐

I have no Documents responsive to this request ☐

11. All Documents in your possession or in the possession of anyone acting on your behalf (not your lawyer) obtained directly or indirectly from any of the Defendants relating to the recall of any Valsartan product.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

12. All Documents constituting any communications or correspondence between you and any representative of any of the Defendants relating to Valsartan product.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

13. All statements that were made or taken from any of the Defendants in this action, including, but not limited to, the current or former officers, directors, employees, or agents of any of the Defendants, concerning any of the claims alleged in this action.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

14. Copies of all records of any other costs or expenses allegedly incurred by you as a result of the allegations in your complaint.

Responsive Documents Attached ☐

I have no documents responsive to this request ☐

15. All public statements made by or on behalf of you relating to this litigation in your possession.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

16. For Plaintiff MSP Recovery Series, LLC, a list of all assignors not identified in the Master Complaint and the assignment agreements associated with said assignors.

Responsive Documents Attached ☐

I have no Documents responsive to this request ☐

[insert signature blocks as we would for a request for production]

EXHIBIT A

ARBs:

1. AMLODIPINE AND OLMESARTAN MEDOXOMIL
2. AMLODIPINE BESYLATE AND VALSARTAN
3. AMLODIPINE BESYLATE, VALSARTAN AND HYDROCHLOROTHIAZIDE
4. AMLODIPINE BESYLATE; HYDROCHLOROTHIAZIDE; OLMESARTAN MEDOXOMIL
5. AMLODIPINE BESYLATE; OLMESARTAN MEDOXOMIL
6. AMLODIPINE BESYLATE; VALSARTAN
7. ATACAND
8. ATACAND HCT
9. AVALIDE
10. AVAPRO
11. AZOR
12. BENICAR
13. BENICAR HCT
14. BYVALSON
15. CANDESARTAN CILEXETIL
16. CANDESARTAN CILEXETIL AND HYDROCHLOROTHIAZIDE
17. CANDESARTAN CILEXETIL; HYDROCHLOROTHIAZIDE
18. COZAAR
19. DIOVAN
20. DIOVAN HCT
21. EDARBI
22. EDARBYCLOR
23. ENTRESTO
24. EPROSARTAN MESYLATE
25. EXFORGE
26. EXFORGE HCT
27. HYDROCHLOROTHIAZIDE; OLMESARTAN MEDOXOMIL
28. HYDROCHLOROTHIAZIDE; TELMISARTAN
29. HYZAAR
30. IRBESARTAN
31. IRBESARTAN AND HYDROCHLOROTHIAZIDE
32. LOSARTAN
33. LOSARTAN POTASSIUM
34. LOSARTAN POTASSIUM AND HYDROCHLOROTHIAZIDE
35. MICARDIS
36. MICARDIS HCT
37. OLMESARTAN MEDOXOMIL
38. OLMESARTAN MEDOXOMIL AND HYDROCHLOROTHIAZIDE
39. TELMISARTAN
40. TELMISARTAN AND AMLODIPINE
41. TELMISARTAN AND HYDROCHLOROTHIAZIDE
42. TEVETEN
43. TRIBENZOR
44. TWYNSTA
45. VALSARTAN
46. VALSARTAN AND HYDROCHLOROTHIAZIDE

Non-ARB Medications:

(Diuretics)

1. amiloride hydrochloride hydrochlorothiazide
2. Aldactazide
3. Aldactone
4. amiloride
5. bumetanide
6. Bumex
7. chlorthalidone
8. chlorothiazide
9. Diuril
10. Dyazide
11. Dyrenium
12. Esidrix
13. furosemide
14. hydrochloride
15. hydrochlorothiazide
16. Hydrodiuril
17. Hygroton
18. indapamide
19. Lasix
20. Lozol
21. Maxzide
22. metolazone
23. Microzide
24. Midamar
25. Moduretic
26. Mykrox
27. spironolactone
28. spironolactone hydrochlorothiazide
29. triamterene
30. triamterene hydrochlorothiazide
31. Zaroxolyn

(Beta Blockers)

1. acebutolol
2. atenolol
3. Betapace
4. betaxolol
5. bisoprolol fumarate
6. Blocadren
7. carteolol hydrochloride
8. Cartrol
9. Corgard
10. hydrochlorothiazide and bisoprolol
11. Inderal
12. Kerlone
13. Levatol

14. Lopressor
15. metoprolol tartrate
16. metoprolol succinate
17. nadolol
18. penbutolol sulfate
19. pindolol
20. propranolol hydrochloride
21. Sectral
22. solotol hydrochloride
23. Tenormin
24. timolol maleate
25. Toprol-XL
26. Visken
27. Zebeta
28. Ziac

(ACE Inhibitors)

1. Accupril
2. Aceon
3. Altace
4. benazepril hydrochloride
5. Capoten
6. captopril
7. enalapril maleate
8. fosinopril sodium
9. lisinopril
10. Lotensin
11. Mavik
12. moexipril
13. Monopril
14. perindopril
15. Prinivel
16. quinapril hydrochloride
17. ramipril
18. trandolapril
19. Univasc
20. Vasotec
21. Zestril

(Calcium Channel Blockers)

1. amlodipine besylate
2. Adalat CC
3. bepridil
4. Calan SR
5. Cardene SR
6. Cardizem CD
7. Cardizem SR
8. Covera HS
9. diltiazem hydrochloride

10. Dilacor XR
11. DynaCirc
12. DynaCirc CR
13. felodipine
14. Isoptin SR
15. isradipine
16. Lotrel
17. nicardipine
18. nifedipine
19. nisoldipine
20. Norvasc
21. Plendil
22. Procardia XL
23. Sular
24. Tiazac
25. Vasocor
26. verapamil hydrochloride
27. Verelan

(Alpha blockers)

1. Cardura
2. doxazosin mesylate
3. Hytrin
4. Minipress
5. prazosin hydrochloride
6. terazosin hydrochloride

(Alpha-2 receptor agonist)

1. Methyldopa

(Combined alpha and beta-blockers)

2. carvedilol
3. Coreg
4. labetalol hydrochloride
5. Normodyne
6. Trandate

(Central agonists)

1. Aldomet
2. alpha methyldopa
3. Catapres
4. clonidine hydrochloride
5. guanabenz acetate
6. guanfacine hydrochloride
7. Tenex
8. Wytensin

(Peripheral adrenergic inhibitors)

1. guanadrel
2. guanethidine
3. Hylorel
4. Ismelin
5. monosulfate
6. reserpine
7. Serpasil

(Vasodilators)

1. Apresoline
2. hydralazine hydrochloride
3. Loniten
4. minoxidil