UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

In re: Insulin Pricing Litigation

In re Insulin Pricing Litigation · No. 2:23-md-03080 (BRM)(LDW); Class Action Track Case No. 2:23-cv-20932 · Decided December 30, 2025

SUMMARY

The United States District Court for the District of New Jersey ruled on motions to dismiss the First Amended Consolidated Class Action Complaint in the insulin pricing multidistrict litigation. The court held that the TPP Plaintiffs' RICO claims were barred by the indirect purchaser rule, while addressing timeliness and the assignability of RICO claims brought by direct-purchaser plaintiffs. The motions to dismiss were granted in part and denied in part.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Brian R. Martinotti
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 30, 2025
DOCKET	2:23-md-03080 (BRM)(LDW); Class Action Track Case No. 2:23-cv-20932
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs in the Class Action Track of an MDL asserted RICO and Robinson-Patman Act claims concerning alleged insulin pricing, rebate, formulary-placement, and kickback practices. Manufacturer and pharmacy-benefit-manager defendants moved to dismiss the first amended consolidated class action complaint under Rules 12(b)(6) and 9(b).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the Court accepted well-pleaded factual allegations as true, drew reasonable inferences in plaintiffs' favor, and determined whether the complaint stated a facially plausible claim. Fraud-based RICO predicates were also evaluated under Rule 9(b)'s particularity requirement. The Court could consider documents integral to or explicitly relied upon in the complaint.
PRECEDENTIAL VALUE	unpublished

PARTIES	Local No. 1 Health Fund and Plan of Benefits for the Local No. 1 Health Fund, Local 837 Health and Welfare Plan, FWK Holdings, LLC, Professional Drug Company, Inc., RDC Liquidating Trust v. Eli Lilly and Company, Novo Nordisk Inc., Sanofi-Aventis U.S. LLC, Evernorth Health Inc., Express Scripts, Inc., Express Scripts Administrators, LLC, ESI Mail Pharmacy Services, Inc., Express Scripts Pharmacy, Inc., Medco Health Solutions, Inc., Ascent Health Services LLC, CVS Health Corporation, Caremark Rx, LLC, Caremark PCS Health, LLC, Caremark, LLC, Zinc Health Services, LLC, UnitedHealth Group Incorporated, Optum, Inc., OptumRx Inc., OptumInsight, Inc., Emisar Pharma Services LLC

TOPICS

motions to dismiss · civil procedure · class actions · commercial litigation · consumer protection

PRACTICE AREAS

civil procedure · RICO · antitrust · health law · consumer protection

QUESTIONS PRESENTED

1. Whether the indirect-purchaser rule barred the TPP Plaintiffs' RICO claims.
2. Whether the co-conspirator exception to the indirect-purchaser rule applied to the TPP Plaintiffs.
3. Whether RICO claims could be assigned to FWK Holdings and RDC Liquidating Trust.
4. Whether the DP Plaintiffs adequately pleaded mail and wire fraud predicate acts under Rule 9(b).
5. Whether the DP Plaintiffs adequately pleaded proximate causation, conduct of a RICO enterprise's affairs, and derivative conspiracy claims.
6. Whether the indirect-purchaser rule barred the TPP Plaintiffs' Robinson-Patman Act claims.
7. Whether the DP Plaintiffs adequately alleged antitrust injury under Section 2(c) of the Robinson-Patman Act.
8. Whether claims against certain corporate parents and affiliates required piercing the corporate veil.

HOLDINGS

1. The TPP Plaintiffs were indirect purchasers because, considering the economic substance of the transactions, they reimbursed or paid portions of prescription costs incurred by beneficiaries and insured individuals rather than purchasing insulin directly from defendants. The indirect-purchaser rule therefore barred their RICO claims.
2. The co-conspirator exception did not save the TPP Plaintiffs' claims because they were not the first purchasers outside the alleged conspiracy and the distribution chain was interrupted by a wholesaler or patient.

3. FWK and RLT could assert assigned RICO claims because the Third Circuit requires an express assignment of claims, and the weight of authority supports the assignability of RICO claims.
4. The DP Plaintiffs adequately pleaded mail and wire fraud predicate acts, proximate causation, reliance sufficient at the pleading stage, and conduct of a RICO enterprise's affairs.
5. Because the DP Plaintiffs plausibly pleaded a substantive RICO violation, their derivative claims under 18 U.S.C. § 1962(d) survived the motions to dismiss.
6. The indirect-purchaser rule applied to the TPP Plaintiffs' Robinson-Patman Act claims, and those claims were dismissed because the TPP Plaintiffs were not direct purchasers and the co-conspirator exception did not apply.
7. The DP Plaintiffs' Section 2(c) Robinson-Patman Act claims were dismissed because they did not plausibly allege antitrust injury, consistent with the Court's prior decision.
8. The claims against CVS Health Corporation, Evernorth Health Inc., UnitedHealth Group Incorporated, OptumInsight, Inc., and Optum, Inc. did not require piercing the corporate veil because the complaint plausibly alleged their direct participation in the challenged conduct.

