

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

In re OSI PHARMACEUTICALS, INC. SECURITIES : Master File No. 2:04-CV-05505-JS-WDW  
LITIGATION :  
: This Document Relates To: :  
: : CLASS ACTION  
: ALL ACTIONS. :

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION**

**IF YOU PURCHASED OR OTHERWISE ACQUIRED OSI PHARMACEUTICALS, INC. (“OSI” OR THE “COMPANY”) COMMON STOCK BETWEEN APRIL 26, 2004 AND NOVEMBER 22, 2004, INCLUSIVE, YOU COULD GET A PAYMENT FROM A CLASS ACTION SETTLEMENT.**

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

**Securities and Time Period:** OSI common stock purchased or otherwise acquired between April 26, 2004 and November 22, 2004, inclusive (the “Class Period”).

**Settlement Fund:** \$9,000,000 in cash. Your recovery will depend on the amount of OSI common stock purchased or acquired and the timing of your purchases and any sales. Depending on the number of eligible shares that participate in the Settlement and when those shares were purchased or acquired and sold, the estimated average recovery per share will be approximately \$0.18 before deduction of Court-approved fees and expenses. A Class Member’s actual recovery will be a proportion of the Net Settlement Fund determined by that claimant’s recognized claim as compared to the total recognized claims of all Class Members (defined in Question 6 below) who submit an acceptable Proof of Claim and Release form (the “Claim Form”).

**Reason for Settlement:** To avoid the costs and risks associated with continued litigation, including danger of no recovery.

**If the Case Had Not Settled:** Continuing with the case could have resulted in loss at the summary judgment stage or at trial. The two sides vigorously disagree on both liability and the amount of money that could have been won if Lead Plaintiff prevailed at trial. The parties disagree about (1) the method for determining whether OSI’s common stock traded at artificially inflated prices during the relevant period; (2) the amount of any such inflation; (3) whether or the extent to which various facts alleged by Lead Plaintiff were materially false or in any way misleading; (4) the extent that various facts alleged by Lead Plaintiff influenced the trading price of OSI common stock during the relevant period; and (5) whether the facts alleged were material, false, misleading, or otherwise actionable under the federal securities laws.

**Attorneys’ Fees and Expenses:** Lead Plaintiff’s Counsel will ask the Court for attorneys’ fees not to exceed 30% of the Settlement Fund and expenses not to exceed \$100,000 to be paid from the Settlement Fund. If the above amounts are requested and approved by the Court, the average cost per share will be \$0.05. Lead Plaintiff’s Counsel have not received any payment for their work investigating the facts, conducting this Litigation, and negotiating this Settlement on behalf of the Lead Plaintiff and the Class (defined in Question 5 below).

<b>DEADLINES:</b> Submit Claim Request Exclusion File Objection	September 9, 2008 August 8, 2008 August 8, 2008
<b>COURT HEARING ON FAIRNESS OF SETTLEMENT</b>	August 22, 2008

**FOR MORE INFORMATION:**

**Claims Administrator**  
OSI Pharmaceuticals, Inc. Securities Litigation  
Claims Administrator  
c/o A.B. Data, Ltd.  
Post Office Box 170500  
Milwaukee, WI 53217  
Telephone: (866) 545-1007

**Lead Plaintiff’s Counsel**  
Rick Nelson  
Shareholder Relations  
COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101

**Your legal rights are affected whether you act or do not act. Read this Notice carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
SUBMIT A CLAIM FORM	The only way to get a payment.
EXCLUDE YOURSELF	Get no payment. This is the only option that allows you to participate in another lawsuit against the Defendants and the other Released Parties relating to the legal claims in this case.
OBJECT	You may write to the Court if you do not like this Settlement.
GO TO A HEARING	You may ask to speak in Court about the fairness of the Settlement.
DO NOTHING	Get no payment. Give up your rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case must decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and, if there are any appeals, after appeals are resolved. Please be patient.

