

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EDWARD BAKER and JACK
MILLER, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

SORIN GROUP USA, INC.

Defendant.

CIVIL ACTION
CLASS ACTION

NO.: 1:16-cv-00260-JEJ
INITIATED: FEBRUARY 12, 2016

**NOTICE OF CLASS CERTIFICATION, PRELIMINARY APPROVAL OF
PROPOSED CLASS ACTION SETTLEMENT AND FINAL APPROVAL
HEARING**

If you underwent open heart surgery at WellSpan York Hospital between October 1, 2011 and July 24, 2015 or Penn State Milton S. Hershey Medical Center between November 5, 2011 and November 5, 2015 and you have not been diagnosed with and do not have any current symptoms of non-tuberculous mycobacterium (NTM) infection, PLEASE READ THIS NOTICE CAREFULLY. A Class Action Settlement may affect your rights.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

Why did I get this Notice?

- A class action lawsuit (“the Lawsuit”) was filed on behalf of all individuals who underwent open heart surgery at WellSpan York Hospital between October 1, 2011 and July 24, 2015 or Penn State Milton S. Hershey Medical Center between November 5, 2011 and November 5, 2015 who have not been diagnosed with and do not have current symptoms of non-tuberculous mycobacterium (NTM) infection. This Notice refers to this group as the “Class”.
- You received this notice because records from WellSpan York Hospital and Penn State Milton S. Hershey Medical Center indicate you may be a member of the Class. Your private

medical records were not disclosed by the hospitals to make this determination. Because you may be a member of the Class, your legal rights may be affected. You should read this Notice carefully.

- The Lawsuit is titled *Baker, et al. v. Sorin Group USA, Inc.*, No. 1:16-cv-00260. The Lawsuit is pending in the United States District Court for the Middle District of Pennsylvania.

Will I get any money from this Class Action Settlement?

- No. The Lawsuit does not seek monetary damages, which means there is no possibility you will be awarded money from the Class Action Settlement. The Lawsuit seeks to create a court-supervised medical monitoring program that would allow you to obtain free screening and medical testing to detect NTM infections. The Lawsuit also seeks a court declaration that Defendant's Sorin 3T Heater-Cooler, which may have been used to heat and cool your blood during open heart surgery, is defective under Pennsylvania law.

What has happened so far?

- The Parties engaged in nearly three years of litigation, including the exchange and review of numerous documents, the taking of depositions (sworn testimony from witnesses) and the exchange of expert reports.
- On October 23, 2017, the Court granted Class Certification, which meant the Lawsuit could proceed on a class-wide basis to determine whether Defendant is liable to the Class.
- On November 6, 2017, Defendant filed a Petition for Permission to Appeal Class Certification to the United States Court of Appeals for the Third Circuit in *Baker, et al. v. Sorin Group USA, Inc.*, No. 17-0859 (3d Cir.).
- On December 13, 2018, the Third Circuit granted Defendant's Petition to Appeal.
- After extensive settlement negotiations, the Parties to the Lawsuit have reached a proposed Class Action Settlement, and Defendant has dismissed its appeal of Class Certification subject to the Court's final approval of the Class Action Settlement.
- On October 16, 2019, the Court granted preliminary approval of the proposed Class Action Settlement, scheduled a final hearing and authorized the distribution of this Notice to all Class Members.

- This Notice does not express any opinion by the Court, including any opinion concerning the merits of the Lawsuit or the likelihood that the proposed Class Action Settlement will be approved. The Court must still decide whether to grant final approval of the proposed Class Action Settlement.

Why is there a Class Action Settlement?

- Defendant has denied and continues to deny any liability or responsibility for your potential exposure to NTM during open-heart surgery using Sorin 3T Heater-Coolers. Defendant has also denied and continues to deny that the Sorin 3T Heater-Cooler is defective. The Parties decided to settle the Lawsuit to avoid the expenses of continued litigation and the uncertainties of trial. Class Counsel believes the Class Action Settlement is fair and is in the best interests of the Class Members.

What are the basic terms of the Class Action Settlement?

- The Class Action Settlement will ensure that WellSpan York Hospital and Penn State S. Hershey Medical Center continue their respective existing NTM screening protocols and make NTM screening available to you for at least five (5) years following your open-heart surgery.
- The proposed Class Action Settlement will not affect decisions you have made about your existing medical care. If you elected to be evaluated by physicians and/or staff at WellSpan York Hospital or Penn State Milton S. Hershey Medical Center’s “NTM Clinics”, you may continue to do so. If you elected not to be evaluated at these NTM Clinics, you will not be obligated to do so.
- Prior to the Final Approval Hearing, Class Counsel may apply to the Court for a reasonable and appropriate award of attorneys’ fees. Any payment of attorneys’ fees would compensate Class Counsel for work in this case and also its significant role in facilitating the global settlement of personal injury claims in the related matter of *In Re: Sorin 3T Heater-Cooler Products Liability Litigation (No. II)*. Any payment of attorneys’ fees would not reduce the Class’ benefits in any way.

