

# ZYPREXA (OLANZAPINE) CLASS ACTION NOTICE OF SETTLEMENT APPROVAL

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR RIGHTS

## TO ALL CLASS MEMBERS:

To all Canadian residents who took ZYPREXA ("Primary Claimants") on or before June 6, 2007 or their personal representatives, heirs, assigns and trustees ("Representative Claimants"), and any other residents of Canada asserting the right to sue the Defendants by reason of their familial relationship with a Primary Claimant, including spouses, common law spouses, same-sex partners, as well as parents and children by birth, marriage or adoption ("Derivative Claimants").

ZYPREXA (olanzapine) is an antipsychotic drug which is prescribed for the treatment of schizophrenia and related psychotic disorders, and bipolar I disorder.

Please be advised that the Ontario, Quebec and British Columbia Courts have approved the ZYPREXA Settlement Agreement reached in class actions in Ontario, Quebec and British Columbia, which alleged that Eli Lilly Canada Inc. and Eli Lilly and Company (the "Defendants") negligently manufactured, marketed and sold ZYPREXA without properly warning of alleged risks of diabetes and related complaints potentially associated with its use.

The Defendants deny the plaintiffs' allegations and deny any wrongdoing or liability. The court has not taken any position as to the truth or merits of the claims or defences asserted by either side. The allegations made by the plaintiffs have not been proven in court.

If you would like a copy of the Settlement Agreement, it is available on Class Counsel's website at [www.classaction.ca](http://www.classaction.ca) (English and French), [www.classproceedings.ca](http://www.classproceedings.ca), and [www.poynerbaxter.com](http://www.poynerbaxter.com) or a copy can be obtained from contacting Class Counsel as listed below or by contacting the Claims Administrator.

This notice does not constitute medical advice. Patients who have been prescribed ZYPREXA should consult with their physicians if they have any questions with respect to their medical condition and should not stop taking ZYPREXA without consulting their health care professional.

To be entitled to payment, Class Members, including Primary Claimants, Representative Claimants and Derivative Claimants, must file a claim with the Claims Administrator by October 28, 2010 in the manner described below.

## Summary of Settlement Agreement

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- The Defendants, while not admitting liability, will pay a sum of approximately \$17,750,000.00, subject to a possible reversion or top-up, to settle the claims of all eligible claimants (Primary Claimants or Representative Claimants and Derivative Claimants)
  - Claimants may be eligible to receive settlement payments if they took ZYPREXA before June 6, 2007 and then suffered an injury which is compensated under the Settlement Agreement, including diabetes, hyperglycemia, ketoacidosis or pancreatitis.
  - The size of the payments will be based on the total number of approved claims and the severity of injuries.
  - Any arguments based on statutes of limitations, prescription or repose shall be waived for Class Members participating in the settlement.
  - Class Members have until October 28, 2010 to file a Claim.
  - Derivative Claimants may be eligible to receive settlement payments.
  - Provincial Health Insurers will share a fund of \$2,250,000.00 which shall be in full satisfaction of medical services provided or to be provided to Eligible Primary Claimants.
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## Opting Out – British Columbia Residents

The deadline for opting-out has already passed in all provinces, except British Columbia.

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**ONLY** All persons who come within the class definition, in British Columbia, are automatically included in the class unless they exclude themselves from the class ("Opt-Out"). To Opt-Out, a British Columbia Class Member will have to complete, sign and return an "Opt-Out Form" postmarked or deposited by courier by **September 28, 2010**. If a British Columbia Class Member does not timely and properly Opt-Out or does not timely and properly make a claim under the Settlement Agreement, he or she will be forever barred from receiving any payments under the Settlement Agreement, and from instituting any action against the Defendants and/or Released Parties related to the use of ZYPREXA.

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**Legal Fees** The Ontario, Quebec and British Columbia Courts have awarded interim legal fees, expenses and applicable taxes to Class Counsel in the total amount of \$5,395,671.79. Class Counsel were retained on a contingent basis. Class Counsel were responsible for funding all disbursements incurred in pursuing this litigation. Pursuant to the Settlement Agreement, the Defendants agreed to pay up to \$4,500,000 towards Class Counsel legal fees and up to \$500,000 towards Class Counsel disbursements.

Claimants are not liable for any legal fees incurred to date. Claimants may, but are not obliged to retain their own lawyers to assist them in making individual claims under the Settlement Agreement and they may not find it necessary to do so. Submitting a Claim under the Settlement Agreement is considerably less complex and less expensive than pursuing an individual lawsuit. In the event that claimants feel they require the assistance of a lawyer in making their Claim, they will be responsible to pay the legal fees of any lawyer they retain to prepare their claim.

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**Important Deadlines** **September 28, 2010 Deadline for British Columbia Claimants to Opt-Out of the Settlement Agreement**

**October 28, 2010 Deadline to File a claim**

**Because of the deadlines, you must act without delay.**

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**Further Information** A complete copy of the Settlement Agreement, including a detailed instruction package on how to obtain a claim form or Opt-Out Form are available at [www.classaction.ca](http://www.classaction.ca) (English and French), [www.classproceedings.ca](http://www.classproceedings.ca), and [www.poynerbaxter.com](http://www.poynerbaxter.com). To obtain a paper copy of the detailed instruction package and a claim form or Opt-Out Form, please contact the Claims Administrator at: Zyprexa Settlement, c/o Crawford Class Action Services, 3-505,133 Weber St. N. Waterloo ON N2J 3G9, Telephone: 1-877-739-8933, email: [Zyprexa@crawco.ca](mailto:Zyprexa@crawco.ca)

For Further Information Please contact **Class Counsel**, at either:

<b>In all provinces other than British Columbia and Quebec:</b>	<b>Siskinds LLP</b> 680 Waterloo Street London ON N6A 3V8  Matthew Baer Tel: (800) 461-6166 x7782 Email: <a href="mailto:matt.baer@siskinds.com">matt.baer@siskinds.com</a>	<b>In British Columbia:</b>	<b>Poyner Baxter, LLP</b> 408-145 Chadwick Court North Vancouver, BC V7M 3K1  Ken Baxter Tel: (604) 988-6321 Email: <a href="mailto:info@poynerbaxter.com">info@poynerbaxter.com</a>
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	<b>Stevensons LLP</b> 144 Front Street West, Suite 400 Toronto, ON M5J 2L7  Daniel McConville Tel.: (866) 940-8329 Email: <a href="mailto:dmcconville@stevensonlaw.net">dmcconville@stevensonlaw.net</a>	<b>In Quebec:</b>	<b>Siskinds, Desmeules, LLP</b> 43 Rue Buade, Bur 320 Quebec City, Quebec G1R 4A2  Nathalie Boulay Tel.: (418) 694-2009 Email: <a href="mailto:nathalie.boulay@siskindsdesmeules.com">nathalie.boulay@siskindsdesmeules.com</a>
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This Notice has been authorized by the Ontario, British Columbia and Quebec Courts