## BASIC INFORMATION

### 1. Why Did I Get This Notice Package?

You or someone in your family may have purchased or otherwise acquired OSI common stock between April 26, 2004 and November 22, 2004, inclusive.

The Court directed that you be sent this Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. If the Court approves it and after any objections or appeals are resolved, the Claims Administrator appointed by the Court will make the payments that the Settlement allows.

This package explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The Court in charge of the case is the United States District Court for the Eastern District of New York, and the case is known as *In re OSI Pharmaceuticals, Inc. Securities Litigation*, Master File No. 2:04-CV-05505-JS-WDW. The individual who sued is called the Lead Plaintiff, and the company and the individuals he sued, OSI, Colin Goddard, Robert I. Ingram, Gabriel Leung, Nicole Onetto, Robert L. Van Nostrand, Michael Atieh, G. Morgan Browne, Edwin A. Gee, Daryl K. Granner, Walter M. Lovenberg, Viren Mehta, Herbert Pinedo, Mark Richmond, and John P. White, are called the Defendants.

### 2. What Is This Lawsuit About?

OSI is a biotechnology company focused on the discovery, development, and commercialization of oncology products.

This case was brought as a class action alleging that Defendants made materially false and misleading statements concerning OSI's drug, Tarceva<sup>®</sup>. These statements concerned Tarceva's survival benefits and the size of Tarceva's potential market upon FDA approval.

Lead Plaintiff alleges that as a result of these misrepresentations, OSI common stock traded at artificially inflated prices during the Class Period, in violation of the federal securities laws, and permitted Defendants to sell 6.9 million shares of stock to the public in a secondary stock offering during the Class Period. Lead Plaintiff alleges that upon disclosure of adverse information about Tarceva's FDA approval and effectiveness, OSI stock fell significantly. Defendants deny all of Lead Plaintiff's allegations or that they did anything wrong. Defendants also deny that the Lead Plaintiff or the Class suffered damages or that the price of OSI common stock was artificially inflated by reasons of alleged misrepresentations, nondisclosures, or otherwise.

### 3. Why Is This a Class Action?

In a class action, one or more people called class representatives (in this case the Court-appointed Lead Plaintiff, Matt Brody) sue on behalf of people who have similar claims. All these people are called a class or class members. One court resolves the issues for all class members, except for those who exclude themselves from the class. Judge Joanna Seybert is in charge of this class action.

### 4. Why Is There a Settlement?

The Court did not decide in favor of Lead Plaintiff or Defendants. Instead, these parties agreed to a settlement. That way, they avoid the cost of a trial, and eligible Class Members who make valid claims will get compensation. The Lead Plaintiff and his attorneys think the Settlement is best for all Class Members.

## WHO IS IN THE SETTLEMENT

To see if you will get money from this Settlement, you first have to determine if you are a Class Member.

### 5. How Do I Know if I Am Part of the Settlement?

**The "Class" includes all Persons who purchased or otherwise acquired OSI common stock between April 26, 2004 and November 22, 2004, inclusive, except those persons and entities that are excluded, as described below.**

### 6. What Are the Exceptions to Being Included?

Class Members do not include Defendants, the directors and officers of OSI, members of their immediate families, and their legal representatives, heirs, successors and assigns, and any entity in which any Defendant has or had a controlling interest. You are also not a Class Member if you timely and validly exclude yourself from the Class in accordance with the instructions set forth in Question 13 below.

If you sold OSI common stock between April 26, 2004 and November 22, 2004, inclusive, that alone does not make you a Class Member. You are a "Class Member" only if you **purchased or otherwise acquired** OSI common stock between April 26, 2004 and November 22, 2004, inclusive.

### 7. I Am Still Not Sure if I Am Included.

If you are still not sure whether you are included, you can ask for free help. You may call Rick Nelson at (619) 231-1058 for more information. Or you may fill out and return the Claim Form described in Question 10 to see if you qualify.

