

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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)  
**IN RE NEURONTIN MARKETING** )  
**AND SALES PRACTICES LITIGATION** )  
\_\_\_\_\_ )

**THIS DOCUMENT RELATES TO:** )  
)  
KAISER FOUNDATION HEALTH )  
PLAN, INC., et al. )  
)  
v. )  
)  
PFIZER, INC., et al. )  
\_\_\_\_\_ )

CIVIL ACTION NO. 04-cv-10739-PBS

**ORDER**

January 27, 2011

Saris, U.S.D.J.

After a lengthy trial, a jury returned a verdict on the RICO claims for plaintiff Kaiser on March 25, 2010 in the amount of \$47,363,092. (Jury Verdict, Docket No. 2760.) On November 3, 2010, the Court issued an opinion finding that defendants engaged in fraudulent business acts or practices under the UCL and awarding plaintiffs \$65,418,419 in restitution. In re Neurontin Mktg. & Sales Practices Litig., 2010 WL 4325225 (D. Mass. Nov. 3, 2010).

Plaintiffs now move for trebled damages and prejudgment interest under RICO, along with updated prejudgment interest under the UCL. (Docket. No. 3155.) After consideration of that motion, along with defendants' opposition, the Court **ALLOWS** in part and **DENIES** in part plaintiffs' motion, and orders the

following:

1. Pursuant to 18 U.S.C. § 1964(c), the damages awarded to plaintiffs by the jury under RICO are trebled, resulting in an award of \$142,089,276.
2. The Court has discretion to award, or not to award, prejudgment interest under RICO. See, e.g., Aetna Cas. Sur. Co. v. P & B Autobody, 43 F.3d 1546, 1571 (1st Cir. 1994). The Court finds that, in this case, an award of treble damages will make the plaintiffs whole, obviating the need for an award of prejudgment interest. With respect to plaintiffs' request for prejudgment interest under RICO, the motion is denied.
3. As to plaintiffs' UCL claims, prejudgment interest is provided for by statute. The Court will update its award of prejudgment interest based on the statutory rate of 7% per annum at the time of judgment. Defendants do not object to such a revision, or to Dr. Hartman's calculations as submitted by plaintiffs.

Pursuant to the Stipulation and Joint Motion for Entry of Amended Pre- and Post-Judgment Scheduling Order issued by this Court on November 11, 2010, the parties will have seven days from the entry of this Order to submit an agreed form of judgment, or motion/cross motions for judgment if agreement cannot be reached.

/s/ PATTI B. SARIS  
PATTI B. SARIS  
United States District Judge