Can I opt out? How would the Class Action Settlement affect my rights?

- If you are a member of the Class, you do not have the ability to “opt out” or exclude yourself from being a Class member because the Court determined that the Lawsuit sought primarily equitable rather than monetary relief.

- If the Class Action Settlement is approved, you will be prohibited from participating in any other lawsuits against the Defendant or affiliated individuals and entities concerning the legal claims that were or could have been asserted in this Lawsuit. However, if you are diagnosed with an NTM infection in the future, the Class Action Settlement does not affect you or your loved one's right to bring a personal injury or wrongful death claim against the Defendant or any other entity.

When is the final approval hearing? Do I need to attend?

- A Final Approval Hearing will be held on **January 28, 2020 at 10 a.m.** in court room number 2 before the Honorable John E. Jones, III at the United States District Court for the Middle District of Pennsylvania located at 228 Walnut St., Harrisburg, PA 17101. During the Final Approval Hearing, Judge Jones will determine:
 - Whether the proposed Class Action Settlement is fair, reasonable and adequate
 - Whether any request by Class Counsel for attorneys' fees should be approved by the Court.
- Class Counsel will appear at the Final Approval Hearing on behalf of the Class. You are under no obligation to attend. You are welcome to attend or have your personal lawyer appear on your behalf at your own expense.

How do I object if I believe the Class Action Settlement is unfair?

- If you believe any terms of Class Action Settlement are unfair and wish to object, you must mail a letter to the Court explaining all of your objections so that it is *received* no later than **January 8, 2020**. The letter should include the name of the case (*Baker v. Sorin Group USA, Inc.*), the case number (1:16-cv-00260-JEJ), your name, address, telephone number and signature. Letters must be mailed to:

Hon. John E. Jones, III.
United States District Court—Middle District of Pennsylvania
228 Walnut St.
Harrisburg, PA 17101

- If you wish to speak in Court about the fairness of the proposed Class Action Settlement or any request for attorneys' fees, you must send a written notice of intention to appear to the Court so that it is *received* no later than **January 17, 2020**. The hearing on January 28, 2020

will be your only opportunity to object to the terms of the Class Action Settlement. Judge Jones will consider all timely objections submitted by Class Members, even if you do not attend the in-person fairness hearing.

Who should I contact with my questions?

- Please do not call the Court about this Notice. If you have questions about this Notice or the proposed Class Action Settlement you may contact Class Counsel, Sol H. Weiss:

Sol H. Weiss
Anapol Weiss
130 N. 18th St., Suite 1600
Philadelphia, PA 19103
215-730-1130 (Phone)
215-875-7701 (Fax)
sweiss@anapolweiss.com

YOUR LEGAL RIGHTS IN THE CLASS ACTION SETTLEMENT

<p>MANDATORY MEMBER OF THE CLASS</p>	<p>Because the Court determined the Lawsuit seeks equitable rather than monetary relief, it was certified under Federal Rule of Civil Procedure 23(b)(2). This means you do not have the ability to “opt out” or otherwise exclude yourself from being a Class Member.</p>
<p>OBJECT TO THE CLASS ACTION SETTLEMENT BY SUBMITTING WRITTEN OBJECTIONS TO THE COURT SO THAT THEY ARE RECEIVED NO LATER THAN JANUARY 8, 2020</p>	<p>Write to the Court and explain why you do not like the Class Action Settlement or would oppose any request for attorneys’ fees. You cannot object to the Class Action Settlement unless you are a member of the Class.</p>
<p>GO TO THE FINAL APPROVAL HEARING ON JANUARY 28, 2020 AT 10 A.M., AND FILE A NOTICE OF INTENTION TO APPEAR SO THAT IT IS RECEIVED NO LATER THAN JANUARY 17, 2020</p>	<p>If you wish, you may ask to speak in Court about the fairness of the proposed Class Action Settlement or any request for attorneys’ fees.</p>
<p>DO NOTHING</p>	<p>Give up your right to object to the Class Action Settlement and be bound by the Order and Final Judgment entered by the Court if it approves the Class Action Settlement, including the release of the Released Claims.</p>