## THE SETTLEMENT BENEFITS—WHAT YOU GET

### 8. What Does the Settlement Provide?

Defendants have agreed to pay \$9,000,000 in cash to be divided among all eligible Class Members who send in valid Claim Forms, after payment of Court-approved attorneys' fees and expenses and the costs of claims administration, including the costs of printing and mailing this Notice and the cost of publishing newspaper notice.

### 9. How Much Will My Payment Be?

Your share of the fund will depend on the number of valid Claim Forms that Class Members send in and how many shares of stock you purchased during the relevant period and when you bought and sold them. A claim will be calculated as follows.

## SECTION 11 CLAIMS FOR THE NOVEMBER 10, 2004 COMMON STOCK OFFERING

The allocation below is based on the following:

November 10, 2004 common stock offering price:	\$64.50 per share
Closing price on the date the lawsuit was filed: <sup>1</sup>	\$47.10 per share

For shares of OSI common stock **purchased or acquired pursuant to or traceable to** the Registration Statement and Prospectus filed with the SEC in connection with the Company's common stock offering declared effective on or about November 10, 2004, and

- (a) sold prior to December 17, 2004, the claim per share is the lesser of (i) the purchase price per share less the sales price per share, or (ii) \$64.50 less the sales price per share.
- (b) retained at the end of December 16, 2004, and held through August 22, 2008, the claim per share is the lesser of (i) the purchase price per share less \$47.10, or (ii) \$64.50 less \$47.10.
- (c) were sold on or after December 17, 2004, the claim per share is the lesser of (i) \$64.50 less the sales price per share, or (ii) the purchase price per share less the sales price per share.

## SECTION 10(b) CLAIMS

The allocation below is based on the following price declines:

November 19, 2004 price decline:	\$6.09
November 22, 2004 price decline:	\$3.94
90-day look-back value:	\$61.20

1. For shares of OSI common stock **purchased from April 26, 2004 through November 18, 2004**, and
  - (a) sold prior to November 19, 2004, the claim per share is \$0.
  - (b) sold from November 19, 2004 through November 21, 2004, the claim per share is the lesser of (i) the purchase price less \$61.20, or (ii) \$6.09 (November 19, 2004 price decline).
  - (c) sold on, or retained at the end of November 22, 2004, the claim per share is the lesser of (i) the purchase price less \$61.20, or (ii) \$10.03 (the total of the November 19, 2004 and November 22, 2004 price declines).
2. For shares of OSI common stock **purchased from November 19, 2004 through November 21, 2004**, and
  - (a) sold prior to November 22, 2004, the claim per share is \$0.
  - (b) sold on, or retained at the end of November 22, 2004, the claim per share is the lesser of (i) the purchase price less \$61.20, or (ii) \$3.94 (November 22, 2004 price decline).
3. For shares of OSI common stock purchased on November 22, 2004, the claim per share is \$0.

The payment you get will reflect your *pro rata* share after deduction of Court-approved fees and expenses. If claims are filed for 100% of the eligible OSI shares (which is not expected to occur), the average distribution per share would be \$0.18 before deduction of Court-approved fees and expenses. Historically, actual claim rates are less than 100% and result in higher distributions.

In the event a Class Member has more than one purchase or acquisition of OSI common stock, all purchases and any sales shall be matched on a first in, first out (FIFO) basis and Class Period sales will be matched first against any OSI common stock held at the beginning of the Class Period and then against purchases or acquisitions in chronological order. A purchase, acquisition, or sale of OSI common stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date.

To the extent a claimant had a market gain from his, her, or its overall transactions in OSI common stock during the Class Period, the value of the recognized claim will be zero.

Any person or entity who sold OSI common stock "short" shall have no Recognized Loss with respect to any purchase during the Class Period to cover such short sale.

## HOW YOU GET A PAYMENT—SUBMITTING A CLAIM FORM

### 10. How Will I Get a Payment?

To qualify for payment, you must be an eligible Class Member and you must send in a Claim Form. A Claim Form is included with this Notice. Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, and mail it postmarked no later than September 9, 2008.