KEY QUOTATIONS

> *"Considering the economic substance of the transaction, TPP Plaintiffs are not direct purchasers."* (Section III.B.1)

> *"Instead, the Court will follow the weight of authority from this Circuit finding RICO claims may be assigned."* (Section III.B.2.a)

> *"Here, the Court finds the Class Track Plaintiffs need not pierce the corporate veil because they adequately allege direct involvement by corporate parents and affiliates."* (Section III.D)

FACTUAL BACKGROUND

Plaintiffs alleged that insulin manufacturers artificially inflated list prices and paid rebates and other amounts to pharmacy benefit managers in exchange for favorable formulary placement. They alleged that the pricing and rebate structure caused health plans, wholesalers, and other direct purchasers to overpay for insulin and that defendants used mail and interstate wires to advance the scheme. The TPP Plaintiffs allegedly reimbursed or paid portions of their beneficiaries' prescription costs, while the DP Plaintiffs asserted claims obtained through assignments or based on their purchases.

PROCEDURAL HISTORY

The Court established the Class Action Track in August 2024 and consolidated related insulin-pricing actions. Plaintiffs filed an amended consolidated class action complaint on October 4, 2024, followed by the operative first amended complaint on December 16, 2024. After briefing, the Court granted the motions in part and denied them in part, dismissing the TPP Plaintiffs' RICO and Robinson-Patman claims, allowing FWK's and RLT's RICO claims to proceed, dismissing the DP Plaintiffs' Robinson-Patman claims, and allowing claims against specified corporate parents and affiliates to proceed.

DISPOSITION

other

CASES CITED

- Phillips v. County of Allegheny, 515 F.3d 224, 228 (3d Cir. 2008)
- In re Burlington Coat Factory Securities Litigation, 114 F.3d 1410, 1426 (3d Cir. 1997)
- Illinois Brick Co. v. Illinois, 431 U.S. 720, 737, 740 (1977)
- McCarthy v. Recordex Service, Inc., 80 F.3d 842, 847–48, 850–55 (3d Cir. 1996)
- Humana, Inc. v. Indivior, Inc., Civ. A. No. 21-2573, 2022 WL 17718342, at *1–3 (3d Cir. Dec. 15, 2022)
- Animal Science Products, Inc. v. China Minmetals Corp., 34 F. Supp. 3d 465, 500–05 (D.N.J. 2014)
- Howard Hess Dental Laboratories Inc. v. Dentsply International, Inc., 424 F.3d 363, 373, 376–77 (3d Cir. 2005)
- In re ATM Fee Antitrust Litigation, 686 F.3d 741, 749 (9th Cir. 2012)
- Fiala v. B&B Enterprises, 738 F.3d 847, 851 (7th Cir. 2013)
- Lerman v. Joyce International Inc., 10 F.3d 106, 112–13 (3d Cir. 1993)
- Silvers v. Sony Pictures Entertainment, Inc., 402 F.3d 881 (9th Cir. 2005) (en banc)
- Bridge v. Phoenix Bond & Indemnity Co., 553 U.S. 639, 647, 658 (2008)
- United States v. Martinez, 905 F.2d 709, 715 (3d Cir. 1990)
- United States v. Riley, 621 F.3d 312, 327 n.19 (3d Cir. 2010)
- Jaye v. Oak Knoll Village Condominium Owners Association, Inc., Civ. A. No. 15-8324, 2016 WL 7013468, at *15 (D.N.J. Nov. 30, 2016)
- In re Lipitor Antitrust Litigation, 868 F.3d 231, 249 (3d Cir. 2017)
- U.S. ex rel. Petras v. Simparel, Inc., 857 F.3d 497, 502 (3d Cir. 2017)
- In re EpiPen Direct Purchaser Litigation, Civ. A. No. 20-827, 2021 WL 147166, at *19, *22 (D. Minn. Jan. 15, 2021)
- Hemi Group, LLC v. City of New York, 559 U.S. 1, 9 (2010)
- Anza v. Ideal Steel Supply Corp., 547 U.S. 451, 458–59 (2006)
- Reves v. Ernst & Young, 507 U.S. 170, 185 (1993)
- In re Direct Purchaser Insulin Pricing Litigation, Case No. 3:20-cv-3426, 2021 WL 2886216, at *5, *7–8, *12, *14–17 (D.N.J. July 9, 2021)
- In re Insulin Pricing Litigation, Civ. A. No. 3:17-cv-0699, 2019 WL 643709, at *5, *9, *12–13 (D.N.J. Feb. 15, 2019)
- MSP Recovery Claims, Series, LLC v. Sanofi Aventis U.S. LLC, Civ. A. No. 18-2211, 2019 WL 1418129, at *7, *11, *16 (D.N.J. Mar. 29, 2019)
- Mississippi ex rel. Fitch v. Eli Lilly and Co., Civ. A. No. 3:21-CV-674, 2022 WL 18401603, at *5 (S.D. Miss. Aug. 29, 2022)

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