### 11. When Will I Get My Payment?

The Court will hold a hearing on August 22, 2008, at 11:30 a.m. to decide whether to approve the Settlement. If Judge Seybert approves the Settlement, there may be appeals. It is always uncertain whether these appeals can be resolved favorably, and resolving them can take time, perhaps several years. Everyone who sends in a Claim Form will be informed of the determination with respect to their claim. Please be patient.

### 12. What Am I Giving Up to Get a Payment or Stay in the Class?

Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about the same issues in this case or that could have been asserted in this case. It also means that all of the Court's orders will apply to you and legally bind you and you will release your claims in this case against the Defendants. The terms of the release are included in the Claim Form that is included with this Notice.

<sup>1</sup> First Class Action Complaint filed on December 16, 2004.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement but you want to keep the right to sue or continue to sue the Defendants on your own about the same issues in this case, then you must take steps to get out of the Class. This is called excluding yourself or is sometimes referred to as opting out of the Class.

### 13. How Do I Get Out of the Class?

To exclude yourself from the Class, you must send a letter by mail stating that you want to be excluded from *In re OSI Pharmaceuticals, Inc. Securities Litigation*, Master File No. 2:04-CV-05505-JS-WDW. You must include your name; address; telephone number; the number of shares of OSI common stock purchased or acquired between April 26, 2004 and November 22, 2004, inclusive; the number of shares sold during this time period, if any; and the dates of such purchases, acquisitions, and sales. You must mail your exclusion request postmarked no later than August 8, 2008, to:

**OSI Pharmaceuticals, Inc. Securities Litigation**  
**EXCLUSIONS**  
**Claims Administrator**  
**c/o A.B. Data, Ltd.**  
**Post Office Box 170500**  
**Milwaukee, WI 53217**

You cannot exclude yourself on the phone or by e-mail. If you validly exclude yourself, you are not eligible to get a Settlement payment and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit.

### 14. If I Do Not Exclude Myself, Can I Sue the Defendants for the Same Thing Later?

No. Unless you exclude yourself, you give up any right to sue the Defendants for the claims resolved by this Settlement. If you have a pending lawsuit against any of the Defendants, speak to your lawyer in that case immediately. Remember, the exclusion deadline is August 8, 2008.

### 15. If I Exclude Myself, Can I Get Money From This Settlement?

No. If you exclude yourself, do not send in a Claim Form. But, you may sue, continue to sue, or be part of a different lawsuit against the Defendants.

## THE LAWYERS REPRESENTING YOU

### 16. Do I Have a Lawyer in This Case?

The law firm of Coughlin Stoia Geller Rudman & Robbins LLP represents you and other Class Members. These lawyers are called Lead Plaintiff's Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 17. How Will the Lawyers Be Paid?

Lead Plaintiff's Counsel will ask the Court for attorneys' fees not to exceed 30% of the Settlement Fund (an average of \$0.05 per share) and expenses up to \$100,000, which were advanced in connection with the Litigation. Such sums as may be approved by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

The attorneys' fees and expenses requested will be the only payment to Lead Plaintiff's Counsel for their efforts in achieving this Settlement and for their risk in undertaking this representation on a wholly contingent basis. To date, Lead Plaintiff's Counsel have not been paid for their services for conducting this Litigation on behalf of the Lead Plaintiff and the Class or for their expenses. The fee requested will compensate Lead Plaintiff's Counsel for their work in achieving the Settlement Fund and is well within the range of fees awarded to class counsel under similar circumstances in other cases of this type. The Court may award less than this amount.

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

### 18. How Do I Tell the Court That I Do Not Like the Settlement?

If you are a Class Member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the Settlement in *In re OSI Pharmaceuticals, Inc. Securities Litigation*, Master File No. 2:04-CV-05505-JS-WDW. Be sure to include your name; address; telephone number; your signature; the number of shares of OSI common stock purchased, acquired, and sold between April 26, 2004 and November 22, 2004, inclusive; and the reasons you object to the Settlement. Any objection to the Settlement must be mailed or delivered so that it is received by each of the following no later than August 8, 2008:

COURT	LEAD PLAINTIFF'S COUNSEL	DEFENDANTS' COUNSEL
Clerk of the Court United States District Court Eastern District of New York Alfonse M. D'Amato United States Courthouse 100 Federal Plaza Central Islip, NY 11722	Ellen Gusikoff Stewart, Esq. COUGHLIN STOIA GELLER RUDMAN & ROBBINS LLP 655 West Broadway, Suite 1900 San Diego, CA 92101	Michael L. Kichline, Esq. DECHERT LLP Cira Centre 2929 Arch Street Philadelphia, PA 19104

### 19. What Is the Difference Between Objecting and Excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object **only if** you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

## THE COURT'S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you do not have to.

### 20. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a Settlement Hearing at 11:30 a.m., on August 22, 2008, at the United States District Court, Eastern District of New York, Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, New York 11722. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Seybert will listen to people who have asked to speak at the hearing. The Court will also consider how much to award Lead Plaintiff's Counsel (assuming the Settlement is approved). The Court may decide these issues at the hearing or take them under consideration. We do not know how long these decisions will take.

### 21. Do I Have to Come to the Hearing?

No. Lead Plaintiff's Counsel will answer questions Judge Seybert may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### 22. May I Speak at the Hearing?

You may ask the Court for permission to speak at the Settlement Hearing. To do so, you must send a letter saying that it is your intention to appear in *In re OSI Pharmaceuticals, Inc. Securities Litigation*, Master File No. 2:04-CV-05505-JS-WDW. Be sure to include your name; address; telephone number; your signature; and the number of shares of OSI common stock purchased, acquired, and sold between April 26, 2004 and November 22, 2004, inclusive. Your notice of intention to appear must be mailed or delivered so that it is received no later than August 8, 2008, by the Clerk of the Court, Lead Plaintiff's Counsel, and Defendants' counsel at the addresses listed in Question 18. You cannot speak at the hearing if you exclude yourself from the Class.

## IF YOU DO NOTHING

### 23. What Happens if I Do Nothing at All?

If you do nothing, you will get no money from this Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants about the same issues in this case.

## GETTING MORE INFORMATION

### 24. Are There More Details About the Settlement?

This Notice summarizes the proposed Settlement. More details are in the Stipulation of Settlement dated March 14, 2008. You may get a copy of the Stipulation of Settlement by writing to Rick Nelson, c/o Coughlin Stoia Geller Rudman & Robbins LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101 or from the Clerk's office at the United States District Court for the Eastern District of New York, Alfonse M. D'Amato United States Courthouse, 100 Federal Plaza, Central Islip, NY 11722 during regular business hours.

### 25. How Do I Get More Information?

You may call (619) 231-1058 or write to Rick Nelson, Coughlin Stoia Geller Rudman & Robbins LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101 or visit the Claims Administrator's Web site at [abdatalawserve.com](http://abdatalawserve.com).

**Do not telephone the Court regarding this Notice.**

## SPECIAL NOTICE TO NOMINEES

If you hold any OSI common stock purchased or acquired between April 26, 2004 and November 22, 2004, inclusive, as nominee for a beneficial owner, then, within 10 days after you receive this Notice, you must either (1) send a copy of this Notice by First-Class Mail to all such Persons or (2) provide a list of the names and addresses of such Persons to the Claims Administrator:

**OSI Pharmaceuticals, Inc. Securities Litigation**  
**ATTENTION: FULFILLMENT**  
**Claims Administrator**  
**c/o A.B. Data, Ltd.**  
**Post Office Box 170500**  
**4057 North Wilson Drive**  
**Milwaukee, WI 53211**  
**(414) 963-7950 fax**  
**[fulfillment@abdatalawserve.com](mailto:fulfillment@abdatalawserve.com)**

If you choose to mail the Notice and Claim Form yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice, and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

DATED: MAY 28, 2008

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK