

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Nancy Calchi, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC, and GSK Consumer
Health, Inc.,

Defendants.

Lead Case No. 7:22-cv-01341-KMK

Stacey Papalia, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC,

Defendant.

Case No. 7:22-cv-02630-KMK

**Memorandum of Points and Authorities in support of Plaintiffs' Unopposed Motion for
Settlement Class Certification and Preliminary Approval of Class Action Settlement**

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In this putative class action, Plaintiffs allege that Robitussin “Non-Drowsy” cough medicine is misleadingly labeled because the medicines allegedly cause drowsiness. The Parties have reached a classwide settlement on behalf of a nationwide Settlement Class of consumers who purchased the accused Robitussin medicines.¹ The settlement provides \$4.5 million in non-reversionary cash to the Settlement Class. It also delivers significant relief to the Settlement Class through the removal of the challenged “Non-Drowsy” claim from the product packaging and marketing. The settlement is an excellent result for the Settlement Class, particularly given that the Court previously dismissed all claims on preemption grounds (and similar claims were dismissed by another court in this District). The settlement meets all criteria for preliminary approval.

I. Background.

A. Plaintiffs’ allegations and claims.

Haleon² makes, markets, and distributes Robitussin over-the-counter cough and flu medicines. Consolidated Complaint (ECF No. 31) (“Compl.”) ¶ 1. Plaintiffs allege that many Robitussin products contain the active ingredient Dextromethorphan Hydrobromide (“DXM”), a drug known to cause drowsiness. *Id.* ¶¶ 1, 16, 21-32. Plaintiffs assert that Haleon nevertheless misleadingly marketed these DXM products as “Non-Drowsy.” *Id.* ¶¶ 17-18.

Plaintiffs Nancy Calchi and Stacey Papalia bought “Non-Drowsy” Robitussin. *Id.* ¶¶ 46-47. Both purchased the medicine because it claimed to be non-drowsy. *Id.* ¶¶ 46, 47. Plaintiffs allege that, had they known the products could cause drowsiness, they would not have bought the product or would have paid less for it. *Id.* ¶¶ 46-47. Plaintiffs further allege that the “Non-Drowsy” label and

¹ Unless otherwise stated, defined terms have the meaning from the Settlement Agreement. The Settlement Class and Covered Products are described below in Section I.D.

² “Haleon” includes both defendants GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (now known as Haleon US Holdings LLC) and GSK Consumer Health, Inc. (now known as Haleon US Inc.).

marketing artificially inflated the price of the product for all consumers, thereby causing consumers to overpay. *Id.* ¶¶ 42-46, 66.

Plaintiffs' Consolidated Complaint asserted: (1) express warranty claims for a Nationwide Class of Robitussin purchasers (Count IV); (2) New York, California, Connecticut, Washington D.C., Illinois, Maryland, Missouri, and Washington consumer protection law claims for a multi-state Consumer Protection Subclass (Count I); and (3) New York consumer protection claims (GBL § 349 and § 350) for a New York Subclass (Counts II and III); *see* Compl. ¶¶ 60-62 (class definitions).

B. The Court granted Haleon's motion to dismiss. Plaintiffs appealed.

Haleon filed a motion to dismiss contending (among other grounds) that Plaintiffs' claims were preempted by the Food, Drug, and Cosmetic Act. ECF Nos. 34, 35. The Court granted the motion and dismissed all Plaintiffs' claims on preemption grounds. ECF No. 45. The Court adopted the reasoning of another court in this District—from a similar case against Walmart's generic cough medicines—which found similar claims preempted. *See id.* (adopting *Goldstein v. Walmart, Inc.*, 637 F. Supp. 3d 95 (S.D.N.Y. 2022)). Plaintiffs appealed to the Second Circuit. ECF No. 48. The parties fully briefed the appeal and oral argument was set for December 2023.

C. The parties mediated and reached a classwide settlement.

While the parties litigated the appeal, they spent several months conceptually discussing a potential classwide resolution. Before oral argument, the Parties then held a full-day mediation with Bruce Friedman at JAMS. Mr. Friedman has extensive experience mediating consumer class actions. Jacobson decl. ¶ 2; Agreement at p. 4.

The Parties submitted mediation statements and exchanged information necessary to evaluate their respective settlement positions. Jacobson decl. ¶ 3; Agreement at p. 4. Settlement negotiations were arms-length, contentious, and well-informed. *Id.*; Agreement at p. 4. And because

the appeal was fully briefed, the parties could assess the strength of the appellate arguments on either side. Jacobson decl. ¶ 3

The mediation was successful and resulted in the terms of a classwide settlement. Jacobson decl. ¶ 4. The parties jointly moved the Second Circuit to hold the appeal in abeyance in light of the settlement and anticipated approval proceedings, which the Court granted. *Id.* The parties then spent months negotiating the long-form agreement and supporting documents, soliciting bids from settlement administrators, and working with the proposed settlement administrator to develop a comprehensive Notice Plan. *Id.*

D. The Settlement Agreement.

The executed Settlement Agreement (“Agreement”) is attached as Exhibit 1 to the Jacobson Declaration.

1. The Settlement Class.

The Settlement Class consists of all individual consumers who purchased any of the Covered Products from February 16, 2016, to the time the Court enters the proposed Preliminary Approval Order. Agreement § A.1.ll. The Covered Products include any flavor Robitussin product containing DXM and marketed as non-drowsy. Agreement § A.1.k³

Specifically excluded from the Settlement Class are (i) Haleon, its officers, directors, affiliates, legal representatives, employees, successors, and assigns, and entities in which Haleon has a controlling interest; (ii) judges presiding over the Litigation; (iii) local, municipal, state, and federal governmental entities; (iv) counsel of record for the Parties; and (v) all Persons who validly opt-out in a timely manner. Agreement § A.1.ll.

2. Benefits.

Money. Haleon will contribute a non-reversionary common fund of \$4,500,000. Agreement

³ A specific list of the covered products is at Agreement § A.1.k.

§§ A.1.q, C.1. This common fund will be used to pay Settlement Class Members who submit a timely and valid Claim, to pay reasonable notice and administration costs, and to pay attorneys' fees, costs, and service awards as approved by the Court. *Id.* §§ A.1.q, C.2, G.1.c. Each eligible Settlement Class Member who submits a timely and valid Claim will receive a pro rata, cash distribution (based on the total number of timely and valid Claims) from the Settlement Fund. Agreement § C.4. Settlement Class members may submit one Claim per household without proof of purchase and up to three Claims per household with proof of purchase. *Id.* Settlement Class Members can file Claims electronically (on the settlement website) or by mail. Agreement §§ C.5, D.6.c.

The pro rata payment will depend on the number of timely and valid Claims. Based on experience with past settlements, it is projected that each Claim could be worth between \$1.50 and \$4.75 (an appreciable percentage of the typical retail price of the Covered Products). Jacobson decl. ¶ 7 (example of Covered Product retailing for \$11.99). These estimates could increase or decrease depending on actual Claim activity, and the actual figure will not be known until all Claims are validated.

Labeling change. As part of the settlement, Haleon will cease including the “Non-Drowsy” claim on the Covered Product packaging and will exclude the “Non-Drowsy” statement from any related future marketing or advertisements.⁴ Agreement § C.9.a.

3. Release.

The Settlement Agreement includes a reasonably-tailored release of only those claims that were or could have been asserted in this litigation based on, relating to or arising from Haleon's assertion, representation, or suggestion that the Covered Product are “Non-Drowsy” (and any

⁴ This relief is prospective from the Effective Date; Haleon will not be required to recall any Covered Products or advertisements distributed before that date. Agreement § C.9.a.

related derivative statements) during the Class Period. Agreement § F.1. The release excludes any claims for personal injury. *Id.* §§ F.1, F.2.

4. Attorneys' fees, costs, and service awards.

At the mediation, and only after the Parties agreed to the material terms of the classwide relief, they discussed attorneys' fees and service awards under the supervision of the mediator. Jacobson decl. ¶ 5; Agreement § G.1. The settlement is not contingent on the Court granting service awards or attorneys' fees. *Id.* §§ G.1.b, G.1.d.

Service awards. The settlement permits each Class Representative to apply for a service award of \$2,000. Agreement § G.1.b.

Attorneys' fees. The settlement permits Plaintiffs' counsel to apply to the Court for reasonable attorneys' fees (not to exceed one-third of the Gross Settlement Fund) and reasonable litigation costs. Agreement § G.1.a.

5. Notice and administration.

The parties selected Angeion Group to administer the settlement, after soliciting bids from four reputable administrators. Jacobson decl. ¶ 8; Agreement §§ A.1.hh, D.3. Angeion is a highly-experienced administration firm, with sound procedures. Angeion decl. ¶¶ 1-12. Angeion has agreed to a "not to exceed" price of \$550,000 for providing notice and administering Claims, which will help maximize payments to eligible Settlement Class Members. Angeion decl. ¶ 59.

Angeion will implement a nationwide, media Notice Plan to reach at least 70 percent of the Settlement Class (a well-accepted benchmark). Angeion decl. ¶¶ 57-58, 30. Haleon will also provide Angeion with reasonably available, direct notice information for those likely Settlement Class members for which Haleon has contact information. Agreement § D.6.a & b; Angeion decl. ¶¶ 22-29. The Notice Plan will provide reasonable and best practicable notice to Settlement Class members. Agreement § B.3.d.; Angeion decl. ¶¶ 60-61.

Angeion will also create a comprehensive Settlement Website. Agreement § D.6.c; Angeion decl. ¶¶ 46-47. The Settlement Website will provide members of the Settlement Class the information needed to evaluate the settlement and exercise their rights, including: general information about the settlement, relevant Court and settlement-related documents, and important settlement deadlines. *Id.* The Settlement Website will also feature a portal for the electronic submission of Claim Forms. *Id.*

The Settlement Administrator will also set up a toll-free number for Settlement Class members to receive additional information about the settlement. Agreement § D.6.c; Angeion decl. ¶ 48. The toll-free number will use Voice Response technology to provide general information concerning, among other things, deadlines for filing a Claim Form, opting out, or objecting. Agreement § D.6.d; Angeion decl. ¶ 48.

A copy of the Parties' proposed Notice documents (short forms and long form) and Claim Form for the Court's review and approval are attached as Exhibit 2 to the Jacobson Declaration.

II. The settlement should be preliminarily approved.

In the Second Circuit, there is a "strong judicial policy in favor of settlements, particularly in the class action context." *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 116 (2d Cir. 2005). When reviewing a proposed settlement, courts consider four Rule 23 factors: (1) the adequacy of representation (by counsel and class representatives); (2) the existence of arm's-length negotiations; (3) the adequacy of the relief (taking into account case-specific circumstances); and (4) the equitable treatment of class members. Fed. R. Civ. P. 23(e)(2). The first two Rule 23(e)(2) factors address procedural fairness, while the remaining two address substantive concerns.

Courts also consider the nine *Grinnell* factors. *See Detroit v. Grinnell Corp.*, 495 F.2d 448 (2d Cir. 1974). These are: (1) the complexity, expense, and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery

completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through trial; (7) the ability of the defendant to withstand greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of the litigation. *Id.* at 463.⁵ The *Grinnell* factors largely “overlap” with Rule 23(e)(2)(C)-(D) (the substantive fairness factors). *Sonterra Capital Master Fund, Ltd. v. Barclays Bank PLC*, 2023 U.S. Dist. LEXIS 95908, 2023 WL 3749996, at *4 (S.D.N.Y. June 1, 2023).

A. The settlement is procedurally fair.

i. Plaintiffs and Class Counsel are adequate.

This analysis mirrors the adequacy required for certification under Rule 23(a)(4). *See In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 692 (S.D.N.Y. 2019) (applying the Rule 23(a) adequacy test for a Rule 23(e)(2)(A) analysis).

Class representatives are adequate if they “have an interest in vigorously pursuing the claims of the class, and . . . have no interests antagonistic to the interests of other class members.” *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 827 F.3d 223, 231 (2d Cir. 2016). “To assure vigorous prosecution, courts consider whether the class representative has adequate incentive to pursue the class’s claim and whether some difference between the class representative and some class members might undermine that incentive.” *Id.*

Plaintiffs have no interests that are antagonistic to putative class members. “[T]he fact that plaintiffs’ claims are typical of the class is strong evidence that their interests are not antagonistic to those of the class.” *In re Kind LLC “Healthy & All Nat.” Litig.*, 337 F.R.D. 581, 596 (S.D.N.Y. 2021).

⁵ Not every *Grinnell* factor need support the settlement for the settlement to be approved. *See, e.g., Charron v. Wiener*, 731 F.3d 241, 249 (2d Cir. 2013). And the “Court does not consider . . . the ‘reaction of the class to the settlement,’ . . . because consideration of this factor is premature at the preliminary approval stage.” *Soler v. Fresh Direct, LLC*, 2023 U.S. Dist. LEXIS 42647, 2023 WL 2492977, at *5 n. 3 (S.D.N.Y. Mar. 14, 2023).

As explained above (Section I.A), Plaintiffs have the same claims as the members of the proposed Settlement Class, allowing them to vigorously represent those individuals without presenting any “‘fundamental’ conflict[s] that go[] ‘to the very heart of the litigation.’” *In re Payment Card Interchange Fee*, 827 F.3d 223, 231. They, like all members of the Settlement Class, allegedly were exposed to the label claim that the Covered Products are “Non-Drowsy” and likewise allegedly suffered the same economic injury when they purchased the Covered Products (overpayment). *See* Compl. ¶¶ 46-47; 66; Calchi decl. ¶2; Papalia decl. ¶2. Plaintiffs therefore have the same interest in recovering damages and in remedying Haleon’s allegedly misleading advertising. And because the “Non-Drowsy” representations are uniform, there is no difference between Plaintiffs and class members that might undermine Plaintiffs’ ability to represent the class.

Plaintiffs’ adequacy is also demonstrated through their involvement in the case. *See de Lacour v. Colgate-Palmolive Co.*, 338 F.R.D. 324, 339 (S.D.N.Y. 2021). Here, Plaintiffs assisted counsel in the factual investigation necessary to file the Complaint, reviewed the Complaint, stayed updated on key litigation events, and evaluated and agreed to the terms of the settlement. *See* Calchi decl. ¶3; Papalia decl. ¶3. Plaintiffs are willing to serve as class representatives and understand their duty to represent the interests of the Settlement Class. *Id.*

In sum, Plaintiffs are adequate representatives for the Settlement Class.

Turning to Class Counsel, counsel are adequate if they are “qualified, experienced and able to conduct the litigation.” *Cordes & Co. Fin. Servs. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91, 99 (2d Cir. 2007). The Court previously appointed Dovel & Luner as interim class counsel because it found the adequacy requirement satisfied. ECF No. 29. It remains satisfied.

Dovel & Luner has been appointed lead counsel in multiple other cases and have successfully resolved—both through settlement and trial—consumer class actions. Jacobson decl. ¶ 11. The firm has significant experience litigating class actions, as well as substantial experience

litigating cases addressing products containing DXM yet marketed as “Non-Drowsy.” *Id.* ¶ 12. Counsel diligently litigated this case through the motion to dismiss, fully briefed the appeal, and achieved substantial relief for the class despite the adverse ruling on the motion to dismiss and the risk of affirmance on appeal. Dovel & Luner is adequate to represent the Settlement Class.

ii. Negotiations were arm’s-length.

As addressed above (Section I.C), the settlement resulted from arm’s-length negotiation between experienced counsel facilitated by an experienced class action mediator. And because the appeal was fully briefed, the Parties could assess the strength of the appellate arguments on either side. In these circumstances, courts find classwide settlement agreements to be arm’s-length. *Nichols v. Noom, Inc.*, 2022 U.S. Dist. LEXIS 123146, 2022 WL 2705354, at *22 (S.D.N.Y. July 12, 2022) (finding a settlement arm’s-length that was reached after “full-day mediations with [a] neutral third-party mediator”); *Reyes v. Summit Health Mgmt., LLC*, 2024 U.S. Dist. LEXIS 21061, 2024 WL 472841, at *8 (S.D.N.Y. Feb. 6, 2024) (finding a settlement arm’s-length when the parties were “aided ... by an experienced mediator.”).

B. The settlement is substantively fair.

1. The relief is excellent in light of the risks.

Rule 23(e)(2)(D) looks to whether the relief provided to the proposed class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the proposed class; (iii) the terms of any proposed award of attorney’s fees; and (iv) any other agreements made in connection with the proposed settlement. Here, all factors favor approval.

i. The costs, risks, and delay of further litigation are substantial.

This Rule 23(e) factor overlaps with the *Grinnell* factors that consider: (1) the complexity, expense, and likely duration of the litigation ... (4) the risks of establishing liability; (5) the risks of

establishing damages; (6) the risks of maintaining the class action through trial; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of the litigation. *Grinnell*, 495 F.2d at 463. The bottom-line question is whether the settlement provides fair relief, in light of the risks.

Here, Haleon already persuaded the Court to dismiss Plaintiffs' claims on preemption grounds. Another court in this district also dismissed comparable claims on preemption grounds. *See, e.g., Goldstein v. Walmart, Inc.*, 2022 U.S. Dist. LEXIS 196743 (S.D.N.Y. Oct. 28, 2022). The settlement was achieved in the face of the risk that the Second Circuit would affirm these decisions, leaving Plaintiffs and the proposed Settlement Class with zero relief.

And even if Plaintiffs prevailed on appeal and the litigation went forward, there would be substantial delay, costs, and further risks. A successful appeal would only return the case to the motion to dismiss stage for the Court to address the additional dispositive arguments raised in Haleon's motion to dismiss. If claims survived on the pleadings, Haleon still strongly contests liability and would present vigorous defenses. *See Agreement* at p. 3. Continued litigation would involve lengthy fact discovery and a battle of the experts over whether the products were appropriately labeled "Non-Drowsy" and whether DXM does cause drowsiness. This case is still a long way from proceedings to potentially certify a litigation class. *See Okla. Firefighters Pension & Ret. Sys. v. Lexmark Int'l, Inc.*, 2021 U.S. Dist. LEXIS 2807, 2021 WL 76328, at *7 (S.D.N.Y. Jan. 7, 2021) ("that Lead Plaintiff's motion for class certification had not been fully briefed—let alone decided—presented additional risks to Lead Plaintiff and the proposed class."). And even a positive certification ruling in Plaintiffs' favor could be challenged by a decertification motion, appeal, or both.

In sum, “litigation of this matter . . . through trial would be complex, costly and long.” *Manley v. Midan Rest. Inc.*, 2016 U.S. Dist. LEXIS 43571, at *23 (S.D.N.Y. Mar. 30, 2016). “The settlement eliminates [the] costs and risks” associated with further litigation. *Meredith Corp. v. SESAC, LLC*, 87 F. Supp. 3d 650, 663 (S.D.N.Y. 2015). “It also obtains for the class prompt [] compensation for prior [] injuries.” *Id.*

Given these risks, the settlement is excellent. Courts do not ask “whether the settlement represents the highest recovery possible . . . but whether it represents a reasonable one in light of the many uncertainties the class faces.” *Bodon v. Domino’s Pizzeria, LLC*, 2015 U.S. Dist. LEXIS 17358, 2015 WL 588656, at *17 (E.D.N.Y. Jan. 16, 2015) (internal quotes omitted); *Copley v. Bactolac Pharm., Inc.*, 2023 U.S. Dist. LEXIS 41936, 2023 WL 2470683, at *23 (E.D.N.Y. Mar. 13, 2023) (“[E]ven a fraction of the potential recovery does not render a proposed settlement inadequate” because the settlement “must be viewed in the context of all [the risks of litigation]”). Here, based on estimated claim rates, it is estimated that Eligible Claimants may receive between approximately \$1.50 and \$4.75 per Claim. Jacobson decl. ¶ 7. Though this is an estimate, with the potential for a lower or higher payment depending on Claims activity, the potential range represents an appreciable portion of the price of a Covered Product. *Id.*

Importantly, Haleon also has agreed to make significant changes to the labeling, advertising, and marketing of the Covered Products to cure the allegedly deceptive practice at the core of this case. This is a substantial additional benefit for the proposed Settlement Class. *See Nichols v. Noom, Inc.*, 2022 U.S. Dist. LEXIS 123146, 2022 WL 2705354, at *8 (S.D.N.Y. July 12, 2022) (“The settlement also provides robust business practice changes that will prevent Class Members’ future unintended purchases and provides additional safeguards . . .); *Jermyn v. Best Buy Stores, L. P.*, 2012 U.S. Dist. LEXIS 90289, 2012 WL 2505644, at *30 (S.D.N.Y. June 27, 2012) (the settlement “provides substantial and immediate benefits to Best Buy customers, mandating

important changes to how Best Buy deals with price matching within the company and in its stores”). This conduct-oriented relief not only benefits the Settlement Class but all future potential purchasers of a Covered Product, thereby satisfying the so-called tenth *Grinnell* factor: “social utility.” *Berkson v. Gogo, LLC*, 147 F. Supp. 3d 123, 131 (E.D.N.Y. 2015); *id.* at 133 (finding social utility achieved by a change in defendant’s website disclosures).

At bottom, the settlement is an excellent result in light of the risks of continued litigation. This factor strongly weighs in favor of approval.

ii. The method of distributing relief is efficient and reasonable.

Settlement Class Members can efficiently obtain relief through submission of a simple Claim Form. Agreement §§ C.5, D.6.c; Jacobson Decl. Ex. 2 (Claim Form). The Claim Form can be submitted online through the Settlement Website or by mail. And Settlement Class Members can receive payment by electronic means, as well as by check if that is their preference. The pro rata distribution is a “reasonable, rational basis,” given Plaintiffs’ theory of harm: that the misleading non-drowsy label equally inflated the price of each bottle. *See In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 694 (S.D.N.Y. 2019). The method of distributing relief is efficient and reasonable.

iii. The terms of the proposed attorneys’ fees are reasonable.

The Settlement Agreement contemplates Plaintiffs’ Counsel will seek up to 1/3 of the Settlement Fund for attorneys’ fees and costs, subject to Court approval, which is in line with federal benchmarks. In the Second Circuit, courts “favor the ‘percentage of the fund’ method of determining attorneys’ fees because it best aligns with the interests of the class and counsel.” *Medina v. NYC Harlem Foods Inc.*, 2024 U.S. Dist. LEXIS 10892, 2024 WL 230745, at *14 (S.D.N.Y. Jan 22, 2024) (quoting *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005)). And an award of attorneys’ fees of 33 percent “constitutes a proportion routinely approved as reasonable.” *In re Northern Dynasty Mins. Ltd. Sec. Litig.*, 2024 U.S. Dist. LEXIS 14438, 2024 WL 308242, at *41

(E.D.N.Y. Jan. 26, 2024); *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 991 F. Supp. 2d 437, 445 (E.D.N.Y. 2014) (“[I]t is very common to see 33% contingency fees in cases with funds of less than \$10 million”); *Burns v. Falconstor Software, Inc.*, 2014 U.S. Dist. LEXIS 203061, 2014 WL 12917621, at *21-22 (E.D.N.Y.) (collecting cases).

Further, there are no “red flags” or signs of collusion. *See Medina v. NYC Harlem Foods Inc.*, 2022 U.S. Dist. LEXIS 73263, 2022 WL 1184260, at *25 (S.D.N.Y. Apr. 21, 2022). The Parties agreed to the relief for the Settlement Class before discussing an appropriate attorneys’ fee or service award. Agreement § G.1; Jacobson decl. ¶ 5. The Settlement Fund is non-reversionary. Agreement § A.1.q. The settlement is not contingent on the Court granting counsel’s request for fees. Agreement § G.1.d. And the Settlement Agreement has no “clear sailing” clause (where a defendant agrees not to object to attorney fees). *See id.* At this preliminary stage, the terms of the proposed attorneys’ fees are reasonable.

iv. There are no side agreements.

There are no other agreements between the parties made in connection with the Settlement Agreement. Jacobson decl. ¶ 9.

2. The Settlement Agreement treats members of the Settlement Class equitably.

Courts find that pro rata distribution schemes, like the one called for here, are “sufficiently equitable.” *E.g., Sonterra Capital Master Fund, Ltd. v. Barclays Bank PLC*, 2023 U.S. Dist. LEXIS 95908, 2023 WL 3749996, at *11 (S.D.N.Y. June 1, 2023); *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 330 F.R.D. 11, 47 (E.D.N.Y. 2019); *Meredith Corp. v. SESAC, LLC*, 87 F.Supp.3d 650, 667 (S.D.N.Y. 2015). This is especially true here, given Plaintiffs’ theory of harm: that the allegedly misleading “Non-Drowsy” label inflated the cost of the Covered Products. Each Settlement Class Member is eligible to submit a Claim, even without proof of purchase. Also, Settlement Class Members who have proof of purchasing more Covered Products within the limitations period (up to

three purchases) may submit additional Claims and receive a correspondingly larger share.

Agreement § C.4.

Service Awards. The Second Circuit has recognized that service awards for settlement class representatives “fit snugly into the requirement of Rule 23(e)(2)(D)” so long as they are not “excessive compared to the service provided by the class representative or . . . unfair to the absent class members.” *Moses v. New York Times*, 79 F.4th 235, 245 (2d Cir. 2023) (quoting *Murray v. Grocery Delivery E-Servs. USA Inc.*, 55 F.4th 340, 353 (1st Cir. 2022)). Absent a service award, class representatives “have a fair argument that the settlement is not treating *them* equitably relative to the absent class members.” *Id.* (emphasis added) (quoting 5 Newberg and Rubenstein on Class Actions §§ 17:3-4). In recognition of these principles, “[c]ourts in this District have regularly approved service awards for individual representative plaintiffs ranging from \$1,000 to \$10,000.” *Reyes v. Summit Health Mgmt., LLC*, 2024 U.S. Dist. LEXIS 21061, 2024 WL 472841, at *14 n.5 (gathering cases).

Here, Plaintiffs at the appropriate time will request service awards of \$2,000 per Plaintiff. Agreement § G.1.b. Plaintiffs helped counsel with the factual investigation necessary to file the Complaint; reviewed the Complaint and consulted with counsel as to its contents; kept apprised of key litigation events; and evaluated and agreed to the terms of the settlement. *See* Calchi decl. ¶ 3; Papalia decl. ¶ 3. Compensating Plaintiffs \$2,000 for their time and effort is not “excessive” and does not render the Settlement Agreement unfair to absent class members.

3. Additional *Grinnell* factors support approval.

Under *Grinnell* factor three, the “pertinent question is ‘whether counsel had an adequate appreciation of the merits of the case before negotiating.’” *Capsolas v. Pasta Res., Inc.*, 2012 U.S. Dist. LEXIS 144651, 2012 WL 4760910, at *16 (S.D.N.Y. Oct. 5, 2012). This factor does not require “formal discovery” or even “extensive discovery”; “informal discovery” will do so long as “the

parties . . . engaged in sufficient investigation of the facts.” *In re Austrian & German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 167 (S.D.N.Y. 2000). Here, the Parties “had an adequate appreciation of the merits of the case” both through the extensive legal briefing completed before settlement negotiations began and through informal discovery leading up to the mediation. Jacobson decl. ¶ 3.

Grinnell factor seven considers whether Haleon likely could withstand a greater judgment. But “the ability of defendants to withstand greater judgment does not alone suggest the settlement is unfair or unreasonable.” *In re Facebook, Inc. IPO Sec. & Derivative Litig.*, 2015 U.S. Dist. LEXIS 152668, 2015 WL 6971424, at *15 (S.D.N.Y. Nov. 9, 2015). “[T]his factor, standing alone, does not suggest that the settlement is unfair.” *D’Amato v. Deutsche Bank*, 236 F.3d 78, 86 (2d Cir. 2001); *Sonterra Capital Master Fund, Ltd. V. Barclays Bank PLC*, 2023 U.S. Dist. LEXIS 95908, 2023 WL 3749996, at *12 (S.D.N.Y. June 1, 2023) (approving settlement against Deutsche Bank “despite the fact that Deutsche Bank could potentially withstand a greater judgment than the proposed Settlement Amount”).

In sum, the Settlement Agreement is procedurally and substantively fair. The Court should grant preliminary approval.

III. The Court should conditionally certify the Settlement Class.

To approve a classwide settlement, the “Court must also find that it will likely be able to certify the class for purposes of judgment on the proposal. A court may certify a class for settlement purposes where the proposed settlement class meets the requirements for Rule 23(a) class certification, as well as one of the three subsections of Rule 23(b).” *In re GSE Bonds Antitrust Litig.*, 414 F. Supp. 3d 686, 699-700 (S.D.N.Y. 2019) (internal cites omitted). This standard is met here.

A. The Settlement Class satisfies Rule 23(a).

1. The Settlement Class is numerous.

Rule 23(a)(1) is satisfied when the class is “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). “Although precise calculation of the number of class members is not required, numerosity is generally presumed when the prospective class consists of 40 members or more.” *Lizondro-Garcia v. Kefi LLC*, 300 F.R.D. 169, 174 (S.D.N.Y. 2014) (internal quotes omitted). The Second Circuit has found numerosity met where a proposed class is “obviously numerous.” *Marisol A. by Forbes v. Giuliani*, 126 F.3d 372, 376 (2d Cir. 1997). Here, the Covered Products at issue were sold nationwide and there are at least hundreds of thousands of Settlement Class Members. Compl. ¶ 64; Jacobson decl. ¶ 10. This element easily is met.

2. There are common questions of law and fact.

Rule 23(a)(2) requires questions of law or fact common to the proposed class. “Claims for relief need not be identical for them to be common.” *Johnson v. Nextel Commc’ns Inc.*, 780 F.3d 128, 137-138 (2d Cir. 2015). Rather, commonality requires only that “there be issues whose resolution will affect all or a significant number of the putative class members.” *Id.* That is why “[w]here the same conduct or practice by the same defendant gives rise to the same kind of claim from all class members, there is a common question.” *Id.* (quotation marks and citation omitted). In other words, commonality is satisfied if class members allege the same injury from the same conduct. *de Lacour v. Colgate-Palmolive Co.*, 338 F.R.D. 324, 337 (S.D.N.Y. 2021) (finding commonality in false advertising case when “[t]he alleged injuries to class members . . . flow[ed] from the same alleged misrepresentation”). And “even a single common question will do.” *Elisa W. v. City of New York*, 82 F. 4th 115, 127 (2d Cir. 2023) (internal quotes omitted).

Here, all Settlement Class Members purchased a “Non-Drowsy” Robitussin product. Agreement A.1.11. All Settlement Class members allege the same alleged harm (overpayment) from

the same alleged misrepresentation (the allegedly misleading “Non-Drowsy” claim). Compl. ¶¶ 1-3.

A core, common factual question is whether the Covered Products cause drowsiness because they are made with DXM, such that the “Non-Drowsy” claim is false and misleading. There are common questions associated with each cause of action asserted in the operative Complaint.

Nationwide warranty class. Plaintiffs assert a breach of express warranty claim on behalf of all members of the Settlement Class (Compl. Count IV). Central, common legal questions include: (1) whether the “Non-Drowsy” claim constitutes an express warranty about the product and (2) whether this warranty was breached because the products allegedly cause drowsiness. *See In re Sinus Buster Prods. Consumer Litig.*, U.S. Dist. LEXIS 158415, 2014 WL 5819921, at *10 (E.D.N.Y. Nov. 10, 2014) (for warranty claims, sufficient common issues include whether defendant “advertised or marketed the ... in a way that was false or misleading” and whether the products “did not conform to their stated representations”); *In re Nissan Radiator/Transmission Cooler Litig.*, 2013 U.S. Dist. LEXIS 116720, 2013 WL 4080946, at *53 (S.D.N.Y. May 30, 2013) (commonality is satisfied when products allegedly failed to perform in line with the warranty); *In re Sony SXRDR Rear Projection Television Class Action Litig.*, 2008 U.S. Dist. LEXIS 36093, 2008 WL 1956267, at *13-14 (S.D.N.Y. May 1, 2008) (same); *In re Skechers Toning Shoe Prods. Liab. Litig.*, U.S. Dist. LEXIS 113641, 2012 WL 3312668, at *9-10 (W.D. Ky. Aug. 13, 2012) (common question of fact is “whether wearing Skechers Toning Shoes provided the benefits promised in Skechers’s advertising and marketing materials” and “[c]ommon questions of law are ...whether Skechers breached the terms of an express warranty”).

Consumer protection subclasses. Plaintiffs assert consumer protection claims on behalf of multiple subclasses. Compl. Count I (multi-state consumer protection class that includes California, Connecticut, Washington D.C., Illinois, Maryland, Missouri, New York, and Washington); Count II (New York GBL § 349); Count III (New York GBL § 350). For these claims, a core common legal

question is whether the “Non-Drowsy” label is misleading to reasonable consumers. *See, e.g., Sharpe v. A&W Concentrate Co.*, 2021 U.S. Dist. LEXIS 160177, 2021 WL 3721392, at *9 (E.D.N.Y. July 23, 2021) (GBL § 349 and § 350 require “an objective standard” of materiality and therefore “typically ‘can be proved through evidence common to the class’ and presents ‘a common question’”); *Chester v. TJX Cos.*, 2017 U.S. Dist. LEXIS 201121, 2017 WL 6205788, at *14 (C.D. Cal. Dec. 5, 2017) (certifying a class asserting California UCL, FAL, and CLRA claims in part because “there is a common question of whether Defendant’s . . . advertising . . . w[as] likely to deceive a reasonable consumer”).⁶

3. Plaintiffs are typical.

Rule 23(a)(3) requires the class representatives’ claims or defenses be “typical of the claims or defenses of the class.” This requirement is satisfied when “each member’s claim arises from the same course of events and each class member makes similar legal arguments to prove the defendant’s liability.” *Elisa W. v. City of New York*, 82 F.4th 115, 128 (2d Cir. 2023). Where, as here, “the claims of a class stem from a single course of conduct, ‘the commonality and typicality requirements of Rule 23(a) tend to merge.’” *Id.* (quoting *Wal-Mart, Inc. v. Dukes*, 564 U.S. 338, 349 n.5 (2011)). In the false advertising context, the typicality requirement is satisfied when each class member’s claim arises from the same alleged misrepresentations. *See de Lacour v. Colgate-Palmolive Co.*, 338 F.R.D. 324, 337 (S.D.N.Y. 2021).

Plaintiffs’ claims arise from the same alleged misrepresentation as the claims of all members of the Settlement Class: the allegedly misleading “Non-Drowsy” label. Compl. ¶¶ 46-47, 66; Calchi

⁶ *Concannon v. Lego Sys.*, 2023 U.S. Dist. LEXIS 43329, 2023 WL 2526637, *61-62 (D. Conn. Mar. 15, 2023) (Connecticut “reasonable consumer” test); *Beyond Pesticides v. Monsanto Co.*, 311 F. Supp. 3d 82, 89 (D.D.C. 2018) (same for Washington, D.C.); *Bell v. Publix Super Mkts., Inc.*, 982 F.3d 468, 474-75 (7th Cir. 2020) (same for Illinois); *Sager v. Hous. Comm’n*, 855 F. Supp. 2d 524, 558 (D. Md. 2012) (same for Maryland); *Early v. Henry Thayer Co.*, 2021 U.S. Dist. LEXIS 136746, 2021 WL 3089025, *40-41 (E.D. Mo. July 22, 2021) (same for Missouri); *Young v. Toyota Motor Sales, U.S.A.*, 196 Wash. 2d 310, 317 (2020) (same for Washington).

decl. ¶ 2; Papalia decl. ¶ 2. And Plaintiffs suffered the same alleged economic injury: overpayment based on the misleading label. *Id.* So Plaintiffs are typical.

4. Plaintiffs and Dovel & Luner have fairly and adequately represented the Settlement Class.

Rule 23(a)(4) is satisfied if “the representative parties will fairly and adequately protect the interests of the class.” This analysis mirrors the adequacy required under Rule 23(e)(2)(A), for evaluating the fairness of a settlement addressed above (Section II.A.i). Both Plaintiffs and Class Counsel (Dovel & Luner) meet this requirement.

B. The Settlement Class satisfies Rule 23(b)(3).

Rule 23(b)(3) asks whether (1) “questions of law or fact common to the members of the class predominate over any questions affecting only individual members”; and (2) “a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” The proposed Settlement Class meets both requirements.

1. Common questions predominate.

In general, to “satisfy predominance, a plaintiff must show that those issues in the proposed action that are subject to generalized proof outweigh those issues that are subject to individualized proof.” *In re Sinus Buster Prods. Consumer Litig.*, 2014 U.S. Dist. LEXIS 158415, 2014 WL 5819921, at *13 (E.D.N.Y. Nov. 10, 2014) (internal quotes omitted). “The Supreme Court has noted that this test is readily met in certain cases alleging consumer ... fraud.” *Id.* (internal quotes omitted); *In re Sony SXRDRear Projection TV Class Action Litig.*, 2008 U.S. Dist. LEXIS 36093, 2008 WL 1956267, at *38 (S.D.N.Y. May 1, 2008) (same). And the “Second Circuit [has] noted that that ‘the predominance inquiry will sometimes be easier to satisfy in the settlement context’ because there is no need to deal with individualized issues at trial. *Tart v. Lions Gate Entm’t Corp.*, 2015 U.S. Dist. LEXIS 139266, 2015 WL 5945846, at *10 (S.D.N.Y. Oct. 13, 2015) (quoting *In re AIG Sec. Litig.*, 689 F.3d 229, 240 (2d Cir. 2012)).

a. Nationwide warranty class

As discussed above, all Settlement Class members allege the same harm (overpayment) from the same breach of the same alleged warranty (the allegedly misleading “Non-Drowsy” claim). In circumstances like these, courts in this Circuit and others find express warranty claims sufficiently cohesive to certify a nationwide settlement class. For example, in *Sinus Buster*, the common question of whether “Defendants misrepresented the effectiveness and quality of the Sinus Buster products sold in the United States” predominated over individualized issues. *In re Sinus Buster*, 2014 U.S. Dist. LEXIS 158415, 2014 WL 5819921, at *14 (certifying a nationwide warranty class in a false advertising case). And in *Sony*, common questions concerning whether the products failed to perform as promised predominated over any individualized issues. *In re Sony SXRDR Rear Projection TV Class Action Litig.*, 2008 U.S. Dist. LEXIS 36093, 2008 WL 1956267, at *39 (S.D.N.Y. May 1, 2008) (certifying a nationwide warranty class in a product defect case); *In re Nissan Radiator/Transmission Cooler Litig.*, 2013 U.S. Dist. LEXIS 116720, 2013 WL 4080946, at *21 (S.D.N.Y. May 30, 2013) (same). Courts in other districts likewise routinely certify nationwide warranty classes for settlement purposes. See *In re Sketchers Toning Shoe Prods. Liab. Litig.*, 2012 U.S. Dist. LEXIS 113641, 2012 WL 3312668 (W.D. Ky. Aug. 13, 2012) (certifying a nationwide warranty class in a false advertising case); *Date v. Sony Elecs., Inc.*, 2013 U.S. Dist. LEXIS 108095, 2013 WL 3945981, at *3 (E.D. Mich. July 31, 2013) (same); *Hanson v. MGM Resorts Int’l*, 2018 U.S. Dist. LEXIS 128718, 2018 WL 3630284 (W.D.W.A July 31, 2018) (same); *Burgos v. Sunvalleytek Int’l, Inc.*, 2020 U.S. Dist. LEXIS 233611, 2020 WL 7319354, at *14 (N.D. Cal. Dec. 11, 2020) (same); *In re M3 Power Razor Sys. Mktg. & Sales Practice Litig.*, 270 F.R.D. 45, 56 (D. Mass. 2010) (same).

And while this Court has declined to “adopt a blanket rule” that variations among state law are irrelevant to settlement classes, it has found legal claims sufficiently cohesive for certification of a nationwide settlement class when state laws share “fundamental elements.” *Rapoport-Hecht v. Seventh*

Generation, Inc., 2017 U.S. Dist. LEXIS 218781, 2017 WL 5508915, at *10 (S.D.N.Y. Apr. 28, 2017) (analyzing unjust enrichment claims and finally approving nationwide settlement class). This is true for warranty claims (which share the same fundamental U.C.C. approach); ⁷see also *Rapoport-Hecht* at *11 (citing with approval *In re Nissan* and *In re Sony*, both of which also approved nationwide warranty classes). And this Court has recognized that “the availability of subclasses vitiates any [] concerns” regarding “overbreadth or lack of cohesion.” *Id.* (explaining that, for settlements, there are not the same trial manageability concerns associated with subclasses); see *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, 299 F. Supp. 3d 430, 601 n.183 (S.D.N.Y. 2018) (“In the context of a settlement class, concerns about whether individual issues would create intractable management problems at trial--such as issues presented by variations in governing law -- drop out of the predominance analysis because the proposal is that there be no trial.”) (citing *Rapoport* with approval, internal quotes omitted)

In sum, the nationwide warranty class is sufficiently cohesive to warrant certification for settlement purposes.

b. Consumer protection subclasses

As addressed above, the asserted consumer protection claims all turn on the objective “reasonable consumer” standard. And they are all based on the same core facts: the allegedly

⁷ Any “variations in . . . ‘breaches of express and implied warrant[y] laws] across the states d[o] not defeat predominance” when certifying a settlement class “because ‘there [are] sufficient common issues to warrant a class action.’” *Jabbari v. Farmer*, 965 F.3d 1001, 1006 (9th Cir. 2020). The “vast majority” of states have adopted the warranty requirements of the Uniform Commercial Code (UCC), ensuring that warranty claims are sufficiently cohesive for settlement classes. *Haves v. Macy’s Inc.*, 2023 U.S. Dist. LEXIS 226617, 2023 WL 8811499, at *17 (S.D. Ohio Dec. 20, 2023); *In re Goody’s Family Clothing, Inc.*, 401 B.R. 131, 134 (Bankr. D. Del. 2009) (recognizing the “near unanimous nationwide adoption of Article 2 of the UCC”). For example, under the near-universal U.C.C. approach, a warranty is an “affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain.” U.C.C. § 2-313; see, e.g., *Lojenski v. Grp. Solar USA, LLC*, 2023 U.S. Dist. LEXIS 227806, at *42 (S.D.N.Y. Dec. 21, 2023) (same for Section 2-313 of the New York Uniform Commercial Code). So whether a particular statement—such as “Non-Drowsy”—meets this test is a core, common issue across state laws.

misleading “non-drowsy” label. In this situation, courts find predominance satisfied. *See In re Sinus Buster*, 2014 U.S. Dist. LEXIS 158415, 2014 WL 5819921, at *14 (predominance satisfied for multi-state consumer protection settlement class in a false advertising case); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1022-1023 (9th Cir. 1998) (“idiosyncratic differences between state consumer protection laws are not sufficiently substantive to predominate over the shared claims”); *Sharpe v. A&W Concentrate Co.*, 2021 U.S. Dist. LEXIS 160177, 2021 WL 3721392, at *14 (E.D.N.Y. July 23, 2021) (finding predominance satisfied for GBL litigation classes).

2. A classwide settlement is superior.

The superiority requirement asks whether a class action is “superior to other available methods of fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Courts consider: “(A) the class members' interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; [and] (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum.”⁸ *Id.* “Because ‘proceeding individually would be prohibitive for class members with small claims,’ a class action is ‘frequently superior to individual actions.’” *de Lacour v. Colgate-Palmolive Co.*, 338 F.R.D. 324, 345-46 (S.D.N.Y. 2021) (quoting *Seijas v. Republic of Argentina*, 606 F.3d 53, 58 (2d Cir. 2010)).

Here, individual claims are small, even for a full refund. *See* Compl. ¶ 44; Jacobson decl. ¶ 7. This means that it does not make sense for class members to bring individual claims, and instead claims should be concentrated in a class action. *See In re Kind LLC “Healthy & All Nat.” Litig.*, 337

⁸ Rule 23(b)(3) also asks courts to consider “the likely difficulties in managing a class action.” Fed. R. Civ. P. 23(b)(3)(D). But courts need not consider the difficulties of managing a class action when determining whether to certify a settlement class because there will be no further litigation. *See Rapoport-Hecht*, 2017 U.S. Dist. LEXIS 218781, 2017 WL 5508915, at *10.

F.R.D. 581, 608 (E.D.N.Y. 2021). And counsel is not aware of any other pending related cases against Haleon. A class action is the superior mechanism for resolving class members' claims.

C. The Settlement Class is ascertainable.

In addition to the Rule 23 requirements, some courts have recognized “ascertainability” as “an implied element of class certification.” *Lizondro-Garcia v. Kefi LLC*, 300 F.R.D. 169, 176 (S.D.N.Y. 2014). “Membership [in a class] should not be based on subjective determinations, such as the subjective state of mind of a prospective class member, but rather on objective criteria that are administratively feasible from the Court to rely on to determine whether a particular individual is a member of the class.” *Id.* (internal quotes omitted). This “modest” requirement is *not* an “administrative feasibility” test and it “does not directly concern itself with the plaintiffs’ ability to offer *proof of membership* under a given class definition.” *In re Petrobras Sec. Litig.*, 862 F.3d 250, 269 (2d Cir. 2017) (emphasis in original). Rather, the ascertainability requirement “will only preclude certification if a proposed class is indeterminate in some fundamental way”—the Court must know “who is suing about what.” *Id.*

Here, Settlement Class members are not identified by their “subjective state of mind” or other indeterminate characteristic, but rather objective criteria: whether they purchased one of the identified Covered Products within the Class Period. *See* Agreement §§ 1.h (defining Class Period), 1.k (defining Covered Products), 1.ll (defining Settlement Class). Class membership is ascertainable.

IV. The Court should approve the proposed Notice Plan and appoint the proposed Settlement Administrator.

Under Rule 23(e)(1), “[t]he court must direct notice in a reasonable manner to all class members who would be bound by” a proposed settlement. Here, the proposed Notice Plan developed in close coordination with an experienced administrator is the “best notice that is practicable under the circumstances” and should be approved. Fed. R. Civ. P. 23(b)(2)(B).

As addressed above (Section I.D.5) Angeion has significant experience administering class action settlements and anticipates that the proposed Notice Plan will provide the best notice practicable to members of the Settlement Class. Angeion will implement a media notice plan designed to hit the benchmark of 70% reach. In addition, Haleon will provide Angeion with available class member contact information to supplement the media notice with direct notice.

Angeion will also establish a Settlement Website, where members of the Settlement Class can review relevant documents, dates, and deadlines, and can submit a Claim. Angeion will also create a toll-free hotline for additional case information.

The notice forms are drafted in plain English and provide all relevant information about the case, the settlement, and Settlement Class Members' rights. Jacobson Decl. Ex. 2.

In whole, the notice plan provides best practicable notice under the circumstances.

V. The Court should enter the following settlement-related deadlines.

Subject to Court approval, the Parties agreed on the following settlement-related deadlines. Agreement § I. This schedule provides reasonable and sufficient time for notice, claims and objections:

Commence Notice Plan ("Notice Commencement Date")	21 days from the Preliminary Approval Date.
Claim Deadline	90 days from the Notice Commencement Date
Objection and Opt-Out Deadline	60 days from the Notice Commencement Date
Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards	30 days from the Notice Commencement Date (and 30 days prior to the Objection and Opt-Out Deadline)
Motion for Final Approval and Party Responses to any Objections	21 days prior to the Final Approval Hearing
Settlement Administrator must file or cause to be filed, if necessary, a supplemental declaration with the Court	5 days prior to the Final Approval Hearing
Final Approval Hearing	No earlier than 135 days from the Preliminary Approval Date (subject to Court availability)

Agreement § I. The deadlines are keyed off the date the Court enters Preliminary Approval. To illustrate, if Preliminary Approval is granted on August 2, and the Court is available for the Final Approval hearing on December 19, the deadlines could be:

Commence Notice Plan	August 23, 2024
Claim Deadline	November 21, 2024
Objection and Opt-Out Deadline	October 22, 2024
Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards	September 23, 2024
Motion for Final Approval and Party Responses to any Objections	November 26, 2024
Settlement Administrator must file or cause to be filed, if necessary, a supplemental declaration with the Court	December 13, 2024
Final Approval Hearing	December 19, 2024

* * *

The settlement meets all criteria for preliminary approval under Rule 23 and Second Circuit law. The Court should: (1) preliminarily approve the settlement; (2) certify the Settlement Class; (3) appoint Dovel & Luner LLP as Class Counsel and Plaintiffs Nancy Calchi and Stacey Papalia as class representatives; (4) appoint Angeion as the Settlement Administrator and approve the Notice Plan; and (5) schedule a Final Approval Hearing and stay all proceedings except those necessary to effectuate the settlement pending Final Approval. A detailed proposed order is attached.

Dated: July 22, 2024

Respectfully submitted,

By: /s/ Jonas Jacobson

Jonas B. Jacobson (Cal. Bar No. 269912)*
jonas@dovel.com
Simon Franzini (Cal. Bar No. 287631)*
simon@dovel.com
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Interim Lead Class Counsel

*Admitted Pro Hac Vice

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Nancy Calchi, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC, and GSK Consumer
Health, Inc.,

Defendants.

Lead Case No. 7:22-cv-01341-KMK

Stacey Papalia, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC,

Defendant.

Case No. 7:22-cv-02630-KMK

**Declaration of Jonas Jacobson in support of Plaintiffs' Unopposed Motion for
Preliminary Approval of Class Action Settlement and Conditional Class Certification**

I, Jonas Jacobson, declare as follows:

1. I am a partner at Dovel & Luner LLP. I am counsel for Plaintiffs and interim class counsel in this case. I make this declaration in support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Conditional Class Certification.
2. While the parties litigated the appeal in this matter, they spent several months conceptually discussing a potential classwide resolution. Before oral argument, the Parties then held a full-day mediation with Bruce Friedman at JAMS. Mr. Friedman has extensive experience mediating consumer class actions.
3. As part of that mediation, the Parties submitted mediation statements and exchanged information necessary to evaluate their respective settlement positions. Settlement negotiations were arms-length, contentious, and well-informed. And because the appeal was fully briefed, the parties could assess the strength of the appellate arguments on either side.
4. The mediation was successful and resulted in the terms of a classwide settlement. The parties jointly moved the Second Circuit to hold the appeal in abeyance in light of the settlement and anticipated approval proceedings, which the Second Circuit granted. Then parties then spent months negotiating the long-form agreement and supporting documents, soliciting bids from settlement administrators, and working with the proposed settlement administrator to develop a comprehensive Notice Plan.
5. At the mediation, and only after the Parties agreed to the material terms of the classwide relief, they discussed attorneys' fees and service awards under the supervision of the mediator.
6. Attached as Exhibit 1 is a true and accurate copy of the Parties' Settlement Agreement.
7. Based on the shared claims-rate experience of myself and counsel for Haleon, we

project that each Claim could be worth between \$1.50 and \$4.75. This is only an estimate and the final payment amount per Claim may be lower or higher, depending on the number of Claims, and will not be known until all Claims are received and processed. This projection is an appreciable percentage of the typical retail price of the Covered Products. For example, at Walgreens, an example Covered Product currently retails for \$11.99.¹

8. The parties selected Angeion Group to administer the settlement, after soliciting bids from four reputable administrators.

9. There are no other agreements between the parties made in connection with the Settlement Agreement.

10. The Covered Products at issue are sold nationwide. Based on sales information, it is estimated that there are at least hundreds of thousands of Class Members.

11. Dovel & Luner has been appointed lead counsel in multiple other cases and have successfully resolved—both through settlement and trial—consumer class actions. *E.g.*, *Goodrich, et al. v. Alterra Mountain Co., et al.*, No. 1:20-cv-01057-RM-SKC (D. Colo.), Dkt. 157 (granting final approval of a \$17.5 million settlement in a consumer class action); *Barr et al. v. Select Blinds, LLC*, No. 2:22-cv-08326-SPG-PD (C.D. Cal.), Dkt. 56 (granting final approval of a \$10 million settlement in a consumer class action). For example, the Dovel lawyers here were appointed co-lead counsel (among four competing groups) in a consumer protection class action in the District of Colorado. *Kramer v. Alterra Mt. Co.*, 2020 U.S. Dist. LEXIS 135770, at *8 (D. Colo.). The team was appointed for its “specific substantive investigation, research, and analysis already conducted to support and prosecute the claims on behalf of putative class members.” *Id.* at *8. Dovel also has the rare ability to try complex class actions to verdict. In April of 2019, the Dovel lawyers here obtained a \$925 million jury verdict in a TCPA class action pending in the District of Oregon. *Wakefield v. Visalus, Inc.*, No. 3:15-cv-1857-SI, 2020

¹ <https://www.walgreens.com/store/c/robatussin-adult-maximum-strength-cough---chest-congestion-dm-raspberry,-4-oz-/ID=300420156-product>

U.S. Dist. LEXIS 146959 (D. Or. Aug. 14, 2020).

12. The firm has significant experience not only litigating class actions, but also cases addressing the same subject matter at issue here: products containing DXM yet marketed as “Non-Drowsy.” From these cases, Dovel has developed a deep institutional knowledge of shared legal issues.²

13. True and accurate copies of the Parties’ proposed notice documents and Claim Form are attached as Exhibit 2.

I declare under penalty of perjury under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Signature: /s/ Jonas Jacobson

Jonas Jacobson

² E.g., *Gibson v. Albertsons Companies, Inc.*, No. 1:22-cv-00642 (N.D. Ill.), *Davis et al. v. The Kroger Company*, No. 2:22-cv-02082 (C.D. Cal.), *Calchi v. TopCo Associates, LLC*, No. 1:22-cv-00747 (N.D. Ill.), *Romoff v. Johnson & Johnson Consumer Inc.*, No. 22-3520 (E.D. Pa.), *Hall v. Walgreens Boots Alliance, Inc. et al.*, No. 1:22-cv-00024 (N.D. Ill.), *Goldstein v. Walmart, Inc.*, No. 1:22-cv-00088 (S.D.N.Y.).

EXHIBIT 1

Consumer Healthcare Holdings (US) LLC, No. 22-cv-02630-KMK (S.D.N.Y.) and Defendants GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (now known as Haleon US Holdings LLC) and GSK Consumer Health, Inc., (now known as Haleon US Inc. and, together with Haleon US Holdings LLC, shall hereinafter be referred to as “Haleon”), stipulate and agree, pursuant to the terms and conditions set forth in this Settlement Agreement, to settle, dismiss, and compromise the claims asserted against Haleon in the Litigation as set forth herein.

WHEREAS, the definitions appearing in Section A (“Definitions”) below and other terms defined in this Settlement Agreement are incorporated by reference in these introductory sections;

WHEREAS, during the Class Period, Haleon marketed, advertised, labeled, and sold the Covered Products;

WHEREAS, Plaintiffs have purchased Covered Products during the Class Period;

WHEREAS, Plaintiffs have asserted claims in the Litigation seeking to recover damages individually and on behalf of a nationwide class of purchasers of the Covered Products;

WHEREAS, Plaintiffs contend the Covered Products were deceptively and misleadingly marketed, advertised, labeled, and sold with claims of “Non-Drowsy” and utilizing derivative marketing language and images because they contain dextromethorphan (“DXM”);

WHEREAS, Plaintiffs also seek class-wide damages and equitable relief;

WHEREAS, Haleon has defended the Litigation on several grounds, including, in part, Haleon’s contentions that: (a) Plaintiffs’ claims that the Covered Products’ label could not include the “non-drowsy” statements are preempted because they seek to impose a requirement that is “different from,” “in addition to,” and “otherwise not identical with” the Food Drug and Cosmetic Act’s monograph regulations for over-the-counter cough medications; (b) the FDA monograph specifically considered the issue of DXM and drowsiness, and found that products with DXM do

not meet either the “may cause marked drowsiness” standard or even the modest “may cause drowsiness” standard; and (c) even the studies Plaintiffs have referenced contend DMX may cause drowsiness in only a small minority of users;

WHEREAS, the district court granted Haleon’s motion to dismiss on the grounds that Plaintiffs’ claims are preempted by order dated March 10, 2023 (ECF no. 45);

WHEREAS, Plaintiffs appealed the dismissal to the United States Court of Appeals for the Second Circuit, where it was fully briefed but not argued;

WHEREAS, Plaintiffs and Class Counsel have conducted a thorough investigation of the facts and law relating to the matters alleged in the Litigation. Plaintiffs and Class Counsel believe that the Litigation has substantial merit. However, Plaintiffs and Class Counsel recognize and acknowledge that the expense, length, and uncertainty of continued proceedings necessary to prosecute the Litigation against Haleon, particularly in light of the dismissal and need to prevail on appeal before litigating the matter through trial and any further appeals, will be a risky, costly, and time-consuming undertaking. Plaintiffs and Class Counsel also have taken into account the uncertain outcome of further litigation, especially in a complex suit such as this Litigation, as well as the difficulties and delays inherent in such litigation relative to the substantial benefits to be conferred on the Settlement Class by the settlement set forth in this Settlement Agreement. Plaintiffs and Class Counsel, therefore, have determined that the settlement is in the best interests of the Settlement Class and is fair, reasonable, and adequate;

WHEREAS, Haleon has denied and continues to deny vigorously the claims and allegations asserted by Plaintiffs, and any fault, wrongdoing, illegal conduct, or liability whatsoever on its part, and further has asserted numerous defenses to the facts and causes of action alleged in the Litigation. This Settlement Agreement shall not be construed as, or deemed to be

evidence of, an admission by Haleon of any fault, wrongdoing, or liability whatsoever, or that any of the allegations in the Litigation are true or support a claim. Without conceding any lack of merit in its defenses, Haleon considers it desirable to enter into this Settlement Agreement to avoid further expense, to dispose of burdensome and protracted litigation, and to avoid the uncertain outcome of proceeding in the Litigation;

WHEREAS, the Parties engaged in extensive, difficult, complex, and arm's length negotiations over a period of months regarding settlement. Additionally, the Parties participated in a full-day mediation session with JAMS mediator Bruce A. Friedman, Esq., which resulted in the settlement;

WHEREAS, the Parties desire and intend by this Settlement Agreement to settle finally and completely, and effectuate a final resolution of, the Litigation, and to provide for a complete full and final release of the Released Claims in favor of the Released Parties, as described below in detail;

WHEREAS, Plaintiffs and Haleon agree that this Settlement Agreement shall not be deemed or construed to be an admission, concession, or evidence of any violation of any federal, state, or local statute, regulation, rule, or other law, or principle of common law or equity, or of any liability or wrongdoing whatsoever by Haleon, or of the truth of any of the claims that the Plaintiffs have asserted against Haleon;

NOW, THEREFORE, it is hereby agreed and stipulated by and among Plaintiffs, individually and on behalf of the Settlement Class, and Haleon, through its undersigned counsel, and intending to be legally bound, that the allegations asserted in the Litigation shall be settled, fully and finally compromised and released, and dismissed on their merits with prejudice according to the terms and conditions set forth herein.

A. DEFINITIONS

1. As used in this Settlement Agreement, the following terms have the meanings set forth below.

a. The term “**Attorneys’ Fee, Cost, and Service Award**” means any and all attorneys’ fees, costs, and expenses, including any fees and costs for experts and consultants, for Class Counsel or other counsel in the Litigation (including Denlea & Carton, Papalia’s counsel), as well as any service payments to Plaintiffs that may be awarded by the Court in recognition of the risks Plaintiffs have undertaken and their time, cost, and effort in pursuing the Litigation on behalf of the members of the Settlement Class.

b. The term “**Claim**” means a claim made by a Claimant via the submission of a Claim Form to the Settlement Administrator pursuant to this Settlement Agreement.

c. The term “**Claimant**” means a Settlement Class Member who submits a Claim Form seeking a remedy pursuant to this Settlement Agreement.

d. The term “**Claim Form**” shall mean the form approved by the Court for use by Claimants to make Claims pursuant to this Settlement Agreement, which is to be substantially in the form of **Exhibit 1** hereto (subject to any modifications ordered by the Court). The Claim Form shall require each Claimant’s agreement to be bound by the Release set forth in this Settlement Agreement.

e. The term “**Claim Deadline**” means the deadline for Settlement Class Members to file claims, which shall be set for ninety (90) days following the Notice Commencement Date.

f. The term “**Claim Period**” means the time period from the Preliminary Approval Date to the Claim Deadline.

g. The term “**Class Counsel**” means Jonas B. Jacobson and Simon Franzini of Dovel & Luner, LLP

h. The term “**Class Period**” means the time period from February 16, 2016 through the Preliminary Approval Date.

i. The term “**Counsel for Haleon**” means J. Gordon Cooney, Jr., Franco A. Corrado, and Megan A. Suehiro of Morgan, Lewis & Bockius LLP.

j. The term “**Court**” means the United States District Court for the Southern District of New York.

k. The term “**Covered Products**” means any flavor Robitussin product with dextromethorphan and marketed as non-drowsy, including Robitussin Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength Liquid-Filled Capsules; Robitussin Cough+Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM / Nighttime Cough Long-Acting DM Day & Night Value Pack Syrups; Robitussin Sugar-Free Cough+Chest Congestion DM Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Elderberry Cough+Chest Congestion DM Maximum Strength Syrups; Children’s Robitussin Elderberry Cough & Chest Congestion DM Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength / Nighttime Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Day & Night Value Pack Syrups;

Robitussin Severe Cough + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength / Nighttime Severe Cough Flu + Sore Throat CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Multi-Symptom Cold CF Syrups; Children's Robitussin Cough & Cold CF Syrups; Robitussin Long-Acting CoughGels; Robitussin 12 Hour Cough Relief Extended-Release Grape Syrups; Robitussin 12 Hour Cough Relief Extended-Release Orange Syrups.

1. The term “**Effective Date**” means: (a) the expiration date of the time for filing notice of any appeal from a Final Approval Order by the Court if no appeal is filed; or (b) if an appeal is filed, the latest of (i) the date of final affirmance of that Final Approval Order, (ii) the expiration of the time for a petition for writ of certiorari to review the Final Approval Order if affirmed, the denial of certiorari, or, if certiorari is granted, the date of final affirmance of the Final Approval Order following review pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on certiorari to review the Final Approval Order that has the effect of confirming the Final Approval Order. For avoidance of doubt, the Effective Date shall not have been reached until the Court enters a Final Approval Order and there has been the successful exhaustion of all appeal periods without appeal or resolution of any appeals or certiorari proceedings in a manner upholding the Final Approval Order.

m. The term “**Eligible Claimant**” means a Claimant who has submitted a valid and timely Claim as determined by the Settlement Administrator subject to all rights of the Parties under the Settlement Agreement. The Parties agree that each Plaintiff may file a Claim as an Eligible Claimant.

n. The term “**Final Approval Hearing**” means the hearing conducted by the Court to determine whether to approve this settlement and to determine the fairness, adequacy, and reasonableness of this settlement.

o. The term “**Final Approval Order**” means the Final Approval Order of the Court approving the settlement, which is to be agreed upon by the Parties and submitted with Plaintiffs’ Motion for Final Approval.

p. The term “**Final Judgment**” means the Court’s final judgment, which is to be agreed upon by the Parties and submitted with Plaintiffs’ Motion for Final Approval.

q. The term “**Gross Settlement Fund**” means the total non-reversionary settlement payment of Four Million Five Hundred Thousand Dollars (\$4,500,000.00), to be paid by Haleon for the benefit of the Settlement Class, to be funded pursuant to the schedule set forth in this Settlement Agreement, and to be used to pay all Claims of Eligible Claimants, as well as any Attorneys’ Fee, Cost, and Service Award and any Settlement Administration Costs that are approved by the Court.

r. The term “**Haleon**” means GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (now known as Haleon US Holdings LLC) and GSK Consumer Health, Inc. (now known as Haleon US Inc.).

s. The term “**Litigation**” means *Calchi v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, et al*, No. 22-cv-01341-KMK (S.D.N.Y.) and *Papalia v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC*, No. 22-cv-02630-KMK (S.D.N.Y.).

t. The term “**Notice of Settlement**” means the long-form Notice of Class Action Settlement substantially in the form attached as **Exhibit 2** hereto, subject to the approval of the Court in the Preliminary Approval Order.

u. The term “**Net Settlement Fund**” means the Gross Settlement Fund minus any Court-approved Attorneys’ Fee, Cost, and Service Award and any Settlement Administration Costs.

v. The term “**Notice Commencement Date**” shall have the meaning ascribed to it in Paragraph D.6. of this Settlement Agreement.

w. The term “**Notice Plan**” shall have the meaning ascribed to it in Paragraph D.6. of this Settlement Agreement.

x. The term “**Objection and Opt-Out Deadline**” means the deadline for Settlement Class Members to object to this Settlement Agreement or opt-out of the Settlement Class.

y. The term “**Parties**” means Plaintiffs and Haleon.

z. The term “**Person**” or “**Persons**” means any individual or entity, public or private.

aa. The term “**Plaintiffs**” means Nancy Calchi and Stacey Papalia.

bb. The term “**Preliminary Approval Date**” means the date on which the Court enters the Preliminary Approval Order.

cc. The term “**Preliminary Approval Order**” means the proposed Preliminary Approval Order of the Court preliminarily approving the settlement, which is to be substantially in the form of Exhibit 3 hereto.

dd. The term “**Qualifying Proof of Purchase**” means receipts or any other reliable documentation demonstrating that the Claimant purchased a Covered Product.

ee. The term “**Release**” means the release set forth in this Settlement Agreement.

ff. The term “**Released Claims**” means the claims released as set forth in this Settlement Agreement.

gg. The term “**Released Parties**” is defined below.

hh. The term “**Releasing Parties**” is defined below.

ii. The term “**Settlement Administrator**” mean Angeion Group, which shall effectuate and administer the Notice Plan, distribute the Settlement Notice, and administer the exclusion process for opt-outs, the Claim process, and distribution(s) to Eligible Claimants under the supervision of the Parties and the Court, and which firm is independent of Plaintiffs, Class Counsel, Haleon, and Counsel for Haleon. All reasonable fees and costs billed by the Settlement Administrator will be paid from the Gross Settlement Fund. Reasonable fees and costs of notice and administration billed prior to the creation of the Gross Settlement Fund will be advanced by Haleon and paid within ten (10) business days of receipt of any invoice for such costs of notice and administration. All amounts advanced by Haleon prior to the creation of the Gross Settlement Fund will be credited towards Haleon’s payment of the Gross Settlement Fund into the Settlement Escrow Account.

jj. The term “**Settlement Administration Costs**” means the reasonable fees and expenses of the Settlement Administrator incurred in the administration of this settlement and approved by the Court, including the reasonable costs associated with the Notice Plan and the Settlement Notice; the administering, calculating, and distributing of the Net Settlement Fund to Eligible Claimants; other fees, expenses, and costs of Claim administration; the fees, expenses, and costs incurred in connection with the taxation of the Settlement Escrow Account (including without limitation expenses of tax attorneys and accountants, if any); and all other reasonable third-party fees, expenses, and costs incurred by the Settlement Administrator or other consultants

retained by agreement of the Parties or by authority of the Court to assist with the Notice Plan, claims administration, and/or in connection with effectuating the settlement of the Litigation.

kk. The term “**Settlement Agreement**” means this written agreement.

ll. The term “**Settlement Class**” means the following for settlement purposes

only:

All purchasers of any flavor Robitussin product with dextromethorphan and marketed as non-drowsy, including Robitussin Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength Liquid-Filled Capsules; Robitussin Cough+Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM / Nighttime Cough Long-Acting DM Day & Night Value Pack Syrups; Robitussin Sugar-Free Cough+Chest Congestion DM Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Elderberry Cough+Chest Congestion DM Maximum Strength Syrups; Children’s Robitussin Elderberry Cough & Chest Congestion DM Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength / Nighttime Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Severe Cough + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength / Nighttime Severe Cough Flu + Sore Throat CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Multi-Symptom Cold CF Syrups; Children’s Robitussin Cough & Cold CF Syrups; Robitussin Long-Acting CoughGels; Robitussin 12 Hour Cough Relief Extended-Release Grape Syrups; Robitussin 12 Hour Cough Relief Extended-Release Orange Syrups for personal or household use, and not for resale, in the United States during the Class Period. Specifically excluded from the Settlement Class are (i) Haleon, its officers, directors, affiliates, legal representatives, employees, successors, and assigns, and entities in which Haleon has a controlling interest; (ii) judges presiding over the Litigation; (iii) local, municipal, state, and federal governmental entities; (iv) counsel of record for the Parties; and (v) all Persons who validly opt-out in a timely manner.

mm. The term “**Settlement Class Member**” means a member of the Settlement

Class who does not submit a timely and valid request for exclusion from the settlement.

nn. The term “**Settlement Escrow Account**” means an interest-bearing escrow account, which shall be treated at all times as a “Qualified Settlement Fund” for federal income tax purposes pursuant to Internal Revenue Code (“Code”) § 468B and the Regulations issued thereto.

oo. The term “**Settlement Notice**” means the notice or notices required by the Notice Plan approved by the Court for providing notice of this settlement to the Settlement Class as set forth in Paragraph D.6.

pp. The term “**Settlement Payment**” means a settlement check or electronic payment sent by the Settlement Administrator to an Eligible Claimant.

qq. The term “**Settlement Website**” means the Settlement Website to be established by the Settlement Administrator pursuant to the terms of this Settlement Agreement.

rr. The term “**Taxes**,” for purposes of the Qualified Settlement Fund, means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest, or penalties) arising in any jurisdiction, if any, (1) with respect to the income or gains earned by or in respect of the Settlement Escrow Account, or (2) by way of withholding as required by applicable law on any distribution by the Settlement Administrator of any portion of the Settlement Escrow Account to Settlement Class Members or other Persons entitled to such distributions pursuant to this Settlement Agreement.

B. CERTIFICATION OF THE SETTLEMENT CLASS AND CLASS REMEDY

1. **Settlement Class Certification**. Pursuant to the procedure described herein, Plaintiffs will seek the Court’s certification of the Settlement Class for settlement purposes only pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3).

2. **Appointment of Class Counsel.** Plaintiffs will seek the Court's appointment of Jonas B. Jacobson and Simon Franzini of Dovel & Luner, LLP as Class Counsel.

3. **Preliminary Approval.**

a. Class Counsel shall file a Motion for Preliminary Approval of Class Action Settlement requesting that the Court certify the Settlement Class for settlement purposes only and enter a proposed Preliminary Approval Order.

b. The Motion for Preliminary Approval of Class Action Settlement shall seek to appoint Plaintiffs as representatives of the Settlement Class. Plaintiffs, who have executed this Settlement Agreement and agree to be bound by it, believe the settlement is in the best interests of the Settlement Class.

c. The proposed Preliminary Approval Order shall:

- i. Find that the requirements for certification of the Settlement Class have been satisfied, appoint Plaintiffs as the representatives of the Settlement Class, appoint Class Counsel as counsel for the Settlement Class, and preliminarily approve the settlement as being within the range of reasonableness such that the Settlement Notice should be sent to the members of the Settlement Class;
- ii. Approve and direct the implementation of the Notice Plan and Settlement Notice as set forth in this Settlement Agreement;
- iii. Schedule the Final Approval Hearing not earlier than 135 days following the Preliminary Approval Date;
- iv. Appoint Angeion Group as the Settlement Administrator;

- v. Find that the Settlement Escrow Account is to be a “Qualified Settlement Fund” as defined in § 1.468B-1(c) of the Treasury Regulations;
- vi. Provide that any objections by any Settlement Class Member to the Settlement Agreement shall be heard and considered by the Court at the Final Approval Hearing only if, on or before the Objection and Opt-Out Deadline specified in the Settlement Notice and the Preliminary Approval Order, such objecting Settlement Class Member follows the procedures set forth in this Settlement Agreement and approved by the Court;
- vii. Establish dates by which the Parties shall file and serve all papers in support of the motion for final approval of the settlement, in response to any valid and timely objections, and/or in support of any attorneys’ fees and expenses and service awards;
- viii. Provide that all Settlement Class Members will be bound by the Final Approval Order and the Final Judgment unless such Person timely submits to the Settlement Administrator a timely and valid written request for exclusion in accordance with this Settlement Agreement and the Settlement Notice approved by the Court;
- ix. Provide that, pending the Final Approval Hearing and the Effective Date, all proceedings in the Litigation, other than proceedings necessary to carry out or enforce the terms and conditions of this Settlement Agreement, shall be stayed;

- x. Provide that, pending the Final Approval Hearing, Plaintiffs and all Settlement Class Members are enjoined from commencing or prosecuting, either directly or indirectly, any action asserting any of the Released Claims against any of the Released Parties, unless they have submitted a timely and valid request for exclusion from the settlement; and
- xi. Issue other related orders to effectuate the preliminary approval of the proposed settlement.

d. Following entry of the Preliminary Approval Order, the Notice Plan shall be effectuated in the manner directed and approved by the Court. The Parties agree that the methods of Settlement Notice described in this Settlement Agreement are valid and effective and that they provide reasonable and the best practicable notice to at least 70% of the Settlement Class.

e. Upon entry of the Preliminary Approval Order, Plaintiffs, Class Counsel, Haleon, and Counsel for Haleon agree to use reasonable and good faith efforts to effectuate the Court's final approval of this Settlement Agreement, including filing the necessary motion papers and scheduling any necessary hearings for a date and time that are convenient for the Court.

C. CONSIDERATION TO THE SETTLEMENT CLASS

1. Creation of Settlement Fund.

a. Haleon shall pay the Gross Settlement Fund as follows. Within ten (10) business days after the Preliminary Approval Date, Haleon will deposit or cause to be deposited into the Settlement Escrow Account a cash sum equal to the maximum "not to exceed" price obtained from the Settlement Administrator to cover Settlement Administration Costs.

b. Within thirty (30) days of the Court entering the Final Approval Order (and, if in a separate order, the later of the Final Approval Order and an order approving the Attorneys' Fees, Costs, and Service Awards), Haleon will deposit or cause to be deposited into the Settlement Escrow Account the cash sum required to complete the funding of the Gross Settlement Fund.

c. Interest earned on monies in the Settlement Escrow Account shall accrue to the benefit of the Settlement Class (and shall be available to pay Eligible Claimants pro rata), and shall accrue separately to Class Counsel and Plaintiffs in proportion to the Court-approved Attorneys' Fee, Cost, and Service Award.

d. Any and all Taxes on the income of the Settlement Escrow Account shall be timely paid out of the Settlement Escrow Account.

e. The Settlement Escrow Account shall be treated as a Qualified Settlement Fund from the earliest date possible, and the Parties agree to any "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)) required to treat the Settlement Escrow Account as a Qualified Settlement Fund from the earliest date possible. The Settlement Administrator shall timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter cause the appropriate filings to occur.

f. The Settlement Escrow Account shall be taxed on its modified gross income, excluding the sums, or cash equivalents of things, transferred to it. In computing the Settlement Escrow Account's modified gross income, deductions shall be allowed for, *inter alia*, administrative costs and other incidental deductible expenses incurred in connection with the operation of the Settlement Escrow Account, including, without limitation, state and local taxes, and legal, accounting, and actuarial fees relating to the operation of the Settlement Escrow Account. All such computations of the Settlement Escrow Account's modified gross income, as

well as any exclusions or deductions thereto, shall be compliant and consistent with Treas. Reg. § 1.468B-2(b)(1)-(4).

g. The Settlement Administrator shall be responsible for filing federal, state, and local tax returns for the Settlement Escrow Account and paying from the Settlement Escrow Account any Taxes owed with respect to the Qualified Settlement Fund. In accordance with § 1.468B-2(l)(2) of the Treasury Regulations, the Settlement Administrator shall be responsible for filing all federal, state, and local information returns and ensuring compliance with reporting requirements with regards to any distributions from the Qualified Settlement Fund. The Settlement Administrator shall apply for an employer identification number for the Escrow Account pursuant to Internal Revenue Service Form SS-4, and in accordance with Treas. Reg. § 1.468B-2(k)(4). In no event shall Plaintiffs, Class Counsel, Counsel for Haleon, or any of the Released Parties have any obligation, responsibility, or liability arising from or relating to the administration, maintenance, preservation, investment, use, allocation, adjustment, distribution, disbursement, or disposition of any funds in the Settlement Escrow Account.

h. For the purpose of § 468B of the Code, the “transferor” shall be Haleon. Haleon shall supply to the Settlement Administrator the statement required by Treas. Reg. § 1.468B-3(e) by February 15 of the calendar year following the calendar year in which a transfer is made to the Settlement Escrow Account under this settlement.

i. The Settlement Administrator shall be empowered to take all such actions as it deems necessary to ensure that the Settlement Escrow Account is treated as a “Qualified Settlement Fund” under § 468B of the Code. Further, the Settlement Administrator may petition the Court to amend, either in whole or in part, any administrative provision of this Settlement

Agreement that causes unanticipated tax consequences or liabilities inconsistent with the foregoing.

j. In accordance with Treas. Reg. § 1.468B-2(j), the taxable year of the Settlement Escrow Account shall be the calendar year, and the Settlement Escrow Account shall use an accrual method of accounting, within the meaning of § 446(c) of the Code.

k. If the Effective Date is not achieved, then any monies in the Settlement Escrow Account including interest accrued shall be returned to Haleon except those funds already paid to reimburse the Settlement Administrator for reasonable notice and administration fees and expenses actually incurred.

2. **No Other Payments.** Other than its contributions to the Gross Settlement Fund as set forth above, Haleon shall have no obligation to make any additional payment whatsoever in connection with the settlement, this Settlement Agreement, the Notice Plan, and/or the settlement administration.

3. **Haleon's Dealings with Settlement Class Members.** If contacted about this Settlement Agreement or a Claim by a Settlement Class Member or a Claimant, Haleon will use reasonable efforts to refer that Person to the Settlement Administrator by providing to them the name of the Settlement Administrator, the domain name of the Settlement Website, and the established toll free number regarding the settlement.

4. **Monetary Relief.** The settlement shall provide the following monetary relief to Eligible Claimants from the Settlement Escrow Account.

a. Only one (1) Claim may be filed per household without Qualifying Proof of Purchase.

b. Up to three (3) Claims may be filed per household with a corresponding Qualifying Proof of Purchase for each such Claim.

c. The Net Settlement Fund will be distributed to Eligible Claimants on a pro rata basis so that the Net Settlement Fund is exhausted.

d. Settlement Class Members will be eligible to begin submitting Claims the first business day after the Preliminary Approval Date.

5. **Claim Process.**

a. The Settlement Administrator will develop a Claim Form and submission process that contains reasonable anti-fraud provisions and mechanisms to facilitate the validation and verification of Claims and the allocation of the Settlement Payments to Eligible Claimants.

b. Any Settlement Class Member who wishes to submit a Claim must timely complete, sign (by hard copy or electronic signature), and submit a Claim Form and provide the Settlement Administrator with all requested information. All Claim Forms shall be submitted to the Settlement Administrator under oath. Claim Forms shall be processed in the order in which they are received, to the extent practicable. Class Counsel and Counsel for Haleon shall have the right to review the Claim files of the Settlement Administrator at any time. The Settlement Administrator shall have the right to confer with Class Counsel and Counsel for Haleon with respect to any Claim.

c. The Claim Form must be valid and complete on the first submission; however, the Settlement Administrator will have the right to request additional information to validate suspicions or potentially fraudulent Claims. Claimants shall not have the right or opportunity to cure any Claim deficiency or to receive notice of any such deficiency. All decisions by the Settlement Administrator are final and not subject to appeal.

6. **Claim Review.** If the Settlement Administrator suspects fraud or misleading conduct with respect to any Claim, then the Settlement Administrator will immediately bring the Claim to the attention of Class Counsel and Counsel for Haleon, who shall meet and confer with the Settlement Administrator concerning the Claim, including whether the Claim should be denied. Class Counsel and Counsel for Haleon reserve the right to bring the Claim to the attention of the Court.

7. **Distribution Of Eligible Claimants.** The Settlement Administrator shall begin paying timely, valid, and approved Claims no later than thirty (30) days after the Effective Date. The Settlement Administrator shall pay Eligible Claimants by electronic means to the extent possible. Settlement Payments issued by check will remain valid for 180 days, and such expiration period shall be printed on the face of each check. Class Members shall not be entitled to request a reissued check after expiration of the 180-day period. The Settlement Payment will be deemed void once the 180-day period expires.

8. **Uncashed Settlement Payment Checks.** If Settlement Payments sent to Eligible Claimants remain uncashed or otherwise not redeemed after expiration of the 180-day period, then the total amount of those unclaimed checks shall be donated to the National Consumer Law Center.

9. **Other Relief.**

a. **Label Change.** No later than One Hundred Sixty (160) days following the Effective Date (the “Labeling Effective Date”), Haleon agrees that it will cease marketing and distributing the Covered Products with labels bearing the “Non-Drowsy” statement and will exclude the “Non-Drowsy” statement from any future marketing or advertisements that describe the Covered Products created by Haleon or at Haleon’s direction. Haleon shall not be required to change or replace the labels on any Covered Products manufactured, marketed, or distributed prior

to the Labeling Effective Date, to recall any Covered Products sold or distributed by or at the direction of Haleon prior to the Labeling Effective Date, or to recall advertisements or other marketing materials distributed by or at the direction of Haleon prior to the Labeling Effective Date.

b. Nothing in this Settlement Agreement shall bar Haleon from describing the Covered Products as “Non-Drowsy” or utilizing any derivative of that statement on the label or in marketing or advertisements to comply or be in accord with further guidance from the U.S. Food and Drug Administration concerning use of the term “non-drowsy” (or any synonymous or materially-equivalent claim) to describe products containing DXM and/or to comply with any future revisions to the OTC Monograph.

c. Nothing in this Settlement Agreement shall (i) prevent Haleon from making any other changes to the Covered Products’ labels, advertisements, or other marketing materials provided that those changes are not inconsistent with the provisions of this Section or (ii) apply to any Haleon product other than the Covered Products.

D. SETTLEMENT ADMINISTRATOR AND NOTICE PLAN

1. **Appointment of Settlement Administrator.** The Settlement Administrator will be appointed by the Court in the Preliminary Approval Order. The Settlement Administrator shall be responsible for administering the Claim process and taking other actions as set forth in this Settlement Agreement. The reasonable fees and expenses of the Settlement Administrator shall be paid from the Gross Settlement Fund. The Settlement Administrator shall provide Class Counsel and Counsel for Haleon with a Notice Plan that will be filed with Plaintiffs’ Motion for Preliminary Approval and that shall set forth a detailed estimate and a “not to exceed” price for performing all

tasks and duties regarding this settlement. The Settlement Administrator's subsequent invoices through the Final Approval Hearing shall be approved by the Court in its Final Approval Order.

2. **No Liability for Claims Administered Pursuant to the Settlement Agreement.**

No Person shall have any claim against Haleon, Counsel for Haleon, Plaintiffs, Class Counsel, the Released Parties, and/or the Settlement Administrator based on any determinations, distributions, or awards made with respect to any Claim. For the avoidance of doubt, in no event shall Plaintiffs, Class Counsel, Haleon, Counsel for Haleon, or any Released Party have any liability for claims of intentional, wrongful, or negligent conduct on the part of the Settlement Administrator or its agents.

3. **Settlement Administrator Duties.** The Settlement Administrator shall:

- a. Use personal information acquired through the administration of the settlement solely for purposes of effectuating the Notice Plan and evaluating and paying Claims.
- b. Assign a manager to oversee the protection and appropriate management of personal information including, without limitation, for purposes of maintaining its confidentiality.
- c. Review its internal system to manage the protection of personal information to ensure consistent performance and constant improvement.
- d. Take security countermeasures to prevent unauthorized access to personal information and the loss, destruction, falsification, and/or leakage of personal information.
- e. If outsourcing the handling of personal information, determine that outsourced companies take steps to ensure appropriate management of the information to prevent leaks of personal or confidential information, and prohibit reuse of information for other purposes.
- f. Respond immediately with appropriate measures when necessary to disclose, correct, stop using, or eliminate contents of information.

g. Within one hundred and twenty (120) days after the completion of any check-cashing period following the Claim Deadline, and in compliance with applicable retention law, destroy all personal information obtained in connection with this settlement in a manner most likely to guarantee that such information shall not be obtained by unauthorized Persons.

4. **Settlement Administrator Accounting.** The Settlement Administrator shall maintain a complete and accurate accounting of all receipts, expenses (including settlement administration costs), and payments made pursuant to this Settlement Agreement. The accounting shall be made available on reasonable notice to Class Counsel and Counsel for Haleon.

5. **Removal of Settlement Administrator.** If the Settlement Administrator fails to perform adequately, then the Parties may agree to petition the Court to remove and replace the Settlement Administrator.

6. **Notice Plan.** The Notice Plan utilized to provide notice of this settlement to the Settlement Class shall be approved by the Court in the Preliminary Approval Order. The cost of the Notice Plan shall be paid out of the Gross Settlement Fund. The Settlement Administrator shall commence the Notice Plan no later than twenty-one (21) days after the Preliminary Approval Date (the “Notice Commencement Date”). The Notice Plan shall be effectuated by the Settlement Administrator in a manner that satisfies the due process rights of the Settlement Class, and shall include, at a minimum:

a. **Notice of Settlement.** The Notice of Settlement substantially in the form attached hereto as **Exhibit 2** and a Claim Form substantially in the form attached hereto as **Exhibit 1** (subject to any modifications from the Court) shall be made available in the best method most practicable under the circumstances to all members of the Settlement Class who are identifiable to the Settlement Administrator through reasonable means. Haleon will provide the Settlement

Administrator with reasonably available and accessible information that identifies possible members of the Settlement Class from their existing records.

b. **Publication**. The Settlement Administrator shall design and implement a plan for notification of the settlement to members of the Settlement Class through the best method most practicable under the circumstances, designed to target purchasers of the Covered Products. The short form publication notice will be substantially in the form attached hereto as **Exhibit 4** (subject to any modifications from the Court).

c. **Settlement Website**. No later than the Notice Commencement Date, the Settlement Administrator shall establish and make live the Settlement Website, which shall be an Internet website concerning the settlement utilizing the domain name www.NonDrowsyRobitussinSettlement.com. The Settlement Website shall be maintained by the Settlement Administrator until 120 days after the time period for cashing all Settlement Payment checks has expired. The domain name of the Settlement Website shall be included in all Settlement Notices. The Settlement Website shall provide, at a minimum: (i) information concerning deadlines for filing a Claim Form, and the dates and locations of relevant Court proceedings, including the Final Approval Hearing; (ii) the toll-free phone number; (iii) copies of the Settlement Agreement, the Notice of Settlement, the Claim Form, Court Orders regarding this settlement, and other relevant Court documents, including Class Counsel's Motion for Approval of Attorneys' Fees, Costs, and Service Awards; and (iv) information concerning the submission of Claim Forms, including the ability to submit Claim Forms electronically.

d. **Toll-Free Number**. No later than the Notice Commencement Date, the Settlement Administrator shall establish a toll-free telephone number utilizing Interactive Voice Response technology and providing general information concerning deadlines for filing a Claim

Form, opting out of or objecting to the settlement, and the dates and locations of relevant Court proceedings, including the Final Approval Hearing. The toll free number shall be maintained by the Settlement Administrator during the time period that the Settlement Website is active. The toll-free telephone number shall be included on the Settlement Website and in the Notice of Settlement.

e. **CAFA Notice**. Pursuant to 28 U.S.C. § 1715, Haleon, through the Settlement Administrator, shall mail all required notices in accordance with their obligations thereunder.

7. **Proof of Compliance with Notice Plan**. The Settlement Administrator shall provide Class Counsel and Counsel for Haleon with a declaration detailing all of its efforts regarding the Notice Plan, its timely completion of the Notice Plan, and its reach to the members of the Settlement Class, to be filed as an exhibit to Plaintiffs' Motion for Final Approval of Class Action Settlement.

8. **Settlement Administrator Database**. The Settlement Administrator shall maintain and preserve records of all of its activities in a computerized database with easily retrievable records related to the settlement, including logs of all telephone calls, emails, faxes, and mailings; visits to the Settlement Website; and all other contacts with actual and potential members of the Settlement Class. The database shall also include a running tally of the number and types of materials mailed or disseminated by the Settlement Administrator. The Settlement Administrator shall provide Class Counsel and Counsel for Haleon with weekly written reports throughout the Claim Period summarizing all statistics and actions taken by the Settlement Administrator in connection with administering the settlement.

E. OPT-OUTS AND OBJECTIONS

1. Requests for Exclusion.

a. Settlement Class Members may submit a request for exclusion from (*i.e.*, “opt-out” of) the settlement pursuant to Federal Rule of Civil Procedure 23(c)(2)(B)(v). A member of the Settlement Class who submits a request for exclusion cannot object to the settlement and is not eligible to receive any Settlement Payment.

b. To validly request exclusion from the Settlement Class, a member of the Settlement Class must submit a written opt-out request to the Settlement Administrator so that it is postmarked by the Objection and Opt-Out Deadline stating that “I wish to exclude myself from the Settlement Class in the Robitussin Non-Drowsy Class Action Settlement” (or substantially similar clear and unambiguous language). That written request shall contain said Person’s printed name, address, telephone number, and email address. The request for exclusion must contain the written signature of said Person seeking to exclude himself or herself from the Settlement Class.

c. Requests for Exclusion cannot be made on a group or class basis.

d. The Settlement Administrator on a weekly basis will provide by email copies of all requests for exclusion to counsel for the Parties.

e. Any Settlement Class Member who does not submit a valid and timely written request for exclusion as provided in this Settlement Agreement shall be bound by all subsequent proceedings, orders, and judgments in this Litigation, including, but not limited to, the Release, the Final Approval Order, and the Final Judgment, even if such Settlement Class Member has litigation pending, or subsequently initiates litigation, against any Released Party relating to the Released Claims.

f. A member of the Settlement Class who opts out can, on or before the Objection and Opt-Out Deadline, withdraw their request for exclusion by submitting a written request to the Settlement Administrator stating their desire to revoke their request for exclusion along with their written signature.

g. Any statement or submission purporting or appearing to be both an objection and an opt-out shall be treated as a request for exclusion.

h. Not later than seven (7) days after the Objection and Opt-Out Deadline, the Settlement Administrator shall provide to Class Counsel and Counsel for Haleon a complete list of opt-outs together with copies of the opt-out requests and any other related information. In the sole discretion of Haleon, it may void the Settlement Agreement if the number of requests for exclusion reaches five thousand (5,000). Haleon must advise Class Counsel and the Court, in writing, of this election within ten (10) business days of receiving the final list of requests for exclusion from the Settlement Administrator following the Objection and Opt-Out Deadline. If Haleon chooses to void the settlement in this manner, then the Settlement Agreement will be vacated, rescinded, cancelled, and annulled, and the Parties will return to the status quo ex ante, as if they had not entered into this Settlement Agreement.

2. **Objections.** Any Settlement Class Member who does not submit a written request for exclusion may present a written objection to the settlement explaining why he or she believes the Settlement Agreement should not be approved by the Court as fair, reasonable, and adequate. A Settlement Class Member who wishes to submit an objection must deliver the written objection to the Court and the Settlement Administrator so that it is postmarked by the Objection and Opt-Out Deadline, and subject to the following requirements.

a. The written objection shall contain (a) the Settlement Class Member's printed name, address, and telephone number; (b) evidence showing that the objector is a Settlement Class Member; (c) a detailed written statement of the objection(s) and the aspect(s) of the settlement being challenged, as well as the specific reasons, if any, for each such objection, including any evidence and legal authority that the Settlement Class Member wishes to bring to the Court's attention; (d) any other supporting papers, materials, or briefs that the Settlement Class Member wishes the Court to consider when reviewing the objection; (e) the written signature of the Settlement Class Member making the objection; and (f) a statement on whether the objecting Settlement Class Member and/or his or her counsel intend to appear at the Final Approval Hearing.

b. A Settlement Class Member may object on his or her own behalf or through an attorney; however, even if represented, the Settlement Class Member must individually sign the objection and all attorneys who are involved in any way asserting objections on behalf of the Settlement Class Member must be listed on the objection papers. Counsel for the Parties may take the deposition of any objector prior to the Final Approval Hearing in a location convenient for the objector (including by remote video deposition at the Parties' election).

c. The Settlement Administrator shall on a weekly basis provide to counsel for the Parties via email copies of any objections received.

d. Any objector who files and serves a timely written objection as described above may appear at the Final Approval Hearing, either in person at their own expense or through personal counsel hired at the objector's expense, to object to the fairness, reasonableness, or adequacy of any aspect of the settlement on the basis set forth in his or her objection. As noted above, objectors or their attorneys who intend to make an appearance at the Final Approval

Hearing must state their intention to appear in the written objection delivered to the Settlement Administrator.

e. Any Settlement Class Member who fails to comply with the objection provisions of this Settlement Agreement shall waive and forfeit any and all rights that he or she may have to appear separately and/or to object to the settlement, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders and judgments in the Litigation, including, but not limited to, the Release, the Final Approval Order, and the Final Judgment, even if such Settlement Class Member has litigation pending or subsequently initiates litigation against any Released Party relating to the Released Claims.

3. The exclusive means for any challenge to this settlement shall be through the objection provisions of this Settlement Agreement. Without limiting the foregoing, any challenge to the Settlement Agreement, the Final Approval Order, the Final Judgment, or any Attorneys' Fee, Cost, and Service Award Order shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

4. An objector shall be entitled to all of the benefits of the settlement if this Settlement Agreement and the terms contained herein are approved, as long as the objector complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including, without limitation, the timely and complete submission of a Claim Form. A Settlement Class Member who objects can, on or before the Objection and Opt-Out Deadline, withdraw their objection by submitting a written request to the Settlement Administrator stating their desire to withdraw their objection along with their written signature.

5. If a Settlement Class Member or counsel for the Settlement Class Member who submits an objection to this settlement has objected to a class action settlement on any prior

occasion, then the objection shall also disclose all cases in which they have filed an objection by caption, court and case number, and for each case, the disposition of the objection.

6. The Parties shall be entitled to file responses to any objections to the settlement no later than 7 days prior to the Final Approval Hearing.

F. RELEASE OF CLAIMS

1. **Release.** Upon the Effective Date, all Settlement Class Members, on behalf of themselves and, as to each Settlement Class Member's claims, their agents, heirs, executors, administrators, successors, assigns, insurers, and representatives (the "Releasing Parties"), shall release and forever discharge Haleon and its respective administrators, insurers, reinsurers, agents, firms, parent companies/corporations, sister companies/corporations, subsidiaries, affiliates, and joint venture partners, and any sales agents and distributors, wholesalers, retailers, or any other party in the chain of distribution and retail sale of the Covered Products, and all of the foregoing Persons' respective predecessors, successors, assigns and present and former officers, directors, shareholders, employees, agents, attorneys, insurers, and representatives (collectively, the "Released Parties"), from each and every claim of liability, on any legal or equitable ground whatsoever, including relief under federal law or the laws of any state, regarding or related to the Covered Products, including, without limitation, their manufacture, purchase, use, marketing, promotion, or sale, and including, without limitation, all past, present, or future claims, damages, or liability on any legal or equitable ground whatsoever, known or unknown, that were or could have been asserted in the Litigation based on any assertion or contention that the Covered Products, including their packaging, labels, sale, warranties, and/or any advertising or marketing whatsoever, was inaccurate, misleading, false, deceptive, fraudulent, or breached based on, relating to, or

arising from the assertion, representation, or suggestion that the Covered Products are “Non-Drowsy,” do not cause drowsiness, or related or derivative statements, during the Class Period.

2. **Exclusions from Release.** All personal injury claims are expressly excluded from the Release.

3. **Assumption of Risk.** Each of the Releasing Parties hereby does, and shall be deemed to, assume the risk that facts additional, different, or contrary to the facts that each believes or understands to exist, may now exist or may be discovered after the date this Settlement Agreement is fully executed. Each of the Releasing Parties agrees that any such additional, different, or contrary facts shall in no way limit, waive, or reduce the foregoing Release, which shall remain in full force and effect.

4. **California Civil Code and Any Counterparts from Other States.** All Releasing Parties will be deemed by the Final Approval Order and the Final Judgment to acknowledge and waive Section 1542 of the California Civil Code, which provides that: “**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**” Plaintiffs and the Settlement Class Members, on behalf of all Releasing Parties, expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable, or equivalent to Section 1542, to the fullest extent they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the

Settlement Class Members hereby acknowledge that the Releasing Parties are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that they have against the Released Parties. In furtherance of such intention, the Release herein given by the Releasing Parties to the Released Parties shall be and remain in effect as a full and complete general release notwithstanding the discovery or existence of any such additional different claims or facts. Each Party expressly acknowledges that it has been advised by its attorneys of the contents and effect of Section 1542, and with knowledge, each of the Parties hereby expressly waives whatever benefits it may have had pursuant to such section. Plaintiffs acknowledge, and the Releasing Parties shall be deemed by operation of the Final Approval Order and the Final Judgment to have acknowledged, that the foregoing waiver was expressly bargained for and a material element of the Settlement of which this Release is a part.

5. **No Assignment of Claims.** Plaintiffs represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under the Settlement Agreement. Plaintiffs further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Litigation, including without limitation any claim for benefits, proceeds, or value under the Litigation, and that Plaintiffs are not aware of anyone other than themselves claiming any interest, in whole or in part, in the Litigation or in any benefits, proceeds, or values under the Litigation.

6. **Dismissal with Prejudice.** Upon the Effective Date, the Released Claims of the Settlement Class Members and Releasing Parties will be dismissed with prejudice.

G. ATTORNEYS' FEES, COSTS AND SERVICE AWARDS

1. **Payment of Attorneys' Fees and Costs.** The Parties agreed to the material terms set forth in this Settlement Agreement and the structure of relief for the Settlement Class, without discussing an appropriate Attorneys' Fee or Service award.

a. Within the time period established by the Court, and no later than thirty (30) days prior to the Objection and Opt-Out Deadline, Class Counsel will file a Motion for Approval of Attorneys' Fee, Cost, and Service Awards to be paid from the Gross Settlement Fund, which shall be included on the Settlement Website. Class Counsel in the Litigation shall apply for the following: (a) attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Fund and (b) reimbursement of litigation costs plus reasonable costs incurred through the Effective Date. Class Counsel shall provide Haleon with W-9 Forms prior to such payment.

b. Plaintiffs certify and agree that any acceptance of this settlement is not based on any expectation of a service award, and that, although Class Counsel will seek a service award, the decision of whether or not to award a service award will be left to the discretion of the Court. With that understanding, Haleon agrees that it will not oppose a request for a service award of up to Two Thousand Dollars (\$2,000.00) each for Nancy Calchi and Stacey Papalia in recognition of their time, costs, and effort in the Litigation, including their undertaking of related risks and burdens. Class Counsel will provide W-9 Forms for Nancy Calchi and Stacey Papalia prior to such payment.

c. The Parties further agree that Haleon shall not pay, or be obligated to pay, any amounts in excess of those set forth in Paragraphs G.1.a and G.1.b. for any Attorneys' Fee, Cost, and Service Award.

d. Plaintiffs will not object to or oppose a request by Haleon that any Attorneys' Fee, Cost, and Service Award shall be set forth in an order separate from the Final Approval Order and the Final Judgment so that any appeal of the Attorneys' Fee, Cost, and Service Award shall not constitute an appeal of the Final Approval Order or the Final Judgment. Any order or proceedings relating solely to the application for an Attorneys' Fee, Cost, and Service Award, or any appeal solely from any Attorneys' Fee, Cost, and Service Award, or reversal or modification of any such Attorneys' Fee, Cost, and Service Award, will not operate to terminate or cancel this Settlement Agreement, or affect or delay the Effective Date.

e. Within thirty (30) days of the Court entering Final Approval (and, if in a separate order, the later of the Final Approval Order and an order approving the Attorneys' Fee, Cost, and Service Award), Haleon will pay the approved fees, costs, and service awards into the Settlement Escrow Account. The Parties agree that the payment will not be released from escrow to Class Counsel until the Effective Date. If the Attorneys' Fee, Cost, and Service Award is set forth in a separate order as provided in this Settlement Agreement, then payment will not be released until the later of the Effective Date or the time for filing notice of any appeal from the Attorneys' Fee, Cost, and Service Award if no appeal is filed; or (b) if an appeal is filed, the latest of (i) the date of final affirmance of that Attorneys' Fee, Cost, and Service Award, (ii) the expiration of the time for a petition for writ of certiorari to review the Attorneys' Fee, Cost, and Service Award if affirmed, the denial of certiorari, or, if certiorari is granted, the date of final affirmance of the Attorneys' Fee, Cost, and Service Award following review pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Attorneys' Fee, Cost, and Service Award or the final dismissal of any proceeding on certiorari to review the Attorneys' Fee, Cost, and Service Award that has the effect of confirming the Attorneys' Fee, Cost, and Service Award. For

avoidance of doubt, payment will not be released until the Court enters a Attorneys' Fee, Cost, and Service Award and there has been the successful exhaustion of all appeal periods without appeal or resolution of any appeals or certiorari proceedings in a manner upholding the Attorneys' Fee, Cost, and Service Award.

f. The Attorneys' Fee, Cost, and Service Award approved by the Court shall be paid to Class Counsel. Class Counsel shall then distribute the Service Award to Plaintiffs, and shall distribute the Attorneys' Fee and Cost award to other counsel (including Denlea & Carton, Papalia's counsel) as Class Counsel deems appropriate. Under no circumstances will Haleon be liable to Class Counsel, or any other attorney or law firm, for, because of, relating to, concerning, or as a result of any payment or allocation of attorneys' fees and costs; and Class Counsel, and each of them, release Haleon from any and all disputes or claims because of, relating to, concerning, or as a result of any payment or allocation of attorneys' fees and costs.

g. Class Counsel shall not be entitled to any compensation from any Released Party for fees or expenses incurred in connection with the Litigation beyond those awarded by the Court and subject to the limitations in this Settlement Agreement.

H. FINAL APPROVAL

1. **Motion for Final Approval of Settlement**. Pursuant to the schedule set by the Court in the Preliminary Approval Order, Class Counsel shall file a motion and supporting papers requesting that the Court grant final approval of this Settlement Agreement and for entry of a Final Approval Order and Final Judgment (each of which is to be agreed upon by the Parties and filed with the Motion for Final Approval). The Final Approval Order shall:

- a. Determine that the Court has personal jurisdiction over Plaintiffs and Settlement Class Members, that the Court has subject matter jurisdiction over the claims asserted in this Litigation, and that venue is proper;
- b. Finally approve the Settlement Agreement and settlement as fair, reasonable, and adequate pursuant to Federal Rule of Civil Procedure 23;
- c. Finally approve and certify the Settlement Class for settlement purposes only;
- d. Find that the Notice Plan, Settlement Notice, and dissemination methodology complied with all laws, including, but not limited to, the Due Process Clause of the United States Constitution, and was fair, adequate, and sufficient, as the best practicable notice under the circumstances, and as reasonably calculated to apprise members of the Settlement Class of the Litigation, the Settlement Agreement, their objection rights, and their exclusion rights;
- e. Dismiss the Litigation with prejudice and without costs (except as provided for in this Settlement Agreement as to costs);
- f. Expressly include the Release set forth in the Settlement Agreement and make the Release effective as of the Effective Date;
- g. Certify that the notification requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, have been met;
- h. Authorize the Parties to implement the terms of the Settlement Agreement;
- i. Permanently enjoin Plaintiffs and all other Settlement Class Members and those subject to their control, from commencing, maintaining, or

participating in, or permitting another to commence, maintain, or participate in on their behalf, any Released Claims against the Released Parties;

- j. Retain jurisdiction relating to the administration, consummation, enforcement, and interpretation of the Settlement Agreement, the Final Approval Order, and the Final Judgment, and for any other necessary purpose; and
- k. Issue related Orders to effectuate the final approval of the Settlement Agreement and its implementation.
- l. Identify the list of all opt-outs (which shall be submitted to the Court no later than seven (7) days before the Final Approval Hearing).

2. **Exclusive Remedy, Dismissal of Action and Jurisdiction of Court.** All Settlement Class Members who do not properly file a timely and valid written request for exclusion from the Settlement Class submit to the jurisdiction of the Court and will be bound by the terms of this Settlement Agreement, including, without limitation, the Release set forth herein. This Settlement Agreement sets forth the sole and exclusive remedy for any and all Released Claims of Settlement Class Members or other Claimants against Haleon and the Released Parties. Upon entry of the Final Approval Order, each Settlement Class Member who has not validly and timely opted out of the Settlement Class and any Person that has made or is entitled to make a claim through or in the name or right of a Settlement Class Member shall be barred from initiating, asserting, continuing, or prosecuting any Released Claims against Haleon and/or any Released Party.

I. SETTLEMENT TIMELINE

Key deadlines for this Settlement Agreement are listed below:

Commence Notice Plan	21 days from the Preliminary Approval Date.
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Claim Deadline	90 days from the Notice Commencement Date
Objection and Opt-Out Deadline	60 days from the Notice Commencement Date
Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards	30 days from the Notice Commencement Date (and 30 days prior to the Objection and Opt-Out Deadline)
Motion for Final Approval and Response to Objections (if any)	21 days prior to the Final Approval Hearing
Final Approval Hearing	No earlier than 135 days from the Preliminary Approval Date (subject to Court availability)

J. OTHER TERMS AND CONDITIONS

1. **No Admission of Liability.** This Settlement Agreement is made for the sole purpose of attempting to consummate a settlement of the Litigation on a nationwide basis. This Settlement Agreement is made in compromise of disputed claims and shall not be construed as an admission of liability by Haleon or any Released Party. Because this is a class action settlement, this Settlement Agreement must receive preliminary and final approval by the Court. It is an express condition of this Settlement Agreement that the Court shall enter the Final Approval Order and Final Judgment and that the Settlement Agreement reach the Effective Date. In the event the Effective Date does not occur, this Settlement Agreement shall be terminated and only those provisions necessary to effectuate such termination and to restore fully the Parties to their respective positions before entry of this Settlement Agreement shall be given effect and enforced. In such event, the Parties shall bear their own costs and attorneys' fees in all respects, including without limitation with regard to the efforts to obtain any Court approval under this Settlement Agreement (except the reasonable costs of the Notice Plan and Settlement Administration, which shall be borne solely from the Gross Settlement Fund).

2. **Exclusive and Continuing Jurisdiction.** The Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions, and obligations of this Settlement Agreement and its own orders and judgments.

a. In the event of a breach by Plaintiffs, Haleon, or a Settlement Class Member of this Settlement Agreement, the Court may exercise all of its equitable powers to enforce this Settlement Agreement, as well as the Final Approval Order and Final Judgment, irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, specific performance and injunctive relief.

b. Haleon, Class Counsel, and Plaintiffs agree, and Settlement Class Members and Claimants will be deemed to have agreed, to submit irrevocably to the exclusive jurisdiction of the Court for the resolution of any matter covered by this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment, or the applicability of this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment.

c. All applications to the Court with respect to any aspect of this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment shall be presented to and be determined by the Court for resolution.

d. In the event that the provisions of this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment are asserted by any Released Party as a ground for a defense, in whole or in part, to any claim or cause of action, or are otherwise raised as an objection in any other suit, action, or proceeding by any Releasing Party or any other Person covered by the Release, it is hereby agreed that the Released Party shall be entitled to seek an immediate stay of that suit, action, or proceeding until after the Court has entered an order or judgment determining

any issues relating to the defense or objections based on such provisions. Plaintiffs and Class Counsel will not oppose such relief.

3. **Stay of Proceedings.** The proposed Preliminary Approval Order shall request that all further proceedings in the Litigation be stayed except as necessary to approve and effectuate the settlement.

4. **Defendants' Attorneys' Fees and Costs.** Haleon shall bear its own attorneys' fees and costs in the Litigation.

5. **Representation by Counsel.** The Parties are represented by competent counsel, and they have had an opportunity to consult, and have consulted, with counsel prior to executing this Settlement Agreement. Each Party represents that it understands the terms and consequences of executing this Settlement Agreement, and executes it and agrees to be bound by the terms set forth herein knowingly, intelligently, and voluntarily.

6. **Mutual Full Cooperation.** The Parties agree to cooperate with each other in good faith to accomplish the terms of this Settlement Agreement, including the execution of such documents and such other action as may reasonably be necessary to implement the terms of this Settlement Agreement and obtain the Court's final approval of the Settlement Agreement, including the entry of an order dismissing the Litigation with prejudice.

7. **No Tax Advice.** Neither the Parties nor their counsel intend anything contained herein to constitute legal advice regarding the taxability of any amount paid hereunder, and no Person shall rely on anything contained in this Settlement Agreement to provide tax advice, and shall obtain his, her, or its own independent tax advice with respect to any payment under this Settlement Agreement.

8. **Notices.** Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing by mail or email and addressed as follows:

To Plaintiffs and the Settlement Class:

DOVEL & LUNER, LLP
Jonas B. Jacobson
jonas@dovel.com
Simon Franzini
simon@dovel.com
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Tel: (310) 656-7066
Fax: (310) 656-7069

To Haleon:

MORGAN, LEWIS & BOCKIUS LLP
J. Gordon Cooney, Jr.
gordon.cooney@morganlewis.com
Franco A. Corrado
franco.corrado@morganlewis.com
2222 Market Street
Philadelphia, Pennsylvania 19103
Tel: 215-963-5000
Fax: 215-963-5001

9. **Drafting of Agreement.** The language of all parts of this Settlement Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against any Party. No Party shall be deemed the drafter of this Settlement Agreement. The Parties acknowledge that the terms of this Settlement Agreement are contractual and are the product of negotiations between the Parties and their counsel. Each Party and its counsel cooperated in the drafting and preparation of this Settlement Agreement, and this Settlement Agreement shall not be construed against any Party because of their role in drafting it.

10. **Governing Law.** This Settlement Agreement shall be governed by the laws of the State of New York, without regard to its conflict of laws rules, precedent, or case law.

11. **Modification.** This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by all Parties hereto. The Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

12. **Integration.** This Settlement Agreement and its Exhibits contain the entire agreement between the Parties relating to the settlement and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or its counsel, are merged herein. Each Party represents and warrants that it is not relying on any representation not expressly included in this Settlement Agreement. No rights hereunder may be waived except in writing.

13. **Extensions.** The Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

14. **Use in Other Proceedings.** The Parties expressly acknowledge and agree that this Settlement Agreement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408 and any equivalent rule of evidence in any state. In no event shall this Settlement Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Litigation, in any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to

enforce this Settlement Agreement or the rights of the Parties, their counsel, or the Released Parties. Without limiting the foregoing, neither this Settlement Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as, or deemed to be evidence or an admission or concession of any liability or wrongdoing whatsoever on the part of any Person, including, but not limited to, the Released Parties, Plaintiffs, or the Settlement Class or as a waiver by the Released Parties, Plaintiffs, or the Settlement Class of any applicable privileges, claims, or defenses.

15. **Subheadings**. Subheadings in this Settlement Agreement are for purposes of clarity only and are not intended to modify the terms of this Settlement Agreement's text, which are controlling.

16. **Waiver**. The waiver by any party to this Settlement Agreement, of any breach of its terms shall not be deemed or construed to be a waiver of any other breach of this Settlement Agreement, whether prior, subsequent, or contemporaneous.

17. **Signatures**. Each Person executing this Settlement Agreement on behalf of any Party warrants that such Person has the authority to do so. This Settlement Agreement shall be binding upon, and inure to the benefit of, the agents, heirs, executors, administrators, successors, and assigns of the Parties.

18. **Counterparts**. This Settlement Agreement may be executed in any number of counterparts, including by electronic signature, each of which shall be deemed to be an original. All counterparts shall constitute one Settlement Agreement, binding on all Parties hereto, regardless of whether all Parties are signatories to the same counterpart, but the Settlement Agreement will be without effect until and unless all Parties to this Settlement Agreement have executed a counterpart.

[THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK]

**AGREED AND ENTERED INTO BY THE PARTIES AND THEIR RESPECTIVE
COUNSEL ON THE DATES SET FORTH BELOW:**

Dated: July 18, 2024

DocuSigned by:
Nancy Calchi
1A26A7CD44A743E...

Nancy Calchi
Plaintiff

Dated: July 18, 2024

DocuSigned by:
Stacey Papalia
1269A749FEC84DC...

Stacey Papalia
Plaintiff

Dated: July 18, 2024

DocuSigned by:
Simon Franzini
5ABC15D58A40496...

DOVEL & LUNER, LLP
Simon Franzini
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Tel: (310) 656-7066
Fax: (310) 656-7069

*On behalf of Plaintiffs and the Settlement
Class*

Dated: July __, 2024

By:
Position:

*On behalf of GlaxoSmithKline Consumer
Healthcare Holdings (US) LLC, now known
as Haleon US Holdings LLC and GSK
Consumer Health, Inc., now known as
Haleon US Inc.*

**AGREED AND ENTERED INTO BY THE PARTIES AND THEIR RESPECTIVE
COUNSEL ON THE DATES SET FORTH BELOW:**

Dated: July __, 2024

Nancy Calchi
Plaintiff

Dated: July __, 2024

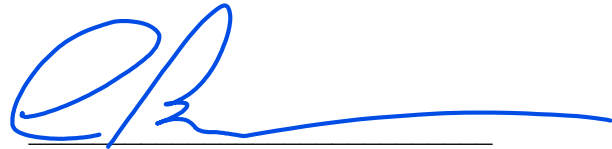
Stacey Papalia
Plaintiff

Dated: July __, 2024

DOVEL & LUNER, LLP
Simon Franzini
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Tel: (310) 656-7066
Fax: (310) 656-7069

*On behalf of Plaintiffs and the Settlement
Class*

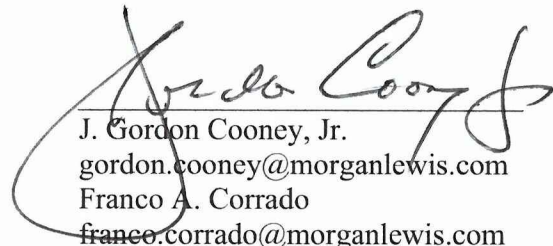
Dated: July 18, 2024



By: Elizabeth Balakhani
Position: Vice President, Global Litigation

*On behalf of GlaxoSmithKline Consumer
Healthcare Holdings (US) LLC, now known
as Haleon US Holdings LLC and GSK
Consumer Health, Inc., now known as
Haleon US Inc.*

Dated: July 18, 2024



J. Gordon Cooney, Jr.
gordon.cooney@morganlewis.com
Franco A. Corrado
franco.corrado@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
2222 Market Street
Philadelphia, Pennsylvania 19103
Telephone: 215-963-5000
Facsimile: 215-963-5001

*Attorneys for GlaxoSmithKline Consumer
Healthcare Holdings (US) LLC, now known
as Hialeon US Holdings LLC and GSK
Consumer Health, Inc., now known as
Hialeon US Inc.*

EXHIBIT 2

Claim Form

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Your Claim Form must be submitted online or postmarked by: **DATE**

CALCHI V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, ET AL, No. 22-cv-01341-KMK

PAPALIA V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, No. 22-cv-02630-KMK

ROB-CLAIM

CLAIM FORM

CLAIM FORM INSTRUCTIONS

1. You may submit your Claim Form online at www.NonDrowsyRobitussinSettlement.com or by U.S. Mail to the following address: Non-Drowsy Robitussin Settlement, c/o Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. Please make sure to include the completed and signed Claim Form and all supporting materials in one envelope.
2. You must complete the entire Claim Form. Please type or write your responses legibly. An incomplete Claim Form will result in the denial of your Claim.
3. Please keep a copy of your Claim Form and any supporting materials you submit. Do not submit your only copy of the supporting documents. Materials submitted will not be returned. Copies of documentation submitted in support of your Claim should be clear and legible.
4. Your Claim Form must include all requested information. You will not receive notice if your Claim Form is determined to be deficient and will not have an opportunity to cure a deficient Claim Form. You will waive your right to receive money under the settlement.
5. The Settlement Administrator may reach out to you for additional information to validate your eligibility to file a Claim Form. If you do not respond to such inquiry, the Settlement Administrator will be unable to process your Claim, and you will waive your right to receive money under the settlement.
6. If you have any questions or if you would like to request a paper check, please contact the Settlement Administrator by email at info@NonDrowsyRobitussinSettlement.com or by mail at the address listed above.
7. Monetary Relief: The settlement if approved shall provide the following monetary relief to Eligible Claimants:
 - Only one (1) Claim may be filed per household without Qualifying Proof of Purchase.
 - Up to three (3) Claims may be filed per household with a corresponding Qualifying Proof of Purchase for each such Claim.
 - The fund available to pay Claims will be distributed to Eligible Claimants on a pro rata basis so that it is exhausted.

Qualifying Proof of Purchase means receipts or any other reliable documentation demonstrating that the Claimant purchased a Covered Product between February 16, 2016 and **[the date of Preliminary Approval]**.

8. Covered Product means any Robitussin product with dextromethorphan and marketed as non-drowsy, including Robitussin Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Cough+Chest Congestion DM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Your Claim Form must be submitted online or postmarked by: **DATE**

CALCHI V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, ET AL, No. 22-cv-01341-KMK

PAPALIA V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, No. 22-cv-02630-KMK

ROB-CLAIM

CLAIM FORM

Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength Liquid-Filled Capsules; Robitussin Cough+Chest Congestion DM Syrups; Children's Robitussin Cough & Chest Congestion DM Syrups; Children's Robitussin Cough & Chest Congestion DM / Nighttime Cough Long-Acting DM Day & Night Value Pack Syrups; Robitussin Sugar-Free Cough+Chest Congestion DM Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Elderberry Cough+Chest Congestion DM Maximum Strength Syrups; Children's Robitussin Elderberry Cough & Chest Congestion DM Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength / Nighttime Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Severe Cough + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength / Nighttime Severe Cough Flu + Sore Throat CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Multi-Symptom Cold CF Syrups; Children's Robitussin Cough & Cold CF Syrups; Robitussin Long-Acting Cough Gels; Robitussin 12 Hour Cough Relief Extended-Release Grape Syrups; Robitussin 12 Hour Cough Relief Extended-Release Orange Syrups for personal or household use, and not for resale, in the United States during the Class Period.

- 9. You must notify the Settlement Administrator if your contact or payment information changes. If you do not, you may not receive your payment.
- 10. **DEADLINE** -- Your claim must be submitted online by **DEADLINE DATE**. Claim Forms submitted by mail must be mailed to the Settlement Administrator postmarked no later than **DEADLINE DATE**.

Your Claim Form must be submitted online or postmarked by: **DATE**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CALCHI V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, ET AL, No. 22-cv-01341-KMK

PAPALIA V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, No. 22-cv-02630-KMK

ROB-CLAIM

CLAIM FORM

I. SETTLEMENT CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit this Claim Form.

First Name

Last Name

Street Address

City

State

Zip Code

Email Address

Phone Number

II. COVERED PRODUCT PURCHASE INFORMATION

Check this box if you are enclosing Qualifying Proof of Purchase of a Covered Product.

Enter the number of Qualifying Proofs of Purchase you are enclosing (Limit 3 per Household):

Check this box if you do not have Qualifying Proof of Purchase of a Covered Product. You must complete the chart below providing information about the Covered Product purchased.

Name of the Covered Product Purchased	Approximate Purchase Date (MM/YYYY)
Name of Retailer/Store where Covered Product was Purchased	City/ State where Covered Product was Purchased

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Your Claim Form must be submitted online or postmarked by: **DATE**

CALCHI V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, ET AL, No. 22-cv-01341-KMK

PAPALIA V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS (US) LLC, No. 22-cv-02630-KMK

ROB-CLAIM

CLAIM FORM

III. PAYMENT SELECTION

Please select from one of the following payment options below.

Prepaid Mastercard
Enter the email address you want the Prepaid Mastercard sent to: _____

Venmo
Enter the mobile number associated with your Venmo account: _____

Zelle
Enter the email address or mobile number associated with your Zelle account: _____

IV. SIGNATURE AND ATTESTATION UNDER PENALTY OF PERJURY

By signing below and submitting this Claim Form, I hereby swear under penalty of perjury that:

- Between February 16, 2016, and **the date of Preliminary Approval**, I purchased a Covered Product for personal or household use, and not resale;
- The information provided in this Claim Form, including any Qualifying Proof of Purchase submitted in support of this Claim, is true and correct to the best of my knowledge;
- Nobody has submitted another Claim in connection with this settlement on my behalf;
- Only one Claim Form has been submitted for my household, which includes all persons residing at the same physical address;
- I understand my Claim Form must include all requested information and that I will not receive notice if the Claim Form is determined to be deficient and will not have an opportunity to cure a deficient Claim Form which may result in the denial of my Claim;
- I understand the Settlement Administrator may contact me requesting additional information about my Claim and that failure to provide the requested information may result in the denial of my Claim; and
- I have read the Release in the Settlement Agreement and agree to be bound by the Release and the terms of the Settlement Agreement.

Date: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Your Claim Form must
be submitted online or
postmarked by: **DATE**

CALCHI V. GLAXOSMITHKLINE CONSUMER HEALTHCARE HOLDINGS
(US) LLC, ET AL, No. 22-cv-01341-KMK

PAPALIA V. GLAXOSMITHKLINE CONSUMER HEALTHCARE
HOLDINGS (US) LLC, No. 22-cv-02630-KMK

ROB-CLAIM

CLAIM FORM

Your signature

MM DD YYYY

Long Form Notice

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

If you bought certain Robitussin products between February 16, 2016 and **Month x, 2024, you may be eligible to receive a payment in a class action settlement.**

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

- A proposed class action settlement has been reached in *Calchi v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, et al*, No. 22-cv-01341-KMK (S.D.N.Y.) and *Papalia v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC*, No. 22-cv-02630-KMK (S.D.N.Y.).
- Plaintiffs Nancy Calchi and Stacey Papalia claim Defendants GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (now known as Haleon US Holdings LLC) and GSK Consumer Health, Inc., (now known as Haleon US Inc. and, together with Haleon US Holdings LLC, shall hereinafter be referred to as “Haleon”) deceptively marketed, advertised, labeled, and sold certain Robitussin products as “Non-Drowsy” because they contain dextromethorphan (“DXM”), an ingredient Plaintiffs claim can cause drowsiness. The list of products included in the settlement, called Covered Products, can be found in response to Question 5 below. Haleon denies these allegations and has presented defenses. In the litigation, Haleon secured a dismissal of Plaintiffs’ claims on the grounds that the claims were preempted by the federal Food, Drug, and Cosmetic Act. Plaintiffs appealed that dismissal. The appellate court has not decided that appeal. Plaintiffs and Haleon have agreed to a settlement to avoid the risk, cost, and time of further litigation.
- Haleon has agreed to establish a \$4.5 million Settlement Fund as part of the settlement. Haleon also will agree to cease manufacturing the Covered Products with labels bearing the “Non-Drowsy” statement and will exclude that statement from any future marketing or advertisements created by Haleon or at Haleon’s direction that describes the Covered Products.
- You are included in the settlement if you purchased one of the Covered Products for personal or household use, and not for resale, in the United States between February 16, 2016 **and Month x, 2024**.
- The Claim fund will be distributed on an equal (pro rata) basis per Claim. For example, it is preliminarily estimated that the payment amount may be between \$1.50 and \$4.75 per Claim. **This is only an estimate.** The final payment amount may be lower or higher, depending on the number of claims, and will not be known until all claims are received and processed.
- The proposed settlement has been preliminarily approved by the Court. This notice provides information about the Litigation, the settlement, and your options as a Settlement Class Member. Your legal rights are affected whether or not you act. Capitalized terms not defined herein are defined in the Settlement Agreement. ***Please read this notice carefully.***

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.

YOUR LEGAL RIGHTS AND OPTIONS		
FILE A CLAIM	<ul style="list-style-type: none"> • File a Claim for payment online or by mail. • Be bound by the settlement. • Give up your right to sue or continue to sue Haleon for the claims released by the settlement. 	Submit online or postmarked by Month x, 202x
ASK TO BE EXCLUDED (“OPT OUT”)	<ul style="list-style-type: none"> • Remove yourself from the Settlement Class and receive no payment from the settlement fund. • Keep your right to sue or continue to sue Haleon for the claims released by the settlement. • You cannot request exclusion and still object. 	Postmarked by Month x, 202x
OBJECT	<ul style="list-style-type: none"> • Tell the Court what you do not like about the settlement. • You will still be bound by the settlement, and you may still file a Claim. • You cannot both request exclusion and object. 	Postmarked by Month x, 202x
ATTEND THE HEARING	<ul style="list-style-type: none"> • Ask to speak in Court about the settlement. • If you want your own attorney to represent you, you must pay for him or her yourself. • File your Notice of Intent to Appear by Month x, 202x. 	Month x, 202x at x:xx, xx
DO NOTHING	<ul style="list-style-type: none"> • Receive no payment from the settlement fund. • Give up your right to sue or continue to sue Haleon for the claims released by the settlement. 	

The deadlines may be moved, canceled, or otherwise modified, so please check the Settlement Website, www.NonDrowsyRobitussinSettlement.com, regularly for updates and further details.

- The Court in charge of this case still has to decide whether to approve the settlement. Settlement Payments will be made only if the Court approves the proposed settlement and after any appeals are resolved in favor of upholding the settlement. This can take time. Please be patient.

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

BASIC INFORMATION..... PAGE 4

1. Why is there a notice?
2. What is this lawsuit about?
3. Why is this a class action?
4. Why is there a settlement?

WHO IS IN THE SETTLEMENT PAGE 5

5. Am I part of the settlement?
6. What if I am still not sure if I am included in the settlement?

SETTLEMENT BENEFITS – WHAT CLASS MEMBERS GET PAGE 6

7. What does the settlement provide?
8. What can I get from the settlement?

HOW TO GET A PAYMENT..... PAGE 7

9. How can I get a payment?
10. When would I get my payment?
11. What am I giving up to get a payment or stay in the settlement?

EXCLUDING YOURSELF FROM THE SETTLEMENT PAGE 8

12. How do I get out of the settlement?
13. If I don't exclude myself, can I sue the Defendants for the same thing later?
14. If I exclude myself, can I still get a settlement payment?

THE LAWYERS REPRESENTING YOU PAGE 9

15. Do I need to hire my own lawyer?
16. How will the lawyers be paid?

OBJECTING TO THE SETTLEMENT PAGE 9

17. How do I tell the Court if I do not like the settlement?
18. What is the difference between objecting and requesting exclusion?

THE COURT'S FINAL APPROVAL HEARING..... PAGE 10

19. When and where will the Court decide whether to approve the settlement?
20. Do I have to come to the Final Approval Hearing?
21. May I speak at the hearing?

IF YOU DO NOTHING..... PAGE 11

22. What happens if I do nothing at all?

GETTING MORE INFORMATION..... PAGE 11

23. How do I get more information?

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

BASIC INFORMATION

1. Why is there a notice?

You have a right to know about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the proposed settlement.

The Court in charge of this case is the United States District Court for the Southern District of New York (the “Court”). Two suits known as *Calchi v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, et al*, No. 22-cv-01341-KMK (S.D.N.Y.) and *Papalia v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC*, No. 22-cv-02630-KMK (S.D.N.Y.) were filed and later consolidated in the Court.

This notice explains:

- What the Litigation is about
- Who is included in the proposed settlement
- How the proposed settlement may benefit you
- Your legal rights

2. What is this lawsuit about?

The lawsuit alleges that certain Robitussin products containing dextromethorphan (or “DXM”) were deceptively marketed, advertised, labeled, and sold as “Non-Drowsy.”

As noted above, Haleon denies the claims and allegations made in the Litigation. Haleon is settling to avoid the expense, inconvenience, risk, and disruption of litigation. It is not an admission of any wrongdoing.

The Court decided that Plaintiffs’ claims were preempted by the federal Food, Drug, and Cosmetic Act, and Plaintiffs appealed that decision. The parties agreed to a settlement before the appeal was decided to avoid the cost and risk of continued litigation. The Court has not decided that Haleon has violated any laws, and this notice is not an expression of any opinion by the Court on the claims in the Litigation.

3. Why is this a class action?

In a class action, one or more people called class representatives (in the Litigation, Nancy Calchi and Stacey Papalia) sue not only for themselves but also on behalf of people who have similar claims. If the Court finds that the legal requirements for establishing a class are met, then all of these people with similar claims and interests form a class.

When a court decides a class action case or approves a class action settlement, it is applicable to all members of the class (except class members who exclude themselves). In this case, the Court has given its preliminary approval to the settlement and to the Settlement Class defined below in Question 5. A copy of the Court’s order granting preliminary approval may be found at www.NonDrowsyRobitussinSettlement.com.

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

4. Why is there a settlement?

Haleon denies that it did anything wrong. Instead, both sides have agreed to the proposed settlement to avoid the risk, cost, and burden of further litigation. The class representatives and Class Counsel appointed by the Court to represent the Settlement Class believe the settlement is in the best interests of the Settlement Class and is fair, reasonable, and adequate.

WHO IS IN THE SETTLEMENT?

5. Am I part of the settlement?

The Settlement Class consists of purchasers of any flavor Robitussin product that includes dextromethorphan (or DXM) and was marketed as “non-drowsy.” Only people who purchased a Covered Product in the United States for personal or household use, and not for resale between February 16, 2016 and **Month x, 2024** (the “Class Period”) are included in the Settlement Class.

The specific Covered Products include: Robitussin Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength Liquid-Filled Capsules; Robitussin Cough+Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM / Nighttime Cough Long-Acting DM Day & Night Value Pack Syrups; Robitussin Sugar-Free Cough+Chest Congestion DM Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Elderberry Cough+Chest Congestion DM Maximum Strength Syrups; Children’s Robitussin Elderberry Cough & Chest Congestion DM Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength / Nighttime Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Severe Cough + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength / Nighttime Severe Cough Flu + Sore Throat CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Multi-Symptom Cold CF Syrups; Children’s Robitussin Cough & Cold CF Syrups; Robitussin Long-Acting CoughGels; Robitussin 12 Hour Cough Relief Extended-Release Grape Syrups; Robitussin 12 Hour Cough Relief Extended-Release Orange Syrups.

Specifically excluded from the Settlement Class are (i) Haleon, its officers, directors, affiliates, legal representatives, employees, successors, and assigns, and entities in which Haleon has a controlling interest; (ii) judges presiding over the Litigation; (iii) local, municipal, state, and federal governmental entities; (iv) counsel of record for the Parties; and (v) all Persons who validly opt-out in a timely manner.

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

6. What if I am still not sure if I am included in the settlement?

If you are not sure whether you are a Settlement Class Member, or have any other questions about the settlement, you should visit the Settlement Website, www.NonDrowsyRobitussinSettlement.com, or call the Settlement Administrator toll-free at 1-855-466-6106.

SETTLEMENT BENEFITS – WHAT SETTLEMENT CLASS MEMBERS GET

7. What does the settlement provide?

The settlement provides both injunctive and monetary relief.

Monetary Relief: Haleon has agreed to pay \$4.5 million to a Settlement Fund, which will be used to pay: (1) monetary benefits to eligible Settlement Class Members as described below in response to Question 9; (2) reasonable settlement administration expenses, not to exceed \$550,000; (3) attorneys' fees and expenses in the amount approved by the Court, but not to exceed one-third (1/3) of the Gross Settlement Fund (\$1.5 million); and (4) a class representative service award of \$2,000 per representative.

Injunctive Relief: Haleon has also agreed to cease marketing and distributing the Covered Products with labels bearing the "Non-Drowsy" statement and will exclude the "Non-Drowsy" statement from any future marketing or advertisements that describe the Covered Products created by Haleon or at Haleon's direction.

The settlement does not bar Haleon from describing the Covered Products as "Non-Drowsy" or utilizing any derivative of that statement on the label or in marketing or advertisements to comply or be in accord with further guidance from the U.S. Food and Drug Administration concerning use of the term "non-drowsy" (or any synonymous or materially equivalent claim) to describe products containing DXM and/or to comply with any future revisions to the OTC Monograph.

The settlement also does not (i) prevent Haleon from making any other changes to the Covered Products' labels, advertisements, or other marketing materials provided that those changes are not inconsistent with the provisions of this Section or (ii) apply to any Haleon product other than the Covered Products.

8. What can I get from the settlement?

The \$4.5 Million settlement fund less amounts approved by the Court for attorneys' fees, expenses, service awards, and costs of administration, will be distributed to Settlement Class Members who submit a timely and valid Claim. The distribution will be made on a pro rata basis, meaning that each Eligible Claimant will receive an equal share per timely and valid Claim.

For example, it is preliminarily estimated that the payment amount may be between \$1.50 and \$4.75 per Claim. **This is only an estimate.** The final payment amount may be lower or higher,

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

depending on the number of Claims, and will not be known until all claims are received and processed.

Only one Claim per household may be submitted without Qualifying Proof of Purchase. Up to three Claims per household may be filed per household with a Qualifying Proof of Purchase for each such Claim.

HOW TO GET A PAYMENT

9. How can I get a payment?

To be eligible to receive a payment through the settlement, you must complete and submit a timely and valid Claim Form. The Claim Form can be obtained online at www.NonDrowsyRobitussinSettlement.com or by writing or emailing the Settlement Administrator at the address listed below. The completed Claim Form must be submitted to the Settlement Administrator online at www.NonDrowsyRobitussinSettlement.com or by mail to the address below so that it is **postmarked by Month x, 2024**.

Non-Drowsy Robitussin Settlement
c/o Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

If you do not submit a valid Claim Form electronically or so that it is **postmarked by Month x, 2024**, you will not receive a payment, but you will be bound by the settlement and the Court's judgment.

10. When would I get my payment?

Settlement Payments will be made to Settlement Class Members who submit a valid and timely Claim Form after the Court grants "final approval" to the settlement and after any and all appeals are resolved in favor of upholding the settlement. If the Court approves the settlement, there may be appeals. It's always uncertain how these appeals will be resolved and resolving them can take time. Please be patient.

11. What am I giving up to get a payment or stay in the settlement?

If you are a Settlement Class Member, unless you exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against the Released Parties for the Released Claims. It also means that all the decisions by the Court will bind you.

Upon the Effective Date, all Settlement Class Members, on behalf of themselves and, as to each Settlement Class Member's claims, their agents, heirs, executors, administrators, successors, assigns, insurers, and representatives (the "Releasing Parties"), shall release and forever discharge Haleon and its respective administrators, insurers, reinsurers, agents, firms, parent companies/corporations, sister companies/corporations, subsidiaries, affiliates, and joint venture partners, and any sales agents and distributors, wholesalers, retailers, or any other party in the

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

chain of distribution and retail sale of the Covered Products, and all of the foregoing Persons' respective predecessors, successors, assigns and present and former officers, directors, shareholders, employees, agents, attorneys, insurers, and representatives (collectively, the "Released Parties"), from each and every claim of liability, on any legal or equitable ground whatsoever, including relief under federal law or the laws of any state, regarding or related to the Covered Products, including, without limitation, their manufacture, purchase, use, marketing, promotion, or sale, and including, without limitation, all past, present, or future claims, damages, or liability on any legal or equitable ground whatsoever, known or unknown, that were or could have been asserted in the Litigation based on any assertion or contention that the Covered Products, including their packaging, labels, sale, warranties, and/or any advertising or marketing whatsoever, was inaccurate, misleading, false, deceptive, fraudulent, or breached based on, relating to, or arising from the assertion, representation, or suggestion that the Covered Products are "Non-Drowsy," do not cause drowsiness, or related or derivative statements, during the Class Period.

The Released Claims do not include any claim against the Released Parties for personal injuries. More information regarding the Released Claims and Released Parties can be found in the Settlement Agreement available at www.NonDrowsyRobitussinSettlement.com.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment from the settlement and you want to keep the right to sue or continue to sue the Released Parties for the Released Claims, then you must take steps to get out. This is called excluding yourself—or it is sometimes referred to as "opting out" of the settlement.

12. How do I get out of the settlement?

To exclude yourself (or "Opt-Out") from the settlement, you must complete and mail to the Settlement Administrator and the Court a written request for exclusion. The request must include the following:

- Your printed full name, address, telephone number, and email address;
- A statement saying, "I wish to exclude myself from the Settlement Class in the Robitussin Non-Drowsy Class Action Settlement;" and
- Your written signature.

You must mail your exclusion request so that it is postmarked by **Month x, 2024** to the following:

Non-Drowsy Robitussin Settlement
Attn: Exclusions
P.O. Box 58220
Philadelphia, PA 19102

If you ask to be excluded, you will not get any Settlement Payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in the Litigation, and you may be able to sue (or continue to sue) the Released Parties for the Released Claims.

If you don't include the required information or timely submit your request for exclusion, you will remain a Settlement Class Member and your claims will be released by the settlement.

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

13. If I don't exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Haleon for the claims released by the settlement whether or not you already have your own lawsuit pending. If you properly exclude yourself from the settlement, then you will not be bound by any orders or judgments entered in the class action relating to the settlement and can pursue your own claims.

14. If I exclude myself, can I still get a settlement payment?

No. You will not get any money from the settlement if you exclude yourself. If you exclude yourself from the settlement, do not send in a Claim Form asking for a Settlement Payment.

THE LAWYERS REPRESENTING YOU

15. Do I need to hire my own lawyer?

No. The Court has appointed Dovel & Luner, LLP as Class Counsel. You will not be charged out-of-pocket for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

16. How will the lawyers be paid?

Class Counsel will file a motion seeking a fee award not to exceed one-third (1/3) of the Settlement Amount (i.e., not to exceed \$1.5 million) and reimbursement for litigation costs and reasonable costs incurred, as well as a Class Representative Service Award up to \$2,000 each for Nancy Calchi and Stacey Papalia, in recognition of their time, costs, and efforts in the litigation. The Court will decide whether to approve the fees, costs, and service award, which will be paid from the Gross Settlement Fund, at or after the Final Approval Hearing.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I do not like the settlement?

Any Settlement Class Member who does not timely and properly opt out of the settlement may object to the fairness, reasonableness, or adequacy of the proposed settlement. Each Settlement Class Member who wishes to object to any term of this settlement must do so, in writing, by delivering a detailed written objection to the Clerk of the Court and serving a copy on the Settlement Administrator at the addresses listed below so that it is **postmarked by Month x, 2024**.

The written objection must include:

- Your printed full name, address, and telephone number;

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

- Evidence showing that you are a Settlement Class Member;
- Any arguments, evidence, documents, or briefs that you wish the Court to consider when reviewing the objection;
- Your written signature (even if represented by an attorney);
- A list of all attorneys involved in the objection on your behalf (if represented);
- A statement on whether you or your counsel intend to appear at the Final Approval Hearing; and
- A list of all class action settlements in which you or your counsel has objected on a prior occasion, including the case caption, court and case number, and the disposition of objection for each case.

Your objection, along with any supporting arguments and materials you wish to submit, must be delivered to the Court and the Settlement Administrator postmarked by **Month x, 2024** at the following addresses:

<p><u>Clerk of the Court</u> Office of the Clerk The Hon. Charles L. Briant Jr. Federal Building and United States Courthouse 300 Quarropas St White Plains, NY 10601-4150</p>	<p><u>Settlement Administrator</u> Non-Drowsy Robitussin Settlement Attn: Objections P.O. Box 58220 Philadelphia, PA 19102</p>
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18. What is the difference between objecting and requesting exclusion?

Objecting is telling the Court that you don't like something about the settlement. You can object to the settlement only if you do not exclude yourself from the settlement. Excluding yourself from the settlement is telling the Court that you do not want to be part of the settlement. If you exclude yourself from the settlement, you have no basis to object to the settlement because it no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing on **Month x, 2024 at x:xx x.x**. The Final Approval Hearing will be held [in person/by video] in Courtroom 521 at the Hon. Charles L. Briant Jr. Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York.

At the Final Approval Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider Class Counsels' request for fees, costs, and service award to the class representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

The date and time are subject to change, as is the Court’s decision whether to hold the Final Approval Hearing in person or by video. Please continue to check the Settlement Website (www.NonDrowsyRobitussinSettlement.com) for updates.

20. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions that the Court may have, but you may come at your own expense. If you submit an objection, you don’t have to come to Court to talk about it. As long as you mailed your written objection on time to the proper addresses, the Court will consider it. You may also pay your own lawyer to attend if you choose, but it’s not necessary.

21. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that it is your “Notice of Intent to Appear.” Your request must be filed with the Clerk of the Court and served on Class Counsel and Defendants’ Counsel no later than **Month x, 2024.**

Any such request must state your name, address, and telephone number, as well as the name, address, and telephone number of any person that may appear on your behalf. Any request for appearance that fails to satisfy these requirements, or that has otherwise not been properly or timely submitted, will be deemed ineffective and will waive your right to appear and to comment on the settlement at the Final Approval Hearing. Persons or entities that opt out may not request to appear and be heard at the Final Approval Hearing.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you do nothing, you will not get a payment from the settlement. Unless you exclude yourself, you won’t be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Haleon about the legal issues in this case, ever again.

GETTING MORE INFORMATION

23. How do I get more information?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement, available at the Settlement Website, www.NonDrowsyRobitussinSettlement.com. If you have additional questions, you can visit the Settlement Website or contact the Settlement Administrator:

Non-Drowsy Robitussin Settlement
c/o Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103
info@NonDrowsyRobitussinSettlement.com

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

(855) 466-6106

PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK'S OFFICE

QUESTIONS? Visit www.NonDrowsyRobitussinSettlement.com or call toll-free at (855) 466-6106.

Email Notice

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

If you bought certain Robitussin products between February 16, 2016 and Month x, 2024, you may be eligible to receive a payment in a class action settlement.

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

A proposed class action settlement has been reached in *Calchi v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, et al*, No. 22-cv-01341-KMK (S.D.N.Y.) and *Papalia v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC*, No. 22-cv-02630-KMK (S.D.N.Y.). Plaintiffs claim that the Defendants (“Haleon”) deceptively marketed, advertised, labeled, and sold certain Robitussin products as “Non-Drowsy” because they contain dextromethorphan (“DXM”), an ingredient Plaintiffs claim can cause drowsiness. In the litigation, Haleon secured a dismissal of Plaintiffs’ claims on the grounds that the claims were preempted by the federal Food, Drug, and Cosmetic Act. Plaintiffs appealed that dismissal. The appellate court has not decided that appeal. Plaintiffs and Haleon have agreed to a settlement to avoid the risk, cost, and time of further litigation.

What does the settlement provide? Haleon has agreed to pay \$4.5 million into a Settlement Fund to pay monetary benefits to eligible Settlement Class Members, amounts approved by the Court for attorneys’ fees, expenses, service awards, and the costs of administration. The Claim fund will be distributed on an equal (pro rata) basis per Claim. For example, it is preliminarily estimated that the payment amount may be between \$1.50 and \$4.75 per Claim. **This is only an estimate.** The final payment amount may be lower or higher, depending on the number of Claims, and will not be known until all Claims are received and processed. For a full description of the settlement benefits, please visit www.NonDrowsyRobitussinSettlement.com.

Who is included in the Settlement Class? The Settlement Class consists of purchasers of any flavor Robitussin product that includes dextromethorphan (or DXM) and was marketed as “non-drowsy.” Only people who purchased a Covered Product in the United States between February 16, 2016 and Month x, 2024 (the “Class Period”) are included in the Settlement Class. The full list of Covered Products is available at www.NonDrowsyRobitussinSettlement.com.

How do I get a payment from the settlement? To be eligible to receive a payment through the settlement, you must complete and submit a timely and valid Claim Form online at www.NonDrowsyRobitussinSettlement.com or by mail so that it is **postmarked by Month x, 2024**. Claim Forms are available at www.NonDrowsyRobitussinSettlement.com or by contacting the Settlement Administrator.

What are my options? If you don’t want to be legally bound by the settlement, you must **exclude yourself** from it by **Month x, 2024**. If you ask to be excluded, you will not get any Settlement Payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in the Litigation, and you may be able to sue (or continue to sue) the Released Parties for the Released Claims. Any Settlement Class Member who does not timely and properly opt out of

the settlement may **object** to the fairness, reasonableness, or adequacy of the proposed settlement. Each Settlement Class Member who wishes to object to any term of this settlement must do so, in writing, by delivering a detailed written objection to the Clerk of the Court and serving a copy on the Settlement Administrator so that it is **postmarked by Month x, 2024**. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that it is your “Notice of Intent to Appear.” Your request must be filed with the Clerk of the Court and served on Class Counsel and Defendants’ Counsel no later than **Month x, 2024**. More information about these options is available at www.NonDrowsyRobitussinSettlement.com.

The Court’s hearing. The Court will hold a Final Approval Hearing on **Month x, 2024** at **x:xx x.x**. [in person/by video] in Courtroom 521 at the Hon. Charles L. Briant Jr. Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York. At the Final Approval Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider Class Counsels’ request for fees, costs, and service award to the class representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement, available at www.NonDrowsyRobitussinSettlement.com.

If you have additional questions, visit the Settlement Website or contact the Settlement Administrator: Non-Drowsy Robitussin Settlement, 1650 Arch St. Ste. 2210, Philadelphia, PA 19103 • info@nondrowsyrobitussinsettlement.com • (855) 466-6106

Postcard Notice

United States District Court
Southern District of New York

**If you bought certain
Robitussin products between
February 16, 2016 and **Month**
x, 2024, you may be eligible to
receive a payment in a class
action settlement.**

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

For more information on how to submit a
Claim Form, request exclusion from the
settlement, or object to the settlement, and
the deadlines to do so, call toll-free
(855) 466-6106 or visit
www.NonDrowsyRobitussinSettlement.com.

You may also contact the Settlement
Administrator by writing to the return address
on this postcard or by emailing
info@NonDrowsyRobitussinSettlement.com.

Non-Drowsy Robitussin Settlement
c/o Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

«ScanString»

Postal Service: Please do not mark barcode

Notice ID: «Notice ID»

Confirmation Code: «Confirmation Code»

«FirstName» «LastName»

«Address1»

«Address2»

«City», «StateCd» «Zip»

«CountryCd»

A proposed class action settlement has been reached in *Carich v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, et al*, No. 22-cv-61341-KMK (S.D.N.Y.) and *Papalia v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC*, No. 22-cv-02630-KMK (S.D.N.Y.). Plaintiffs claim Defendants deceptively marketed, advertised, labeled, and sold certain Robitussin products as “Non-Drowsy” because they contain dextromethorphan (“DXM”), an ingredient Plaintiffs claim can cause drowsiness. Defendants deny these allegations and secured dismissal of the claims. Plaintiffs appealed and the parties settled before a decision on that appeal to avoid the risk, cost, and time of further litigation.

What does the settlement provide? Haleon has agreed to pay \$4.5 million into a Settlement Fund to pay monetary benefits to eligible Settlement Class Members, amounts approved by the Court for attorneys’ fees, expenses, service awards, and the reasonable costs of administration. The Claim fund will be distributed on an equal (pro rata) basis per Claim. For example, it is preliminarily estimated that the payment amount may be between \$1.50 and \$4.75 per Claim. **This is only an estimate.** The final payment amount may be lower or higher, depending on the number of Claims, and will not be known until all Claims are received and processed. For a full description of the settlement benefits, please visit www.NonDrowsyRobitussinSettlement.com.

Who is included in the Settlement Class? The Settlement Class consists of purchasers of any flavor Robitussin product that includes DXM and was marketed as “non-drowsy.” Only people who purchased a Covered Product in the United States between February 16, 2016 and **Month x, 2024** (the “Class Period”) are included in the Settlement Class. The full list of Covered Products is available at www.NonDrowsyRobitussinSettlement.com.

How do I get a payment from the settlement? To be eligible to receive a payment through the settlement, you must complete and submit a timely and valid Claim Form online at www.NonDrowsyRobitussinSettlement.com or by mail so that it is **postmarked by Month x, 2024**. Claim Forms are available at www.NonDrowsyRobitussinSettlement.com or by contacting the Settlement Administrator.

What are my options? If you don’t want to be legally bound by the settlement, you must **exclude yourself** from it by **Month x, 2024**. If you ask to be excluded, you will not get any Settlement Payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in the Litigation, and you may be able to sue (or continue to sue) the Released Parties for the Released Claims. Any Settlement Class Member who does not timely and properly opt out of the settlement may **object** to the fairness, reasonableness, or adequacy of the proposed settlement. Each Settlement Class Member who wishes to object to any term of this settlement must do so, in writing, by delivering a detailed written objection to the Clerk of the Court and serving a copy on the Settlement Administrator so that it is **postmarked by Month x, 2024**. You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that it is your “Notice of Intent to Appear.” Your request must be filed with the Clerk of the Court and served on Class Counsel and Defendants’ Counsel no later than **Month x, 2024**. More information about these options is available at www.NonDrowsyRobitussinSettlement.com.

The Court’s hearing. The Court will hold a Final Approval Hearing on **Month x, 2024** at **x:xx x.x.** [in person/by video] in Courtroom 521 at the Hon. Charles L. Briant Jr. Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York. At the Final Approval Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider Class Counsels’ request for fees, costs, and service award to the class representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement, available at www.NonDrowsyRobitussinSettlement.com.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Nancy Calchi, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC, and GSK Consumer
Health, Inc.,

Defendants.

Lead Case No. 7:22-cv-01341-KMK

Stacey Papalia, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC,

Defendant.

Case No. 7:22-cv-02630-KMK

**Declaration of Nancy Calchi in support of Plaintiffs' Unopposed Motion for
Preliminary Approval of Class Action Settlement and Conditional Class Certification**

I, Nancy Calchi, declare as follows:

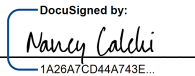
1. I am one of the named plaintiffs in this lawsuit. If called as a witness, I could testify competently regarding the following matters.

2. In 2021, I bought Robitussin Cough + Chest Congestion DM from a ShopRite in Middletown, New York. The package said “Non-Drowsy” prominently on the label, and I read and relied on this statement when purchasing the product. I would not have bought the product, at the price I paid, if I knew it could cause drowsiness.

3. I have actively participated in this lawsuit. My efforts included: providing my attorneys with the relevant facts about my purchase of the Robitussin medicine, reviewing my original complaint and Consolidated Complaint, staying updated about major case events, reviewing the Settlement Agreement, discussing it with my counsel, evaluating it, and agreeing to its terms.

4. I am willing to serve as a class representative for the purposes of settlement. I understand that, as a class representative, I will represent the interests of Settlement Class Members (other purchasers of the Robitussin medicines, nationwide, that are part of the Settlement Agreement). I do not know of or foresee any conflicts of interest between myself and any Settlement Class Members.

I declare under penalty of perjury under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Signature:  1A26A7CD44A743E...

Nancy Calchi

Dated: 7/12/2024

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Nancy Calchi, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC, and GSK Consumer
Health, Inc.,

Defendants.

Lead Case No. 7:22-cv-01341-KMK

Stacey Papalia, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC,

Defendant.

Case No. 7:22-cv-02630-KMK

**Declaration of Stacey Papalia in support of Plaintiffs' Unopposed Motion for
Preliminary Approval of Class Action Settlement and Conditional Class Certification**

I, Stacey Papalia, declare as follows:

1. I am one of the named plaintiffs in this lawsuit. If called as a witness, I could testify competently regarding the following matters.

2. In 2021, I bought Robitussin Cough + Chest DM from a Walgreens in Ossining, New York. The package said “Non-Drowsy” prominently on the label, and I read and relied on this statement when purchasing the product. I would not have purchased the product, at the price I paid, if I knew it could cause drowsiness.

3. I have actively participated in this lawsuit. My efforts included: providing my attorneys with the relevant facts about my purchase of the Robitussin medicine, reviewing my original complaint and Consolidated Complaint, staying updated about major case events, reviewing the Settlement Agreement, discussing it with my counsel, evaluating it, and agreeing to its terms.

4. I am willing to serve as a class representative for the purposes of settlement. I understand that, as a class representative, I will represent the interests of Settlement Class Members (other purchasers of the Robitussin medicines, nationwide, that are part of the Settlement Agreement). I do not know of or foresee any conflicts of interest between myself and any Settlement Class Members.

I declare under penalty of perjury under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Signature: 

Stacey Papalia

Dated: 7/16/2024

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Nancy Calchi, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC, GSK Consumer Health,
Inc., and Pfizer Inc.

Defendants.

Lead Case No. 7:22-cv-01341-KMK

Stacey Papalia, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

GlaxoSmithKline Consumer Healthcare
Holdings (US) LLC,

Defendant.

Case No. 7:22-cv-02630-KMK

**DECLARATION OF STEVEN WEISBROT, ESQ.
RE: THE PROPOSED NOTICE PLAN**

I, Steven Weisbrot, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the President and Chief Executive Officer at the class action notice and claims administration firm Angeion Group, LLC (“Angeion”). Angeion specializes in designing, developing, analyzing, and implementing large-scale, un-biased, legal notification plans.
2. I have personal knowledge of the matters stated herein. In forming my opinions regarding notice in this action, I have drawn from my extensive class action experience, as described below.

3. I have been responsible in whole or in part for the design and implementation of hundreds of court-approved notice and administration programs, including some of the largest and most complex notice plans in recent history. I have taught numerous accredited Continuing Legal Education courses on the Ethics of Legal Notification in Class Action Settlements, using Digital Media in Due Process Notice Programs, and concerning Claims Administration, generally. I am the author of multiple articles on Class Action Notice, Claims Administration, and Notice Design in publications such as Bloomberg, BNA Class Action Litigation Report, Law360, and the ABA Class Action and Derivative Section Newsletter, and I am a frequent speaker on notice issues at conferences throughout the United States and internationally.

4. I was certified as a professional in digital media sales by the Interactive Advertising Bureau (“IAB”) and I am co-author of the Digital Media section of Duke Law’s *Guidelines and Best Practices—Implementing 2018 Amendments to Rule 23* and the soon to be published George Washington Law School Best Practices Guide to Class Action Litigation.

5. I have given public comment and written guidance to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, broadcast media, digital media, and print publication in effecting Due Process notice, and I have met with representatives of the Federal Judicial Center to discuss the 2018 amendments to Rule 23 and offered an educational curriculum for the judiciary concerning notice procedures.

6. Prior to joining Angeion’s executive team, I was employed as Director of Class Action services at Kurtzman Carson Consultants, an experienced notice and settlement administrator. Prior to my notice and claims administration experience, I was employed in private law practice.

7. My notice work comprises a wide range of class actions that include consumer product defect and false advertising matters, data breach, mass disasters, employment discrimination, antitrust, tobacco, banking, firearm, insurance, and bankruptcy cases.

8. I have been at the forefront of infusing digital media, as well as big data and advanced targeting, into class action notice programs. Courts have repeatedly recognized my work in the design of class action notice programs. A comprehensive summary of judicial recognition

Angeion has received is attached hereto as **Exhibit A**.

9. By way of background, Angeion is an experienced class action notice and claims administration company formed by a team of executives that have had extensive tenures at five other nationally recognized claims administration companies. Collectively, the management team at Angeion has overseen more than 2,000 class action settlements and distributed over \$15 billion to class members. The executive profiles as well as the company overview are available at www.angeiongroup.com.

10. As a class action administrator, Angeion has regularly been approved by both federal and state courts throughout the United States and abroad to provide notice of class actions and claims processing services.

11. Angeion has extensive experience administering landmark settlements involving some of the world's most prominent companies, including:

In re: Facebook, Inc Consumer Privacy User Profile Litigation

Case No. 3:18-md-02843-VC (N.D. Cal.)

Meta agreed to pay \$725 million to settle allegations that the social media company allowed third parties, including Cambridge Analytica, to access personal information. Angeion undertook an integrated in-app notification and media campaign to a class in the hundreds of millions of individuals and processed 28.6 million claims, the most claims filed in the history of class action. In fact, during the September 7, 2023, Final Approval Hearing, U.S. District Judge Chhabria acknowledged the record number of claims filed, stating, "I was kind of blown away by how many people made claims."

In re: Apple Inc. Device Performance Litigation

Case No. 5:18-md-02827-EJD (N.D. Cal.)

Apple agreed to pay \$310 million to settle allegations of diminished performance in iPhone 6's and 7's. Angeion's direct notification efforts were recognized as reaching 99%+ of the current and former owners of 129 million class devices. Millions of claims were processed.

City of Long Beach, et al. v. Monsanto, et al.

Case No. 2:16-cv-03493-FMO-AS (C.D. Cal.)

Bayer agreed to pay \$650 million to settle allegations of waterbodies impaired by PCBs. Angeion's notice administration was extraordinarily successful with 99.7% of the class delivered direct notice. The claims administration includes multiple complex claims filing workflows for different funding allocations, including separate fund for "special needs" claimants.

Beckett v. Aetna Inc.

Case No. 2:17-cv-03864-JS (E.D. Pa.)

A consolidated data breach class action that arose from the improper disclosure of Protected Health Information by a health insurer and previous claims administrator, including confidential HIV-related information. Angeion provided specialized training to our support team concerning the sensitive nature of the case and underlying health information. Angeion implemented robust privacy protocols to communicate with and verify the claims of the affected class members, including anonymized notice packets and allowing claimants to lodge objections under pseudonyms.

12. Angeion will specifically draw on its experience and expertise garnered from administering product marketing and labelling settlements. Below is representative list of cases Angeion has administered:

Case	Case No.	Court
Barron et al. v. Snyder's-Lance, Inc.	0:13-cv-62496	S.D. Fla.
Biegel et al. v. Blue Diamond Growers	7:20-cv-03032	S.D.N.Y.
Blankenship v. Dole Packaged Foods, LLC	23-LA-0361	Ill. Cir. Ct.
Carter et al. v. General Nutrition Centers Inc. and GNC Holdings Inc.	2:16-cv-00633	W.D. Pa.
Clay et al. v. CytoSport, Inc.	3:15-cv-00165	S.D. Cal.
Connary et al. v. S.C. Johnson & Son Inc.	RG20061675	Cal. Super. Ct.
DiFrancesco, et al. v. Utz Quality Foods, Inc.	1:14-cv-14744	D. Mass.
Goldemberg v. Johnson & Johnson Consumer Companies Inc.	7:13-cv-03073	S.D.N.Y.
Hawes v. Macy's West Stores, Inc.; Chiaraluce v. Macy's Inc. et al.	1:17-cv-00754; 2:20-cv-00081	S.D. Ohio
Holve v. McCormick & Company, Inc.	6:16-cv-06702	W.D.N.Y.
In re: Dial Complete Marketing and Sales Litigation (MDL No. 2263)	1:11-md-02263	D.N.H.
In re: Honest Marketing Litigation	1:16-cv-01125	S.D.N.Y.
Joseph et al. v. Monster Inc., et al.	15 CH 13991	Ill. Cir. Ct.
Koller v. Med Foods Inc. and Deoleo USA Inc.	3:14-cv-02400	N.D. Cal.
Marek v. Molson Coors Beverage Company USA LLC et al.	3:21-cv-07174	N.D. Cal.
Mayhew v. KAS Direct LLC and S.C. Johnson & Son, Inc.	7:16-cv-06981	S.D.N.Y.
Neversink General Store v. Mowi USA, LLC et al.	1:20-cv-09293	S.D.N.Y.
Patora v. Colgate-Palmolive Co.	7:23-cv-01118	S.D.N.Y.
Petersen v. CJ America Inc.	3:14-cv-02570	S.D. Cal.
Rapoport-Hecht et al. v. Seventh Generation Inc.	7:14-cv-09087	S.D.N.Y.
Retta et al. v. Millennium Products Inc.	2:15-cv-01801	C.D. Cal.
Saeidian et al. v. Coca Cola Company	2:09-cv-06309	C.D. Cal.
Salerno v. Kirk's Natural LLC	1:21-cv-04987	E.D.N.Y.
Vincent v. People Against Dirty PBC and Method Products PBC	7:16-cv-06936	S.D.N.Y.

DATA SECURITY & INSURANCE

13. Angeion recognizes the critical need to secure our physical and network environments and protect data in our custody. It is our commitment to these matters that has made us the go-to administrator for many of the most prominent data security matters of this decade. We are ever improving upon our robust policies, procedures, and infrastructure by periodically updating data security policies as well as our approach to managing data security in response to changes to physical environment, new threats and risks, business circumstances, legal and policy implications, and evolving technical environments.

14. Angeion's privacy practices are compliant with the California Consumer Privacy Act, as currently drafted. Consumer data obtained for the delivery of each project is used only for the purposes intended and agreed in advance by all contracted parties, including compliance with orders issued by State or Federal courts as appropriate. Angeion imposes additional data security measures for the protection of Personally Identifiable Information (PII) and Personal Health Information (PHI), including redaction, restricted network and physical access on a need-to-know basis, and network access tracking. Angeion requires background checks of all employees, requires background checks and ongoing compliance audits of its contractors, and enforces standard protocols for the rapid removal of physical and network access in the event of an employee or contractor termination.

15. Data is transmitted using Transport Layer Security (TLS) 1.3 protocols. Network data is encrypted at rest with the government and financial institution standard of AES 256-bit encryption. We maintain an offline, air-gapped backup copy of all data, ensuring that projects can be administered without interruption.

16. Further, our team conscientiously monitors the latest compliance requirements, such as GDPR, HIPAA, PCI DSS, and others, to ensure that our organization is meeting all necessary regulatory obligations as well as aligning to industry best practices and standards set forth by frameworks like CIS and NIST. Angeion is cognizant of the ever-evolving digital landscape and continually improves its security infrastructure and processes, including partnering with best-in-class security service providers. Angeion's robust policies and processes cover all aspects of information

security to form part of an industry leading security and compliance program, which is regularly assessed by independent third parties. Angeion is also committed to a culture of security mindfulness. All employees routinely undergo cybersecurity training to ensure that safeguarding information and cybersecurity vigilance is a core practice in all aspects of the work our teams complete.

17. Angeion currently maintains a comprehensive insurance program, including sufficient Errors & Omissions coverage.

OVERVIEW OF THE NOTICE PLAN

18. This declaration will describe the Notice Plan for the proposed Settlement Class that, if approved by the Court, Angeion will implement in this matter, including the considerations that informed the development of the plan and why we believe it will provide due process to Settlement Class Members. In my professional opinion, the proposed Notice Plan described herein is the best practicable notice under the circumstances and fulfills all due process requirements, fully comporting with Fed. R. Civ. P. 23.

19. The comprehensive Notice Plan provides for direct notice via mail and email to reasonably identifiable Settlement Class Members combined with a robust state-of-the-art media campaign, the issuance of two (2) press releases, and the implementation of a dedicated website (“Settlement Website”) and a toll-free telephone line where Settlement Class Members can learn more about their rights and options pursuant to the terms of the settlement.

20. As discussed in greater detail below, the media campaign component of the Notice Plan is designed to deliver an approximate 70.12% reach with an average frequency of 3.01 times. This number is calculated using objective syndicated advertising data relied upon by most advertising agencies and brand advertisers. It is further verified by sophisticated media software and calculation engines that cross reference which media is being purchased with the media habits of our specific Target Audience (defined below). What this means in practice is that 70.12% of our Target Audience will see a digital advertisement concerning the settlement an average of 3.01 times each. The 70.12% reach is separate and apart from, and in addition to the direct notice efforts, press releases, Settlement Website, and toll-free telephone support.

21. The Federal Judicial Center states that a publication notice plan that reaches 70% of class members is one that reaches a “high percentage” and is within the “norm.” Barbara J. Rothstein & Thomas E. Willging, Federal Judicial Center, “Managing Class Action Litigation: A Pocket Guide for Judges,” at 27 (3d Ed. 2010).

DIRECT NOTICE

Class Member Data

22. Angeion will review and analyze the Settlement Class Member data that it receives. In doing so, Angeion performs a thorough analysis to identify duplicative records, as well as identify missing/incomplete data fields. Angeion will then assign identification numbers to each unique record, which will comprise the final potential Settlement Class Member list (“Class List”).

Email Notice

23. As part of the Notice Plan, Angeion will send direct email notice to Settlement Class Members who have valid email addresses included on the Class List provided to Angeion.

24. Angeion follows best practices to both validate emails and increase deliverability. Specifically, prior to distributing the email notice, Angeion will subject the email addresses it receives to a cleansing and validation process. The email cleansing process removes extra spaces, fixes common typographical errors in domain names, and corrects insufficient domain suffixes (*e.g.*, gmail.com to gmail.com, gmail.co to gmail.com, yahoo.com to yahoo.com, etc.). The email addresses will then be subjected to an email validation process whereby each email address will be compared to known bad email addresses.¹ Email addresses that are not designated as a known bad address will then be further verified by contacting the Internet Service Provider (“ISP”) to determine if the email address exists.

25. Further, Angeion designs email notice to avoid many common “red flags” that might otherwise cause an email recipient’s spam filter to block or identify the email notice as spam. For example, Angeion does not include attachments like the Long Form Notice or Claim Form to the

¹ Angeion maintains a database of email addresses that were returned as permanently undeliverable, commonly referred to as a hard bounce, from prior campaigns. Where an address has been returned as a hard bounce within the last year, that email is designated as a known bad email address.

email notice, because attachments are often interpreted by various ISP as spam.

26. Angeion also accounts for the real-world reality that some emails will inevitably fail to be delivered during the initial delivery attempt. Therefore, after the initial noticing campaign is complete, Angeion, after an approximate 24- to 72-hour rest period (which allows any temporary block at the ISP level to expire) will cause a second round of email noticing to any email addresses that were previously identified as soft bounces and not delivered. In our experience, this minimizes emails that may have erroneously failed to deliver due to sensitive servers and optimizes delivery.

27. In connection with papers in support of final approval of the settlement, Angeion will report to the Court concerning the rate of delivered emails accounting for any emails that are blocked at the ISP level. In short, the Court will possess a detailed, verified account of the success rate of the entire direct email notice campaign.

Mailed Notice

28. As part of the Notice Plan, Angeion will send notice of the settlement in postcard format (“Postcard Notice”) via first class U.S. Mail, postage pre-paid, to all Settlement Class Members for whom mailing addresses are included on the Class List provided to Angeion.

29. Angeion will employ the following best practices to increase the deliverability rate of the Postcard Notices: (i) Angeion will cause the mailing address information to be updated utilizing the United States Postal Service’s (“USPS”) National Change of Address database, which provides updated address information for individuals or entities who have moved during the previous four years and filed a change of address with the USPS; (ii) Postcard Notices returned to Angeion by the USPS with a forwarding address will be re-mailed to the new address provided by the USPS; (iii) Postcard Notices returned to Angeion by the USPS without forwarding addresses will be subjected to an address verification search (commonly referred to as “skip tracing”) utilizing a wide variety of data sources, including public records, real estate records, electronic directory assistance listings, etc., to locate updated addresses; (iv) Postcard Notices will be re-mailed to potential Settlement Class Members for whom updated addresses were identified via the skip tracing process.

MEDIA NOTICE CAMPAIGN

30. In addition to the direct email notice, the Notice Plan provides for a state-of-the-art media campaign comprised of internet banner advertisements (“programmatic display advertising”), social media notice, and search engine marketing, that is designed to deliver an approximate 70.12% reach with an average frequency of 3.01 times each by serving approximately 42 million impressions.

Programmatic Display Advertising

31. Angeion will utilize a form of internet advertising known as Programmatic Display Advertising, which is the leading method of buying digital advertisements in the United States.² In laymen’s terms, programmatic advertising is a method of advertising where an algorithm identifies and examines demographic profiles and uses advanced technology to place advertisements on the websites where members of the audience are most likely to visit (these websites are accessible on computers, mobile phones and tablets). The media notice outlined below is strategically designed to provide notice of the settlement to these individuals by driving them to the Settlement Website where they can learn more about the settlement, including their rights and options.

32. To develop the media notice campaign and to verify its effectiveness, our media team analyzed data from 2023 comScore Multi-Platform/MRI Simmons USA Fusion³ to profile the Settlement Class and arrive at an appropriate Target Audience. Specifically, the following syndicated research definition was used to profile potential Settlement Class Members:

² Programmatic Display Advertising is a trusted method specifically utilized to reach defined target audiences. Programmatic digital display ad spending in the United States exceeded \$135 billion in 2023 and is forecasted to approach \$180 billion by 2025. See <https://www.insiderintelligence.com/content/programmatic-ad-spending-set-reach-nearly-180-billion-by-2025> (Last visited: April 25, 2024)

³ GfK MediaMark Research and Intelligence LLC (“GfK MRI”) provides demographic, brand preference and media-use habits, and captures in-depth information on consumer media choices, attitudes, and consumption of products and services in nearly 600 categories. ComSCORE, Inc. (“ComSCORE”) is a leading cross-platform measurement and analytics company that precisely measures audiences, brands, and consumer behavior, capturing 1.9 trillion global interactions monthly. ComSCORE’s proprietary digital audience measurement methodology allows marketers to calculate audience reach in a manner not affected by variables such as cookie deletion and cookie blocking/rejection, allowing these audiences to be reach more effectively. ComSCORE operates in more than 75 countries, including the United States, serving over 3,200 clients worldwide.

- **Health & Beauty Aids: Cough Suppressant (Nonprescription) - Robitussin CF or Robitussin DM or Robitussin 12 Hour or Other Robitussin**

33. Based on the target definition used, the size of the Target Audience for the media notice campaign is approximately 20,211,000 individuals. Digital media platforms provide numerous data segments dedicated to consumer brands. We will rely heavily on that data to help us ensure we are reaching Robitussin users.

34. It is important to note that the Target Audience serves as a proxy for, and is distinct from, the Settlement Class definition, as is commonplace in class action notice plans. Utilizing an overinclusive proxy audience maximizes the efficacy of the notice plan and is considered a best practice among media planners and class action notice experts alike. Using proxy audiences is also commonplace in both class action litigation and advertising generally.⁴

35. Additionally, the Target Audience is based on objective syndicated data, which is routinely used by advertising agencies and experts to understand the demographics, shopping habits and attitudes of the consumers that they are seeking to reach.⁵ Using this form of objective data will allow the parties to report the reach and frequency to the Court, with the confidence that the reach percentage and the number of exposure opportunities complies with due process, and exceeds the Federal Judicial Center's threshold as to reasonableness in notification programs. Virtually all professional advertising agencies and commercial media departments use objective syndicated data tools, like the ones described above, to quantify net reach. Sources like these guarantee that advertising placements can be measured against an objective basis and confirm that reporting statistics are not overstated. Objective syndicated data tools are ubiquitous tools in a media planner's arsenal and are regularly accepted by courts in evaluating the efficacy of a media plan,

⁴ If the total population base (or number of settlement class members) is unknown, it is accepted advertising and communication practice to use a proxy-media definition, which is based on accepted media research tools and methods that will allow the notice expert to establish that number. The percentage of the population reached by supporting media can then be established. Duke Law School, GUIDELINES AND BEST PRACTICES IMPLEMENTING 2018 AMENDMENTS TO RULE 23 CLASS ACTION SETTLEMENT PROVISIONS, at 56.

⁵ The notice plan should include an analysis of the makeup of the class. The target audience should be defined and quantified. This can be established through using a known group of customers, or it can be based on a proxy-media definition. Both methods have been accepted by the courts and, more generally, by the advertising industry, to determine a population base. *Id* at 56.

or its component parts.

36. Understanding the socio-economic characteristics, interests, and practices of a target group aids in the proper selection of media to reach that audience. Based on data from 2023 ComScore Multi-Platform/MRI Simmons USA Fusion, the Target Audience has been reported to have the characteristics below:

- 51.45% are ages 35-64, with a median age of 48.8 years old;
- 57.68% are female;
- 53.15% are married;
- 36.82% have children;
- 30.99% have received a bachelor's or post-graduate degree;
- 45.64% are currently employed full time;
- The median household income is \$69,620; and
- 84.19% have used social media in the last 30 days.

37. To identify the best vehicles to deliver messaging to the Target Audience, the media quintiles, which measure the degree to which an audience uses media relative to the general population, were reviewed. Here, the objective syndicated data shows that members of the Target Audience are consistent internet users, spending an average of 29.7 hours per week on the internet.

38. Given the strength of digital advertising, as well as our Target Audience's consistent internet use, we recommend utilizing a robust internet advertising campaign to reach potential Settlement Class Members.

39. Multiple targeting layers will be implemented into the programmatic campaign to help ensure delivery to the most appropriate users, inclusive of the following tactics:

- Look-a-like Modeling: This technique uses data methods to build a look-a-like audience against known potential Settlement Class Members.
- Predictive Targeting: This technique allows technology to "predict" which users will be served advertisement about the settlement.
- Context Targeting: This technique leverages contextual on-site data to surround our messaging (*i.e.*, advertisements about the settlement) on sites with relevant topics and/or articles.
- Geotargeting: The campaign will be targeted nationwide with a weighted delivery based on how the Target Audience is geographically spread throughout the country.
- Site Targeting: The campaign will also focus activity on key parenting websites such as Parents.com and Parenting.com.

40. To combat the possibility of non-human viewership of digital advertisements and to verify effective unique placements, Angeion employs Adobe’s Audience Manger, and/or Lotame, which are demand management platforms (“DMP”). DMPs allow Angeion to learn more about the online audiences that are being reached. Further, online ad verification and security providers such as Comscore Content Activation, DoubleVerify, and Peer39, will be deployed to provide a higher quality of service to ad performance.

Social Media Advertising

41. The social media campaign component of the proposed Notice Plan will utilize Facebook and Instagram, two of the leading social media platforms in the United States,⁶ to reach potential Settlement Class Members. The social media campaign capitalizes on the Target Audience’s propensity to engage in social media (84.19% of the Target Audience have used social media in the last 30 days).

42. The social media campaigns will coincide with the programmatic display advertising and will engage with Target Audience members utilizing strategic tactics to further qualify and deliver impressions to the Target Audience. For example, look-a-like modeling allows the use of consumer characteristics to serve advertisements. Based on these characteristics, we can also build different consumer profile segments to ensure the notice plan messaging is delivered to the proper audience. The social media ads will be targeted nationwide. If sufficient data is available, the campaign will leverage a weighted delivery based on the geographic spread of the Target Audience throughout the country.

43. The social media campaigns will use the Facebook Marketing platform and its technology to serve ads on both Facebook and Instagram against the Target Audience via a mix of news feed and story units to optimize performance via the social media platforms’ desktop sites, mobile sites, and mobile apps.

⁶ Facebook is estimated to have over 250 million U.S. users, and Instagram over 169 million U.S. users. See <https://www.statista.com/statistics/408971/number-of-us-facebook-users> (Last visited April 25, 2024) <https://www.statista.com/statistics/578364/countries-with-most-instagram-users/> (Last visited April 25, 2024)

Search Engine Marketing

44. The Notice Plan also includes a paid search campaign on Google to help drive potential Settlement Class Members who are actively searching for information about the lawsuit to the Settlement Website. Paid search ads will complement the programmatic and social media campaigns, as search engines are frequently used to locate a specific website, rather than a person typing in the URL. Search terms would relate to not only the settlement itself but also the subject-matter of the litigation. In other words, the paid search ads are driven by the individual user's search activity, such that if that individual searches for (or has recently searched for) the lawsuit, litigation or other terms related to the settlement, that individual could be served with an advertisement directing them to the Settlement Website.

PRESS RELEASES

45. Angeion will also cause two (2) press releases to be distributed over PR Newswire (or a similar press release distribution service) to further spread news of the settlement. The press releases will help garner "earned media" (*i.e.*, other media outlets and/or publications will report the story), separate and apart from the comprehensive notice efforts outlined herein, which will lead to increased awareness and participation amongst potential members of the Settlement Class. Specifically, the press releases will be strategically issued during the commencement of the claim filing period, and then prior to the claim filing deadline to serve as a reminder of the upcoming deadline.

SETTLEMENT WEBSITE & TOLL-FREE TELEPHONE SUPPORT

46. The Notice Plan will also implement the creation of a dedicated Settlement Website at www.NonDrowsyRobitussinSettlement.com, where potential Settlement Class Members can easily view general information about settlement, review relevant Court documents, such as the Settlement Agreement, Complaint(s), Court Orders, as well as the notices⁷ and the claim form, and view important dates and deadlines pertinent to the settlement. Potential Settlement Class Members can also send an email with any additional questions to a dedicated email address. The

⁷ Settlement Class Members will be able to print or download the notices in English and Spanish.

Settlement Website will also allow Settlement Class Members to securely submit claim forms and upload supporting documentation via an online claim portal.

47. The Settlement Website will be designed to be ADA-compliant and optimized for mobile visitors so that information loads quickly on mobile devices. Additionally, the Settlement Website will be designed to maximize search engine optimization through Google and other search engines. Keywords and natural language search terms will be included in the Settlement Website’s metadata to maximize search engine rankings.

48. A toll-free hotline devoted to this case will be implemented to further apprise Settlement Class Members of their rights and options pursuant to the terms of the settlement. The toll-free hotline will utilize an interactive voice response (“IVR”) system to provide Settlement Class Members with responses to frequently asked questions and provide essential information regarding the class action. This hotline will be accessible 24 hours a day, 7 days a week.

49. Additionally, Settlement Class Members can leave a message through the toll-free hotline to request that a copy of the Notice and/or claim form be mailed to them.

NOTICE PURSUANT TO THE CLASS ACTION FAIRNESS ACT OF 2005

50. Within ten days of the filing of the Settlement Agreement with this Court, Angeion will cause notice to be disseminated to the appropriate state and federal officials pursuant to the requirements of the Class Action Fairness Act, 28 U.S.C. §1715.

PLAIN LANGUAGE NOTICE DESIGN

51. The proposed Notice forms used in this matter are designed to be “noticed,” reviewed, and by presenting the information in plain language, understood by members of the Settlement Class. The design of the notices follows the principles embodied in the Federal Judicial Center’s illustrative “model” notices posted at www.fjc.gov. The Notice forms contain plain-language summaries of key information about the rights and options of members of the Settlement Class pursuant to the settlement. Consistent with normal practice, prior to being delivered and published, all notice documents will undergo a final edit for accuracy.

52. Rule 23(c)(2) of the Federal Rules of Civil Procedure requires class action notices to be

written in “plain, easily understood language.” Angeion Group maintains a strong commitment to adhering to this requirement, drawing on its experience and expertise to craft notices that effectively convey the necessary information to Settlement Class Members in plain language.

FRAUD DETECTION

53. Angeion has developed and deployed a real-time fraud detection system, AngeionAffirm, which is the first and only comprehensive solution to identify fraud in real time based on both state-of-the-art technology and analysis of over a decade of historical claims data. AngeionAffirm was developed to combat the rising tide of fraudulent claims in class action settlements and the increasingly sophisticated technologies and techniques used by fraudulent actors in their attempt to perpetuate fraud.

54. Key highlights of AngeionAffirm include: (1) The implementation of enhanced, machine learning based fraud prevention mechanisms on all Web Application Firewalls focused on detecting and blocking fraudulent activities even before they infiltrate the system; (2) Employing advanced artificial intelligence to identify bot and scripted browser traffic; (3) Performing proprietary behavioral analysis techniques to identify abnormal patterns that could indicate fraudulent submissions, to help ensure that claims are genuine and justifiable; (4) Analyzing a broad array of technical characteristics garnered from claimant email addresses and other digital fingerprints to determine a claim's propensity for fraud; (5) Deploying a dynamic IP monitoring system to identify and flag suspicious activities across all case engagements; (6) Analysis of over one hundred million claims, which has proven instrumental in identifying characteristics, anomalies, and known bad actors, that may signify fraudulent intent, thus ensuring only bona fide claims are approved; and (7) Utilization of multiple security measures to address the increasing scale and sophistication of cyber criminals' adaptive behavior.

55. AngeionAffirm will be implemented to detect fraudulent claim submissions in this settlement as part of the ongoing, comprehensive anti-fraud efforts.

56. In addition to AngeionAffirm, Angeion maintains a robust, multi-tiered detection system to identify duplicate claims submissions. By way of example, we employ an elaborate technical

process to identify potential claim duplication using a series of database-driven searches to find duplicate names and addresses in our claims database. Normally, both the claimant's name and associated nicknames are analyzed, as well as the corresponding standardized addresses, for purposes of claim duplication detection. Additional data points may be used depending on the information available.

REACH AND FREQUENCY

57. This declaration describes the reach and frequency evidence which courts systemically rely upon in reviewing class action publication notice programs for adequacy. The Notice Plan's designed reach percentage exceeds the guidelines as set forth in the Federal Judicial Center's Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide to effectuate a notice program which reaches a high degree of class members.

58. Specifically, the comprehensive media plan is designed to deliver an approximate 70.12% reach with an average frequency of 3.01 times each by serving approximately 42 million impressions. The 70.12% reach is separate and apart from, and in addition to the direct notice efforts, press releases, dedicated Settlement Website, and toll-free telephone support.

NOTICE AND ADMINISTRATION COSTS

59. Angeion has agreed to provide notice and administration services in this Settlement for an amount not to exceed \$550,000.00.⁸ The pricing details comprising the administration cost estimate are competitively sensitive. Upon request, Angeion will provide its itemized estimate to the Court.

CONCLUSION

60. The Notice Plan outlined above includes a robust media campaign consisting of state-of-the-art internet advertising, a comprehensive social media campaign, search engine marketing, and the issuance of two (2) press releases. Further, the Notice Plan provides for the implementation of a dedicated Settlement Website and toll-free telephone support to further inform potential

⁸ The not-to-exceed amount was premised on certain specifications provided to Angeion, such as the approximate Class size and issuing payments in a single distribution. Deviations from these specifications may result in additional costs, as the costs are based on those underlying assumptions.

Settlement Class Members of their rights and options pursuant to terms of the settlement. Direct notice will also be sent via mail and email to potential Settlement Class Members on the Class List provided to Angeion.

61. In my professional opinion, the Notice Plan described herein will provide full and proper notice to Settlement Class Members before the applicable exclusion, objection, and claim form deadlines. Moreover, it is my opinion that Notice Plan is the best notice that is practicable under the circumstances, fully comports with due process, and Fed. R. Civ. P. 23. After the Notice Plan has concluded, Angeion will provide a final report verifying its effective implementation to this Court.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: July 12, 2024


STEVEN WEISBROT

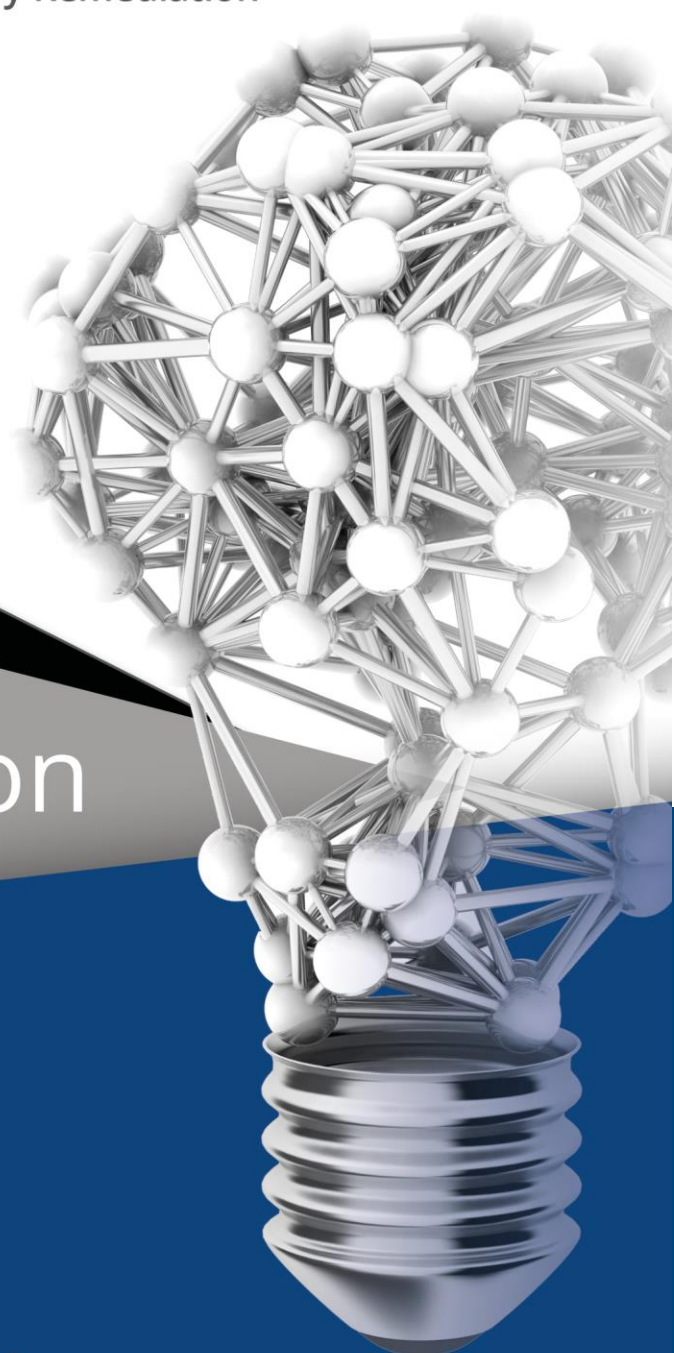
Exhibit A



INNOVATION

IT'S PART OF OUR DNA

Class Action Administration | Mass Arbitration Administration
Mass Tort Services | Regulatory Remediation



Judicial Recognition

IN RE: FACEBOOK, INC. CONSUMER PRIVACY USER PROFILE LITIGATION

Case No. 3:18-md-02843 (N.D. Cal.)

The Honorable Vincent Chhabria (March 29, 2023): The Court approves the Settlement Administration Protocol & Notice Plan, amended Summary Notice (Dkt. No. 1114-8), second amended Class Notice (Dkt. No. 1114-6), In-App Notice, amended Claim Form (Dkt. No. 1114-2), Opt-Out Form (Dkt. No. 1122-1), and Objection Form (Dkt. No. 1122-2) and finds that their dissemination substantially in the manner and form set forth in the Settlement Agreement and the subsequent filings referenced above meets the requirements of Federal Rule of Civil Procedure 23 and due process, constitutes the best notice practicable under the circumstances, and is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, the effect of the proposed Settlement (including the releases contained therein), the anticipated motion for Attorneys' Fees and Expenses Award and for Service Awards, and their rights to participate in, opt out of, or object to any aspect of the proposed Settlement.

IN RE: KIA HYUNDAI VEHICLE THEFT MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

Case No. 8:22-ml-03052 (C.D. Cal.)

The Honorable James V. Selna (October 31, 2023): The Court has considered the form and content of the Class notice program and finds that the Class notice program and methodology as described in the Settlement Agreement (a) meet the requirements of due process and Federal Rules of Civil Procedure 23(c) and (e); (b) constitute the best notice practicable under the circumstances to all persons entitled to notice; and (c) satisfies the constitutional requirements regarding notice.

IN RE: PHILLIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LITIGATION

Case No. 2:21-mc-01230 (MDL No. 3014) (W.D. Pa.)

The Honorable Joy Flowers Conti (October 10, 2023): The Court finds that the method of giving notice to the Settlement Class ("Notice Plan")...(a) constitute the best notice practicable under the circumstances, (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms and benefits of the proposed Settlement...(c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and any other persons entitled to receive notice, (d) meet all applicable requirements of law, including, but not limited to, 28 U.S.C. § 1715, Rule 23(c), the Due Process Clause(s) of the United States Constitution, and any other applicable laws...

IN RE: AQUEOUS FILM-FORMING FOAMS PRODUCTS LIABILITY LITIGATION

Case No. 2:18-mn-02873 (D.S.C.)

The Honorable Richard Mark Gergel (August 29, 2023): The Court also approves the proposed Notice Plan set forth in Exhibit C to the Settlement Agreement. The Court finds that the proposal for (i) direct mailing of the Notice, as well as emailing of the Summary Notice, to each known Class Member, (ii) personalized outreach to national and local water organizations, (iii) national publication of the Summary Notice and a media campaign targeting all Active Public Water Systems that may potentially meet the qualifications to become Class Members, and (iv) a website that potential Class Members will be directed to displaying a long-form Notice that sets forth the details of the proposed Settlement and provides a toll-free hotline, meets the requirements of Rule 23 and due process and shall constitute due and sufficient notice to all Persons potentially entitled to

participate in the proposed Settlement. The proposed Notice Plan is the best practicable notice under the circumstances of this case; is reasonably calculated under the circumstances to apprise potential Class Members of the Settlement Agreement and of their right to object to or exclude themselves from the proposed Settlement Class; is reasonable and constitutes due, adequate, and sufficient notice to all Persons entitled to receive it; and meets all applicable requirements of Federal Rule of Civil Procedure 23, the United States Constitution, and other applicable laws and rules.

KUKORINIS v. WALMART, INC.

Case No. 8:22-cv-02402 (M.D. Fla.)

The Honorable Virginia M. Hernandez Covington (January 19, 2024): The Notice Plan, including the form of the notices and methods for notifying the Settlement Class of the Settlement and its terms and conditions...a. meet the requirements of the Federal Rules of Civil Procedure (including Rule 23 (c)-(e)), the United States Constitution (including the Due Process Clause), and the Rules of this Court; b. constitute the best notice to Settlement Class Members practicable under the circumstances...

LE ET AL. v. ZUFFA, LLC

Case No. 2:15-cv-01045 (D. Nev.)

The Honorable Richard F. Boulware, II (November 17, 2023): The proposed Notice Plan, including the proposed forms and manner of notice, constitutes the best notice practicable under the circumstances and satisfies the requirements of due process and Rules 23(c)(2) and 23(e)(1) of the Federal Rules of Civil Procedure.

AMANS v. TESLA, INC.

Case No. 3:21-cv-03577 (N.D. Cal.)

The Honorable Vince Chhabria (October 20, 2023): The Court further finds that the Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due, and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated, under all circumstances, to apprise members of the Settlement Class of the pendency of this case, the terms of the Settlement Agreement, the right to object to the Settlement, and the right to exclude themselves from the Settlement Class.

LUNDY v. META PLATFORMS, INC.

Case No. 3:18-cv-06793 (N.D. Cal.)

The Honorable James Donato (April 26, 2023): For purposes of Rule 23(e), the Notice Plan submitted with the Motion for Preliminary Approval and the forms of notice attached thereto are approved...The form, content, and method of giving notice to the Settlement Class as described in the Notice Plan submitted with the Motion for Preliminary Approval are accepted at this time as practicable and reasonable in light of the rather unique circumstances of this case.

IN RE: APPLE INC. DEVICE PERFORMANCE LITIGATION

Case No. 5:18-md-02827 (N.D. Cal.)

The Honorable Edward J. Davila (March 17, 2021): Angeion undertook a comprehensive notice campaign...The notice program was well executed, far-reaching, and exceeded both Federal Rule of Civil Procedure 23(c)(2)(B)'s requirement to provide the "best notice that is practicable under the circumstances" and Rule 23(e)(1)(B)'s requirement to provide "direct notice in a reasonable manner."

IN RE: TIKTOK, INC., CONSUMER PRIVACY LITIGATION

Case No. 1:20-cv-04699 (N.D. Ill.)

The Honorable John Z. Lee (August 22, 2022): The Class Notice was disseminated in accordance with the procedures required by the Court's Order Granting Preliminary Approval...in accordance with applicable law, satisfied the requirements of Rule 23(e) and due process, and constituted the best notice practicable...

IN RE: GOOGLE PLUS PROFILE LITIGATION

Case No. 5:18-cv-06164 (N.D. Cal.)

The Honorable Edward J. Davila (January 25, 2021): The Court further finds that the program for disseminating notice to Settlement Class Members provided for in the Settlement, and previously approved and directed by the Court (hereinafter, the "Notice Program"), has been implemented by the Settlement Administrator and the Parties, and such Notice Program, including the approved forms of notice, is reasonable and appropriate and satisfies all applicable due process and other requirements, and constitutes best notice reasonably calculated under the circumstances to apprise Settlement Class Members...

MEHTA v. ROBINHOOD FINANCIAL LLC

Case No. 5:21-cv-01013 (N.D. Cal.)

The Honorable Susan van Keulen (August 29, 2022): The proposed notice plan, which includes direct notice via email, will provide the best notice practicable under the circumstances. This plan and the Notice are reasonably calculated, under the circumstances, to apprise Class Members of the nature and pendency of the Litigation, the scope of the Settlement Class, a summary of the class claims, that a Class Member may enter an appearance through an attorney, that the Court will grant timely exclusion requests, the time and manner for requesting exclusion, the binding effect of final approval of the proposed Settlement, and the anticipated motion for attorneys' fees, costs, and expenses and for service awards. The plan and the Notice constitute due, adequate, and sufficient notice to Class Members and satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and all other applicable laws and rules.

ADTRADER, INC. v. GOOGLE LLC

Case No. 5:17-cv-07082 (N.D. Cal.)

The Honorable Beth L. Freeman (May 13, 2022): The Court approves, as to form, content, and distribution, the Notice Plan set forth in the Settlement Agreement, including the Notice Forms attached to the Weisbrot Declaration, subject to the Court's one requested change as further described in Paragraph 8 of this Order, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Federal Rules of Civil Procedure. The Court further finds that the Notice is reasonably calculated to, under

all circumstances, reasonably apprise members of the AdWords Class of the pendency of this Action, the terms of the Settlement Agreement, and the right to object to the Settlement and to exclude themselves from the AdWords Class. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice Plan fully complies with the Northern District of California's Procedural Guidance for Class Action Settlements.

IN RE: FACEBOOK INTERNET TRACKING LITIGATION

Case No. 5:12-md-02314 (N.D. Cal.)

The Honorable Edward J. Davila (November 10, 2022): The Court finds that Plaintiffs' notice meets all applicable requirements of due process and is particularly impressed with Plaintiffs' methodology and use of technology to reach as many Class Members as possible. Based upon the foregoing, the Court finds that the Settlement Class has been provided adequate notice.

CITY OF LONG BEACH v. MONSANTO COMPANY

Case No. 2:16-cv-03493 (C.D. Cal.)

The Honorable Fernando M. Olguin (March 14, 2022): The court approves the form, substance, and requirements of the class Notice, (Dkt.278-2, Settlement Agreement, Exh. I). The proposed manner of notice of the settlement set forth in the Settlement Agreement constitutes the best notice practicable under the circumstances and complies with the requirements of due process.

STEWART v. LEXISNEXIS RISK DATA RETRIEVAL SERVICES, LLC

Case No. 3:20-cv-00903 (E.D. Va.)

The Honorable John A. Gibney Jr. (February 25, 2022): The proposed forms and methods for notifying the proposed Settlement Class Members of the Settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to notice...Based on the foregoing, the Court hereby approves the notice plans developed by the Parties and the Settlement Administrator and directs that they be implemented according to the Agreement and the notice plans attached as exhibits.

WILLIAMS v. APPLE INC.

Case No. 3:19-cv-04700 (N.D. Cal.)

The Honorable Laurel Beeler (February 24, 2022): The Court finds the Email Notice and Website Notice (attached to the Agreement as Exhibits 1 and 4, respectively), and their manner of transmission, implemented pursuant to the Agreement (a) are the best practicable notice, (b) are reasonably calculated, under the circumstances, to apprise the Subscriber Class of the pendency of the Action and of their right to object to or to exclude themselves from the proposed settlement, (c) are reasonable and constitute due, adequate and sufficient notice to all persons entitled to receive notice, and (d) meet all requirements of applicable law.

CLEVELAND v. WHIRLPOOL CORPORATION

Case No. 0:20-cv-01906 (D. Minn.)

The Honorable Wilhelmina M. Wright (December 16, 2021): It appears to the Court that the proposed Notice Plan described herein, and detailed in the Settlement Agreement, comports with

due process, Rule 23, and all other applicable law. Class Notice consists of email notice and postcard notice when email addresses are unavailable, which is the best practicable notice under the circumstances...The proposed Notice Plan complies with the requirements of Rule 23, Fed. R. Civ. P., and due process, and Class Notice is to be sent to the Settlement Class Members as set forth in the Settlement Agreement and pursuant to the deadlines above.

RASMUSSEN v. TESLA, INC. D/B/A TESLA MOTORS, INC.

Case No. 5:19-cv-04596 (N.D. Cal.)

The Honorable Beth Labson Freeman (December 10, 2021): The Court has carefully considered the forms and methods of notice to the Settlement Class set forth in the Settlement Agreement ("Notice Plan"). The Court finds that the Notice Plan constitutes the best notice practicable under the circumstances and fully satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, the requirements of due process, and the requirements of any other applicable law, such that the terms of the Settlement Agreement, the releases provided for therein, and this Court's final judgment will be binding on all Settlement Class Members.

CAMERON v. APPLE INC.

Case No. 4:19-cv-03074 (N.D. Cal.)

The Honorable Yvonne Gonzalez Rogers (November 16, 2021): The parties' proposed notice plan appears to be constitutionally sound in that plaintiffs have made a sufficient showing that it is: (i) the best notice practicable; (ii) reasonably calculated, under the circumstances, to apprise the Class members of the proposed settlement and of their right to object or to exclude themselves as provided in the settlement agreement; (iii) reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet all applicable requirements of due process and any other applicable requirements under federal law.

RISTO v. SCREEN ACTORS GUILD - AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS ET AL.

Case No. 2:18-cv-07241 (C.D. Cal.)

The Honorable Christina A. Snyder (November 12, 2021): The Court approves the publication notice plan presented to this Court as it will provide notice to potential class members through a combination of traditional and digital media that will consist of publication of notice via press release, programmatic display digital advertising, and targeted social media, all of which will direct Class Members to the Settlement website...The notice plan satisfies any due process concerns as this Court certified the class under Federal Rule of Civil Procedure 23(b)(1)...

JENKINS v. NATIONAL GRID USA SERVICE COMPANY, INC.

Case No. 2:15-cv-01219 (E.D.N.Y.)

The Honorable Joanna Seybert (November 8, 2021): Pursuant to Fed. R. Civ. P. 23(e)(1) and 23(c)(2)(B), the Court approves the proposed Notice Plan and procedures set forth at Section 8 of the Settlement, including the form and content of the proposed forms of notice to the Settlement Class attached as Exhibits C-G to the Settlement and the proposed procedures for Settlement Class Members to exclude themselves from the Settlement Class or object. The Court finds that the proposed Notice Plan meets the requirements of due process under the United States Constitution and Rule 23, and that such Notice Plan—which includes direct notice to Settlement Class Members

sent via first class U.S. Mail and email; the establishment of a Settlement Website (at the URL, www.nationalgridtcpsettlement.com) where Settlement Class Members can view the full settlement agreement, the detailed long-form notice (in English and Spanish), and other key case documents; publication notice in forms attached as Exhibits E and F to the Settlement sent via social media (Facebook and Instagram) and streaming radio (e.g., Pandora and iHeart Radio). The Notice Plan shall also include a paid search campaign on search engine(s) chosen by Angeion (e.g., Google) in the form attached as Exhibits G and the establishment of a toll-free telephone number where Settlement Class Members can get additional information—is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

NELLIS v. VIVID SEATS, LLC

Case No. 1:20-cv-02486 (N.D. Ill.)

The Honorable Robert M. Dow, Jr. (November 1, 2021): The Notice Program, together with all included and ancillary documents thereto, (a) constituted reasonable notice; (b) constituted notice that was reasonably calculated under the circumstances to apprise members of the Settlement Class of the pendency of the Litigation...(c) constituted reasonable, due, adequate and sufficient notice to all Persons entitled to receive notice; and (d) met all applicable requirements of due process and any other applicable law. The Court finds that Settlement Class Members have been provided the best notice practicable of the Settlement and that such notice fully satisfies all requirements of law as well as all requirements of due process.

PELLETIER v. ENDO INTERNATIONAL PLC

Case No. 2:17-cv-05114 (E.D. Pa.)

The Honorable Michael M. Baylson (October 25, 2021): The Court approves, as to form and content, the Notice of Pendency and Proposed Settlement of Class Action (the "Notice"), the Proof of Claim and Release form (the "Proof of Claim"), and the Summary Notice, annexed hereto as Exhibits A-1, A-2, and A-3, respectively, and finds that the mailing and distribution of the Notice and publishing of the Summary Notice, substantially in the manner and form set forth in ¶¶7-10 of this Order, meet the requirements of Rule 23 and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all Persons entitled thereto.

BIEGEL v. BLUE DIAMOND GROWERS

Case No. 7:20-cv-03032 (S.D.N.Y.)

The Honorable Cathy Seibel (October 25, 2021): The Court finds that the Notice Plan, set forth in the Settlement Agreement and effectuated pursuant to the Preliminary Approval Order: (i) was the best notice practicable under the circumstances; (ii) was reasonably calculated to provide, and did provide, due and sufficient notice to the Settlement Class regarding the existence and nature of the Action...and (iii) satisfied the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and all other applicable law.

QUINTERO v. SAN DIEGO ASSOCIATION OF GOVERNMENTS

Case No. 37-2019-00017834-CU-NP-CTL (Cal. Super. Ct.)

The Honorable Eddie C. Sturgeon (September 27, 2021): The Court has reviewed the class notices for the Settlement Class and the methods for providing notice and has determined that the parties will employ forms and methods of notice that constitute the best notice practicable under the circumstances; are reasonably calculated to apprise class members of the terms of the Settlement

and of their right to participate in it, object, or opt-out; are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and meet all constitutional and statutory requirements, including all due process requirements and the California Rules of Court.

HOLVE v. MCCORMICK & COMPANY, INC.

Case No. 6:16-cv-06702 (W.D.N.Y.)

The Honorable Mark W. Pedersen (September 23, 2021): The Court finds that the form, content and method of giving notice to the Class as described in the Settlement Agreement and the Declaration of the Settlement Administrator: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action...(c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clause(s) of the United States Constitution.

CULBERTSON ET AL. v. DELOITTE CONSULTING LLP

Case No. 1:20-cv-03962 (S.D.N.Y.)

The Honorable Lewis J. Liman (August 27, 2021): The notice procedures described in the Notice Plan are hereby found to be the best means of providing notice under the circumstances and, when completed, shall constitute due and sufficient notice of the proposed Settlement Agreement and the Final Approval Hearing to all persons affected by and/or entitled to participate in the Settlement Agreement, in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure and due process of law.

PULMONARY ASSOCIATES OF CHARLESTON PLLC v. GREENWAY HEALTH, LLC

Case No. 3:19-cv-00167 (N.D. Ga.)

The Honorable Timothy C. Batten, Sr. (August 24, 2021): Under Rule 23(c)(2), the Court finds that the content, format, and method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot filed on July 2, 2021, and the Settlement Agreement and Release, including notice by First Class U.S. Mail and email to all known Class Members, is the best notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and due process.

IN RE: BROILER CHICKEN GROWER ANTITRUST LITIGATION (NO II)

Case No. 6:20-md-02977 (E.D. Okla.)

The Honorable Robert J. Shelby (August 23, 2021): The Court approves the method of notice to be provided to the Settlement Class as set forth in Plaintiffs' Motion and Memorandum of Law in Support of Motion for Approval of the Form and Manner of Class Notice and Appointment of Settlement Administrator and Request for Expedited Treatment and the Declaration of Steven Weisbrot on Angeion Group Qualifications and Proposed Notice Plan...The Court finds and concludes that such notice: (a) is the best notice that is practicable under the circumstances, and is reasonably calculated to reach the members of the Settlement Class and to apprise them of the Action, the terms and conditions of the Settlement, their right to opt out and be excluded from the Settlement Class, and to object to the Settlement; and (b) meets the requirements of Federal Rule of Civil Procedure 23 and due process.

ROBERTS ET AL. V. AT&T MOBILITY, LLC

Case No. 3:15-cv-03418 (N.D. Cal.)

The Honorable Edward M. Chen (August 20, 2021): The Court finds that such Notice program, including the approved forms of notice: (a) constituted the best notice that is practicable under the circumstances; (b) included direct individual notice to all Settlement Class Members who could be identified through reasonable effort, as well as supplemental notice via a social media notice campaign and reminder email and SMS notices; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the nature of this Action ... (d) constituted due, adequate and sufficient notice to all persons entitled to notice; and (e) met all applicable requirements of Federal Rule of Civil Procedure 23, Due Process under the U.S. Constitution, and any other applicable law.

PYGIN V. BOMBAS, LLC

Case No. 4:20-cv-04412 (N.D. Cal.)

The Honorable Jeffrey S. White (July 12, 2021): The Court also concludes that the Class Notice and Notice Program set forth in the Settlement Agreement satisfy the requirements of due process and Rule 23 and provide the best notice practicable under the circumstances. The Class Notice and Notice Program are reasonably calculated to apprise Settlement Class Members of the nature of this Litigation, the Scope of the Settlement Class, the terms of the Settlement Agreement, the right of Settlement Class Members to object to the Settlement Agreement or exclude themselves from the Settlement Class and the process for doing so, and of the Final Approval Hearing. Accordingly, the Court approves the Class Notice and Notice Program and the Claim Form.

WILLIAMS ET AL. V. RECKITT BENCKISER LLC ET AL.

Case No. 1:20-cv-23564 (S.D. Fla.)

The Honorable Jonathan Goodman (April 23, 2021): The Court approves, as to form and content, the Class Notice and Internet Notice submitted by the parties (Exhibits B and D to the Settlement Agreement or Notices substantially similar thereto) and finds that the procedures described therein meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, and provide the best notice practicable under the circumstances. The proposed Class Notice Plan -- consisting of (i) internet and social media notice; and (ii) notice via an established a Settlement Website -- is reasonably calculated to reach no less than 80% of the Settlement Class Members.

NELSON ET AL. V. IDAHO CENTRAL CREDIT UNION

Case No. CV03-20-00831, CV03-20-03221 (Idaho Jud. Dist.)

The Honorable Robert C. Naftz (January 19, 2021): The Court finds that the Proposed Notice here is tailored to this Class and designed to ensure broad and effective reach to it... The Parties represent that the operative notice plan is the best notice practicable and is reasonably designed to reach the settlement class members. The Court agrees.

IN RE: HANNA ANDERSSON AND SALESFORCE.COM DATA BREACH LITIGATION

Case No. 3:20-cv-00812 (N.D. Cal.)

The Honorable Edward M. Chen (December 29, 2020): The Court finds that the Class Notice and Notice Program satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure and provide the best notice practicable under the circumstances.

IN RE: PEANUT FARMERS ANTITRUST LITIGATION

Case No. 2:19-cv-00463 (E.D. Va.)

The Honorable Raymond A. Jackson (December 23, 2020): The Court finds that the Notice Program...constitutes the best notice that is practicable under the circumstances and is valid, due and sufficient notice to all persons entitled thereto and complies fully with the requirements of Rule 23(c)(2) and the due process requirements of the Constitution of the United States.

BENTLEY ET AL. V. LG ELECTRONICS U.S.A., INC.

Case No. 2:19-cv-13554 (D.N.J.)

The Honorable Madeline Cox Arleo (December 18, 2020): The Court finds that notice of this Settlement was given to Settlement Class Members in accordance with the Preliminary Approval Order and constituted the best notice practicable of the proceedings and matters set forth therein, including the Litigation, the Settlement, and the Settlement Class Members' rights to object to the Settlement or opt out of the Settlement Class, to all Persons entitled to such notice, and that this notice satisfied the requirements of Federal Rule of Civil Procedure 23 and of due process.

IN RE: ALLURA FIBER CEMENT SIDING PRODUCTS LIABILITY LITIGATION

Case No. 2:19-mn-02886 (D.S.C.)

The Honorable David C. Norton (December 18, 2020): The proposed Notice provides the best notice practicable under the circumstances. It allows Settlement Class Members a full and fair opportunity to consider the proposed settlement. The proposed plan for distributing the Notice likewise is a reasonable method calculated to reach all members of the Settlement Class who would be bound by the settlement. There is no additional method of distribution that would be reasonably likely to notify Settlement Class Members who may not receive notice pursuant to the proposed distribution plan.

ADKINS ET AL. V. FACEBOOK, INC.

Case No. 3:18-cv-05982 (N.D. Cal.)

The Honorable William Alsup (November 15, 2020): Notice to the class is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Tr. Co.*, 399 U.S. 306, 314 (1965).

IN RE: 21ST CENTURY ONCOLOGY CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 8:16-md-02737 (M.D. Fla.)

The Honorable Mary S. Scriven (November 2, 2020): The Court finds and determines that mailing the Summary Notice and publication of the Settlement Agreement, Long Form Notice, Summary Notice, and Claim Form on the Settlement Website, all pursuant to this Order, constitute the best notice practicable under the circumstances, constitute due and sufficient notice of the matters set forth in the notices to all persons entitled to receive such notices, and fully satisfies the of due process, Rule 23 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1715, and all other applicable laws and rules. The Court further finds that all of the notices are written in plain language and are readily understandable by Class Members.

MARINO ET AL. V. COACH INC.**Case No. 1:16-cv-01122 (S.D.N.Y.)**

The Honorable Valerie Caproni (August 24, 2020): The Court finds that the form, content, and method of giving notice to the Settlement Class as described in paragraph 8 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms of the proposed Settlement, and their rights under the proposed Settlement, including but not limited to their rights to object to or exclude themselves from the proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clause(s) of the United States Constitution. The Court further finds that all of the notices are written in plain language, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

BROWN v. DIRECTV, LLC**Case No. 2:13-cv-01170 (C.D. Cal.)**

The Honorable Dolly M. Gee (July 23, 2020): Given the nature and size of the class, the fact that the class has no geographical limitations, and the sheer number of calls at issue, the Court determines that these methods constitute the best and most reasonable form of notice under the circumstances.

IN RE: SSA BONDS ANTITRUST LITIGATION**Case No. 1:16-cv-03711 (S.D.N.Y.)**

The Honorable Edgardo Ramos (July 15, 2020): The Court finds that the mailing and distribution of the Notice and the publication of the Summary Notice substantially in the manner set forth below meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process and constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled to notice.

KJESSLER ET AL. V. ZAAPPAAZ, INC. ET AL.**Case No. 4:18-cv-00430 (S.D. Tex.)**

The Honorable Nancy F. Atlas (July 14, 2020): The Court also preliminarily approves the proposed manner of communicating the Notice and Summary Notice to the putative Settlement Class, as set out below, and finds it is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons and entities entitled to receive such notice, and fully satisfies the requirements of applicable laws, including due process and Federal Rule of Civil Procedure 23.

HESTER ET AL. V. WALMART, INC.**Case No. 5:18-cv-05225 (W.D. Ark.)**

The Honorable Timothy L. Brooks (July 9, 2020): The Court finds that the Notice and Notice Plan substantially in the manner and form set forth in this Order and the Agreement meet the requirements of Federal Rule of Civil Procedure 23 and due process, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all Persons entitled thereto.

CLAY ET AL. V. CYTOSPORT INC.

Case No. 3:15-cv-00165 (S.D. Cal.)

The Honorable M. James Lorenz (June 17, 2020): The Court approves the proposed Notice Plan for giving notice to the Settlement Class through publication, both print and digital, and through the establishment of a Settlement Website, as more fully described in the Agreement and the Claims Administrator's affidavits (docs. no. 222-9, 224, 224-1, and 232-3 through 232-6). The Notice Plan, in form, method, and content, complies with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

GROGAN V. AARON'S INC.

Case No. 1:18-cv-02821 (N.D. Ga.)

The Honorable J.P. Boulee (May 1, 2020): The Court finds that the Notice Plan as set forth in the Settlement Agreement meets the requirements of Fed. R. Civ. P. 23 and constitutes the best notice practicable under the circumstances, including direct individual notice by mail and email to Settlement Class Members where feasible and a nationwide publication website-based notice program, as well as establishing a Settlement Website at the web address of www.AaronsTCPASettlement.com, and satisfies fully the requirements the Federal Rules of Civil Procedure, the U.S. Constitution, and any other applicable law, such that the Settlement Agreement and Final Order and Judgment will be binding on all Settlement Class Members.

CUMMINGS V. BOARD OF REGENTS OF THE UNIVERSITY OF NEW MEXICO ET AL.

Case No. D-202-CV-2001-00579 (N.M. Jud. Dist.)

The Honorable Carl Butkus (March 30, 2020): The Court has reviewed the Class Notice, the Plan of Allocation and Distribution and Claim Form, each of which it approves in form and substance. The Court finds that the form and methods of notice set forth in the Agreement: (i) are reasonable and the best practicable notice under the circumstances; (ii) are reasonably calculated to apprise Settlement Class Members of the pendency of the Lawsuit, of their rights to object to or opt-out of the Settlement, and of the Final Approval Hearing; (iii) constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meet the requirements of the New Mexico Rules of Civil Procedure, the requirements of due process under the New Mexico and United States Constitutions, and the requirements of any other applicable rules or laws.

SCHNEIDER ET AL. V. CHIPOTLE MEXICAN GRILL, INC.

Case No. 4:16-cv-02200 (N.D. Cal.)

The Honorable Haywood S. Gilliam, Jr. (January 31, 2020): Given that direct notice appears to be infeasible, the third-party settlement administrator will implement a digital media campaign and provide for publication notice in People magazine, a nationwide publication, and the East Bay Times. SA § IV.A, C; Dkt. No. 205-12 at ¶¶ 13–23. The publication notices will run for four consecutive weeks. Dkt. No. 205 at ¶ 23. The digital media campaign includes an internet banner notice implemented using a 60-day desktop and mobile campaign. Dkt. No. 205-12 at ¶ 18. It will rely on "Programmatic Display Advertising" to reach the "Target Audience," Dkt. No. 216-1 at ¶ 6, which is estimated to include 30,100,000 people and identified using the target definition of "Fast Food & Drive-In Restaurants Total Restaurants Last 6 Months [Chipotle Mexican Grill]," Dkt. No. 205-12 at ¶ 13. Programmatic display advertising utilizes "search targeting," "category contextual targeting," "keyword contextual targeting," and "site targeting," to place ads. Dkt. No. 216-1 at ¶¶ 9–12. And

through “learning” technology, it continues placing ads on websites where the ad is performing well. Id. ¶ 7. Put simply, prospective Class Members will see a banner ad notifying them of the settlement when they search for terms or websites that are similar to or related to Chipotle, when they browse websites that are categorically relevant to Chipotle (for example, a website related to fast casual dining or Mexican food), and when they browse websites that include a relevant keyword (for example, a fitness website with ads comparing fast casual choices). Id. ¶¶ 9–12. By using this technology, the banner notice is “designed to result in serving approximately 59,598,000 impressions.” Dkt. No. 205-12 at ¶ 18.

The Court finds that the proposed notice process is “‘reasonably calculated, under all the circumstances,’ to apprise all class members of the proposed settlement.” Roes, 944 F.3d at 1045 (citation omitted).

HANLEY v. TAMPA BAY SPORTS AND ENTERTAINMENT LLC

Case No. 8:19-cv-00550 (M.D. Fla.)

The Honorable Charlene Edwards Honeywell (January 7, 2020): The Court approves the form and content of the Class notices and claim forms substantially in the forms attached as Exhibits A-D to the Settlement. The Court further finds that the Class Notice program described in the Settlement is the best practicable under the circumstances. The Class Notice program is reasonably calculated under the circumstances to inform the Settlement Class of the pendency of the Action, certification of a Settlement Class, the terms of the Settlement, Class Counsel’s attorney’s fees application and the request for a service award for Plaintiff, and their rights to opt-out of the Settlement Class or object to the Settlement. The Class notices and Class Notice program constitute sufficient notice to all persons entitled to notice. The Class notices and Class Notice program satisfy all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the Constitutional requirement of Due Process.

CORCORAN ET AL. v. CVS HEALTH ET AL.

Case No. 4:15-cv-03504 (N.D. Cal.)

The Honorable Yvonne Gonzalez Rogers (November 22, 2019): Having reviewed the parties’ briefings, plaintiffs’ declarations regarding the selection process for a notice provider in this matter and regarding Angeion Group LLC’s experience and qualifications, and in light of defendants’ non-opposition, the Court APPROVES Angeion Group LLC as the notice provider. Thus, the Court GRANTS the motion for approval of class notice provider and class notice program on this basis.

Having considered the parties’ revised proposed notice program, the Court agrees that the parties’ proposed notice program is the “best notice that is practicable under the circumstances.” The Court is satisfied with the representations made regarding Angeion Group LLC’s methods for ascertaining email addresses from existing information in the possession of defendants. Rule 23 further contemplates and permits electronic notice to class members in certain situations. See Fed. R. Civ. P. 23(c)(2)(B). The Court finds, in light of the representations made by the parties, that this is a situation that permits electronic notification via email, in addition to notice via United States Postal Service. Thus, the Court APPROVES the parties’ revised proposed class notice program, and GRANTS the motion for approval of class notice provider and class notice program as to notification via email and United States Postal Service mail.

PATORA v. TARTE, INC.**Case No. 7:18-cv-11760 (S.D.N.Y.)**

The Honorable Kenneth M. Karas (October 2, 2019): The Court finds that the form, content, and method of giving notice to the Class as described in Paragraph 9 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, the terms of the Proposed Settlement, and their rights under the Proposed Settlement, including but not limited to their rights to object to or exclude themselves from the Proposed Settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the Due Process Clauses of the United States Constitution. The Court further finds that all of the notices are written in simple terminology, are readily understandable by Settlement Class Members, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

CARTER ET AL. v. GENERAL NUTRITION CENTERS, INC., AND GNC HOLDINGS, INC.**Case No. 2:16-cv-00633 (W.D. Pa.)**

The Honorable Mark R. Hornak (September 9, 2019): The Court finds that the Class Notice and the manner of its dissemination described in Paragraph 7 above and Section VII of the Agreement constitutes the best practicable notice under the circumstances and is reasonably calculated, under all the circumstances, to apprise proposed Settlement Class Members of the pendency of this action, the terms of the Agreement, and their right to object to or exclude themselves from the proposed Settlement Class. The Court finds that the notice is reasonable, that it constitutes due, adequate and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and any other applicable laws.

CORZINE v. MAYTAG CORPORATION ET AL.**Case No. 5:15-cv-05764 (N.D. Cal.)**

The Honorable Beth L. Freeman (August 21, 2019): The Court, having reviewed the proposed Summary Notice, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

MEDNICK v. PRECOR, INC.**Case No. 1:14-cv-03624 (N.D. Ill.)**

The Honorable Harry D. Leinenweber (June 12, 2019): Notice provided to Class Members pursuant to the Preliminary Class Settlement Approval Order constitutes the best notice practicable under the circumstances, including individual email and mail notice to all Class Members who could be identified through reasonable effort, including information provided by authorized third-party retailers of Precor. Said notice provided full and adequate notice of these proceedings and of the matter set forth therein, including the proposed Settlement set forth in the Agreement, to all persons entitled to such notice, and said notice fully satisfied the requirements of F.R.C.P. Rule 23 (e) and (h) and the requirements of due process under the United States and California Constitutions.

GONZALEZ v. TCR SPORTS BROADCASTING HOLDING LLP ET AL.

Case No. 1:18-cv-20048 (S.D. Fla.)

The Honorable Darrin P. Gayles (May 24, 2019): The Court finds that notice to the class was reasonable and the best notice practicable under the circumstances, consistent with Rule 23(e)(1) and Rule 23(c)(2)(B).

ANDREWS ET AL. V. THE GAP, INC. ET AL.

Case No. CGC-18-567237 (Cal. Super. Ct.)

The Honorable Richard B. Ulmer Jr. (May 10, 2019): The Court finds that (a) the Full Notice, Email Notice, and Publication constitute the best notice practicable under the circumstances, (b) they constitute valid, due, and sufficient notice to all members of the Class, and (c) they comply fully with the requirements of California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

COLE ET AL. V. NIBCO, INC.

Case No. 3:13-cv-07871 (D.N.J.)

The Honorable Freda L. Wolfson (April 11, 2019): The record shows, and the Court finds, that the Notice Plan has been implemented in the manner approved by the Court in its Preliminary Approval Order. The Court finds that the Notice Plan constitutes: (i) the best notice practicable to the Settlement Class under the circumstances; (ii) was reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of this..., (iii) due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) notice that fully satisfies the requirements of the United States Constitution (including the Due Process Clause), Fed. R. Civ. P. 23, and any other applicable law.

DIFRANCESCO ET AL. V. UTZ QUALITY FOODS, INC.

Case No. 1:14-cv-14744 (D. Mass.)

The Honorable Douglas P. Woodlock (March 15, 2019): The Court finds that the Notice plan and all forms of Notice to the Class as set forth in the Settlement Agreement and Exhibits 2 and 6 thereto, as amended (the "Notice Program"), is reasonably calculated to, under all circumstances, apprise the members of the Settlement Class of the pendency of this action, the certification of the Settlement Class, the terms of the Settlement Agreement, and the right of members to object to the settlement or to exclude themselves from the Class. The Notice Program is consistent with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances.

IN RE: CHRYSLER-DODGE-JEEP ECODIESEL MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

Case No. 3:17-md-02777 (N.D. Cal.)

The Honorable Edward M. Chen (February 11, 2019): Also, the parties went through a sufficiently rigorous selection process to select a settlement administrator. See Proc. Guidance for Class Action Sett. ¶ 2; see also Cabraser Decl. ¶¶ 9-10. While the settlement administration costs are significant – an estimated \$1.5 million – they are adequately justified given the size of the class and the relief being provided.

In addition, the Court finds that the language of the class notices (short and long-form) is appropriate and that the means of notice – which includes mail notice, electronic notice, publication notice, and social media “marketing” – is the “best notice...practicable under the circumstances.” Fed. R. Civ. P. 23(c)(2)(B); see also Proc. Guidance for Class Action Sett. ¶¶ 3-5, 9 (addressing class notice, opt-outs, and objections). The Court notes that the means of notice has changed somewhat, as explained in the Supplemental Weisbrot Declaration filed on February 8, 2019, so that notice will be more targeted and effective. See generally Docket No. 525 (Supp. Weisbrot Decl.) (addressing, inter alia, press release to be distributed via national newswire service, digital and social media marketing designed to enhance notice, and “reminder” first-class mail notice when AEM becomes available).

Finally, the parties have noted that the proposed settlement bears similarity to the settlement in the Volkswagen MDL. See Proc. Guidance for Class Action Sett. ¶ 11.

RYSEWYK ET AL. V. SEARS HOLDINGS CORPORATION ET AL.

Case No. 1:15-cv-04519 (N.D. Ill.)

The Honorable Manish S. Shah (January 29, 2019): The Court holds that the Notice and notice plan as carried out satisfy the requirements of Rule 23(e) and due process. This Court has previously held the Notice and notice plan to be reasonable and the best practicable under the circumstances in its Preliminary Approval Order dated August 6, 2018. (Dkt. 191) Based on the declaration of Steven Weisbrot, Esq. of Angeion Group (Dkt. No. 209-2), which sets forth compliance with the Notice Plan and related matters, the Court finds that the multi-pronged notice strategy as implemented has successfully reached the putative Settlement Class, thus constituting the best practicable notice and satisfying due process.

MAYHEW ET AL. V. KAS DIRECT, LLC, AND S.C. JOHNSON & SON, INC.

Case No. 7:16-cv-06981 (S.D.N.Y.)

The Honorable Vincent J. Briccetti (June 26, 2018): In connection with their motion, plaintiffs provide the declaration of Steven Weisbrot, Esq., a principal at the firm Angeion Group, LLC, which will serve as the notice and settlement administrator in this case. (Doc. #101, Ex. F: Weisbrot Decl.) According to Mr. Weisbrot, he has been responsible for the design and implementation of hundreds of class action administration plans, has taught courses on class action claims administration, and has given testimony to the Judicial Conference Committee on Rules of Practice and Procedure on the role of direct mail, email, and digital media in due process notice. Mr. Weisbrot states that the internet banner advertisement campaign will be responsive to search terms relevant to “baby wipes, baby products, baby care products, detergents, sanitizers, baby lotion, [and] diapers,” and will target users who are currently browsing or recently browsed categories “such as parenting, toddlers, baby care, [and] organic products.” (Weisbrot Decl. ¶ 18). According to Mr. Weisbrot, the internet banner advertising campaign will reach seventy percent of the proposed class members at least three times each. (Id. ¶ 9). Accordingly, the Court approves of the manner of notice proposed by the parties as it is reasonable and the best practicable option for confirming the class members receive notice.

IN RE: OUTER BANKS POWER OUTAGE LITIGATION

Case No. 4:17-cv-00141 (E.D.N.C.)

The Honorable James C. Dever III (May 2, 2018): The court has reviewed the proposed notice plan and finds that the notice plan provides the best practicable notice under the circumstances and, when completed, shall constitute fair, reasonable, and adequate notice of the settlement to all persons and entities affected by or entitled to participate in the settlement, in full compliance with the notice requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process. Thus, the court approves the proposed notice plan.

GOLDEMBERG ET AL. V. JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

Case No. 7:13-cv-03073 (S.D.N.Y.)

The Honorable Nelson S. Roman (November 1, 2017): Notice of the pendency of the Action as a class action and of the proposed Settlement, as set forth in the Settlement Notices, was given to all Class Members who could be identified with reasonable effort, consistent with the terms of the Preliminary Approval Order. The form and method of notifying the Class of the pendency of the Action as a class action and of the terms and conditions of the proposed Settlement met the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and any other applicable law in the United States. Such notice constituted the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons and entities entitled thereto.

HALVORSON V. TALENTBIN, INC.

Case No. 3:15-cv-05166 (N.D. Cal.)

The Honorable Joseph C. Spero (July 25, 2017): The Court finds that the Notice provided for in the Order of Preliminary Approval of Settlement has been provided to the Settlement Class, and the Notice provided to the Settlement Class constituted the best notice practicable under the circumstances, and was in full compliance with the notice requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, the United States Constitution, and any other applicable law. The Notice apprised the members of the Settlement Class of the pendency of the litigation; of all material elements of the proposed settlement, including but not limited to the relief afforded the Settlement Class under the Settlement Agreement; of the res judicata effect on members of the Settlement Class and of their opportunity to object to, comment on, or opt-out of, the Settlement; of the identity of Settlement Class Counsel and of information necessary to contact Settlement Class Counsel; and of the right to appear at the Fairness Hearing. Full opportunity has been afforded to members of the Settlement Class to participate in the Fairness Hearing. Accordingly, the Court determines that all Final Settlement Class Members are bound by this Final Judgment in accordance with the terms provided herein.

IN RE: ASHLEY MADISON CUSTOMER DATA SECURITY BREACH LITIGATION

MDL No. 2669/Case No. 4:15-md-02669 (E.D. Mo.)

The Honorable John A. Ross (July 21, 2017): The Court further finds that the method of disseminating Notice, as set forth in the Motion, the Declaration of Steven Weisbrot, Esq. on Adequacy of Notice Program, dated July 13, 2017, and the Parties' Stipulation—including an extensive and targeted publication campaign composed of both consumer magazine publications in People and Sports Illustrated, as well as serving 11,484,000 highly targeted digital banner ads to reach the prospective class members that will deliver approximately 75.3% reach with an average frequency of 3.04 —is

the best method of notice practicable under the circumstances and satisfies all requirements provided in Rule 23(c)(2)(B) and all Constitutional requirements including those of due process.

The Court further finds that the Notice fully satisfies Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process; provided, that the Parties, by agreement, may revise the Notice, the Claim Form, and other exhibits to the Stipulation, in ways that are not material or ways that are appropriate to update those documents for purposes of accuracy.

TRAXLER ET AL. V. PPG INDUSTRIES INC. ET AL.

Case No. 1:15-cv-00912 (N.D. Ohio)

The Honorable Dan Aaron Polster (April 27, 2017): The Court hereby approves the form and procedure for disseminating notice of the proposed settlement to the Settlement Class as set forth in the Agreement. The Court finds that the proposed Notice Plan contemplated constitutes the best notice practicable under the circumstances and is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action and their right to object to the proposed settlement or opt out of the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution and Rules 23(c) and (e). In addition, Class Notice clearly and concisely states in plain, easily understood language: (i) the nature of the action; (ii) the definition of the certified Settlement Class; (iii) the claims and issues of the Settlement Class; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the Court will exclude from the Settlement Class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

IN RE: THE HOME DEPOT, INC., CUSTOMER DATA SECURITY BREACH LITIGATION

Case No. 1:14-md-02583 (N.D. Ga.)

The Honorable Thomas W. Thrash Jr. (March 10, 2017): The Court finds that the form, content, and method of giving notice to the settlement class as described in the settlement agreement and exhibits: (a) constitute the best practicable notice to the settlement class; (b) are reasonably calculated, under the circumstances, to apprise settlement class members of the pendency of the action, the terms of the proposed settlement, and their rights under the proposed settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to those persons entitled to receive notice; and (d) satisfy the requirements of Federal Rule of Civil Procedure 23, the constitutional requirement of due process, and any other legal requirements. The Court further finds that the notice is written in plain language, uses simple terminology, and is designed to be readily understandable by settlement class members.

ROY V. TITFLEX CORPORATION T/A GASTITE AND WARD MANUFACTURING, LLC

Case No. 384003V (Md. Cir. Ct.)

The Honorable Ronald B. Rubin (February 24, 2017): What is impressive to me about this settlement is in addition to all the usual recitation of road racing litanies is that there is going to be a) public notice of a real nature and b) about a matter concerning not just money but public safety and then folks will have the knowledge to decide for themselves whether to take steps to protect themselves or not. And that's probably the best thing a government can do is to arm their citizens with knowledge and then the citizens can make decision. To me that is a key piece of this deal. ***I think the notice provisions are exquisite*** [emphasis added].

IN RE: LG FRONT LOADING WASHING MACHINE CLASS ACTION LITIGATION

Case No. 2:08-cv-00051 (D.N.J.)

The Honorable Madeline Cox Arleo (June 17, 2016): This Court further approves the proposed methods for giving notice of the Settlement to the Members of the Settlement Class, as reflected in the Settlement Agreement and the joint motion for preliminary approval. The Court has reviewed the notices attached as exhibits to the Settlement, the plan for distributing the Summary Notices to the Settlement Class, and the plan for the Publication Notice's publication in print periodicals and on the internet, and finds that the Members of the Settlement Class will receive the best notice practicable under the circumstances. The Court specifically approves the Parties' proposal to use reasonable diligence to identify potential class members and an associated mailing and/or email address in the Company's records, and their proposal to direct the ICA to use this information to send absent class members notice both via first class mail and email. The Court further approves the plan for the Publication Notice's publication in two national print magazines and on the internet. The Court also approves payment of notice costs as provided in the Settlement. The Court finds that these procedures, carried out with reasonable diligence, will constitute the best notice practicable under the circumstances and will satisfy.

FENLEY v. APPLIED CONSULTANTS, INC.

Case No. 2:15-cv-00259 (W.D. Pa.)

The Honorable Mark R. Hornak (June 16, 2016): The Court would note that it approved notice provisions of the settlement agreement in the proceedings today. That was all handled by the settlement and administrator Angeion. The notices were sent. The class list utilized the Postal Service's national change of address database along with using certain proprietary and other public resources to verify addresses. the requirements of Fed.R.Civ.P. 23(c)(2), Fed.R.Civ.P. 23(e) (l), and Due Process....

The Court finds and concludes that the mechanisms and methods of notice to the class as identified were reasonably calculated to provide all notice required by the due process clause, the applicable rules and statutory provisions, and that the results of ***the efforts of Angeion were highly successful and fulfilled all of those requirements*** [emphasis added].

FUENTES ET AL. V. UNIRUSH, LLC D/B/A UNIRUSH FINANCIAL SERVICES ET AL.

Case No. 1:15-cv-08372 (S.D.N.Y.)

The Honorable J. Paul Oetken (May 16, 2016): The Court approves, as to form, content, and distribution, the Claim Form attached to the Settlement Agreement as Exhibit A, the Notice Plan, and all forms of Notice to the Settlement Class as set forth in the Settlement Agreement and Exhibits B-D, thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise members of the Settlement Class of the pendency of the Actions, the terms of the Settlement Agreement, and the right to object to the settlement and to exclude themselves from the Settlement Class. The Parties, by agreement, may revise the Notices and Claim Form in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication.

IN RE: WHIRLPOOL CORP. FRONTLOADING WASHER PRODUCTS LIABILITY LITIGATION

MDL No. 2001/Case No. 1:08-wp-65000 (N.D. Ohio)

The Honorable Christopher A. Boyko (May 12, 2016): The Court, having reviewed the proposed Summary Notices, the proposed FAQ, the proposed Publication Notice, the proposed Claim Form, and the proposed plan for distributing and disseminating each of them, finds and concludes that the proposed plan for distributing and disseminating each of them will provide the best notice practicable under the circumstances and satisfies all requirements of federal and state laws and due process.

SATERIALE ET AL. V. R.J. REYNOLDS TOBACCO CO.

Case No. 2:09-cv-08394 (C.D. Cal.)

The Honorable Christina A. Snyder (May 3, 2016): The Court finds that the Notice provided to the Settlement Class pursuant to the Settlement Agreement and the Preliminary Approval Order has been successful, was the best notice practicable under the circumstances and (1) constituted notice that was reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (2) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (3) met all applicable requirements of the Federal Rules of Civil Procedure, Due Process, and the rules of the Court.

FERRERA ET AL. V. SNYDER'S-LANCE, INC.

Case No. 0:13-cv-62496 (S.D. Fla.)

The Honorable Joan A. Lenard (February 12, 2016): The Court approves, as to form and content, the Long-Form Notice and Short-Form Publication Notice attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits 1 and 2 to the Stipulation of Settlement. The Court also approves the procedure for disseminating notice of the proposed settlement to the Settlement Class and the Claim Form, as set forth in the Notice and Media Plan attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits G. The Court finds that the notice to be given constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.

IN RE: POOL PRODUCTS DISTRIBUTION MARKET ANTITRUST LITIGATION

MDL No. 2328/Case No. 2:12-md-02328 (E.D. La.)

The Honorable Sarah S. Vance (December 31, 2014): To make up for the lack of individual notice to the remainder of the class, the parties propose a print and web-based plan for publicizing notice. The Court welcomes the inclusion of web-based forms of communication in the plan. The Court finds that the proposed method of notice satisfies the requirements of Rule 23(c)(2)(B) and due process. The direct emailing of notice to those potential class members for whom Hayward and Zodiac have a valid email address, along with publication of notice in print and on the web, is reasonably calculated to apprise class members of the settlement. Moreover, the plan to combine notice for the Zodiac and Hayward settlements should streamline the process and avoid confusion

that might otherwise be caused by a proliferation of notices for different settlements. Therefore, the Court approves the proposed notice forms and the plan of notice.

SOTO ET AL. V. THE GALLUP ORGANIZATION, INC.

Case No. 0:13-cv-61747 (S.D. Fla.)

The Honorable Marcia G. Cooke (June 16, 2015): The Court approves the form and substance of the notice of class action settlement described in ¶ 8 of the Agreement and attached to the Agreement as Exhibits A, C and D. The proposed form and method for notifying the Settlement Class Members of the settlement and its terms and conditions meet the requirements of Fed. R. Civ. P. 23(c)(2)(B) and due process, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons and entities entitled to the notice. The Court finds that the proposed notice is clearly designed to advise the Settlement Class Members of their rights.

OTT v. MORTGAGE INVESTORS CORPORATION OF OHIO, INC.

Case No. 3:14-cv-00645 (D. Or.)

The Honorable Janice M. Stewart (July 20, 2015): The Notice Plan, in form, method, and content, fully complies with the requirements of Rule 23 and due process, constitutes the best notice practicable under the circumstances, and is due and sufficient notice to all persons entitled thereto. The Court finds that the Notice Plan is reasonably calculated to, under all circumstances, reasonably apprise the persons in the Settlement Class of the pendency of this action, the terms of the Settlement Agreement, and the right to object to the Settlement and to exclude themselves from the Settlement Class.

Agreement upon the terms and conditions set forth in this Preliminary Approval Order. The Court hereby adopts and incorporates the terms of the Settlement Agreement for the purposes of this Preliminary Approval Order, including the Definitions set forth in the Settlement Agreement. The Court now orders as follows:

FINDINGS OF FACT

1. Findings of Fact.

a. On June 16, 2022, Plaintiffs filed a Consolidated Class Action Complaint against Haleon and Pfizer, Inc. based on the alleged false and misleading labeling, packaging, and marketing of the Covered Products. (ECF No. 30) (the “Litigation”).

b. Plaintiffs have asserted claims on behalf of a nationwide class of consumers regarding, among other things, the use of the phrase “Non-Drowsy” on labeling for the Covered Products (which contain dextromethorphan (“DXM”)).

c. Haleon filed a motion to dismiss, which this Court granted on March 10, 2023, on the ground that the claims were preempted. (ECF no. 45).

d. Plaintiffs appealed the dismissal to the United States Court of Appeals for the Second Circuit, where it was fully briefed but not argued.

e. The Parties represent that they have conducted an extensive and thorough examination, investigation, and evaluation of the relevant law, facts, and allegations to assess the merits of the claims and defenses.

f. Class Counsel represents that it determined the strength of the claims, the likelihood of success and significant risks of continued litigation, and the parameters within which courts have assessed settlements similar to this proposed settlement.

g. The Parties have entered into a Settlement Agreement in which the Parties have agreed to settle the Litigation, pursuant to the terms of the Settlement Agreement, subject to the approval and determination by the Court as to the fairness, reasonableness, and adequacy of the settlement, which, if approved, will result in dismissal of the Litigation with prejudice.

h. Jurisdiction was restored to this Court through a remand from the United States Court of Appeals for the Second Circuit for the limited purpose of conducting proceedings related to the Parties' proposed class action settlement. (ECF 54).

i. Plaintiffs filed their unopposed motion for preliminary approval before the Court, with the consent of GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (now known as Haleon US Holdings LLC) and GSK Consumer Health, Inc., (now known as Haleon US Inc. and, together with Haleon US Holdings LLC, shall hereinafter be referred to as "Haleon").

j. The Court has reviewed the Settlement Agreement, including the exhibits attached thereto, and all prior proceedings herein, and has found good cause based on the record to enter this Preliminary Approval Order.

2. **Preliminary Settlement Approval**. The provisions of the Settlement Agreement are hereby preliminarily approved. The Court preliminarily approves the settlement set forth in the Settlement Agreement as being within the range of possible approval as fair, reasonable, and adequate within the meaning of Rule 23 and the Class Action Fairness Act of 2005. The Court finds on a preliminary basis that the settlement falls within the range of reasonableness because the settlement has key indicia of fairness, in that (1) the Parties have reached the settlement after investigating the strengths and weaknesses of the claims, (2) the extensive negotiations were

contentious, arms-length, and assisted by professional mediator Bruce A. Friedman, Esq., (3) there is no evidence of collusion in reaching this settlement; and (4) the proponents of the settlement are experienced in similar litigation. The Court also finds that notice to the Settlement Class is warranted.

3. **Preliminary Class Certification for Settlement Purposes Only**. The Court preliminarily finds, based on the terms of the settlement described in the Settlement Agreement and for settlement purposes only, that: (a) the Settlement Class is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact that are common to the Settlement Class, and that those questions of law and fact predominate over any questions affecting any individual Settlement Class Member; (c) Plaintiffs' claims are typical of the claims of the Settlement Class Members they seek to represent for purposes of the settlement; (d) Plaintiffs and Class Counsel have fairly and adequately represented the interests of the Settlement Class and will continue to do so; and (e) a class action provides a fair and efficient method for settling the controversy under the criteria set forth in Rule 23. The Court also concludes that, because the Litigation is being settled rather than litigated, the Court need not consider manageability, efficiency, or judicial economy issues that might otherwise be presented by the trial of a class action involving the issues in the Litigation.

Having made these findings in the specific context of this settlement, the Court hereby provisionally certifies the following Settlement Class for settlement purposes only pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3):

All purchasers of any flavor Robitussin product with dextromethorphan and marketed as non-drowsy, including Robitussin Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength Liquid-Filled Capsules; Robitussin Cough+Chest Congestion DM Syrups; Children's

Robitussin Cough & Chest Congestion DM Syrups; Children's Robitussin Cough & Chest Congestion DM / Nighttime Cough Long-Acting DM Day & Night Value Pack Syrups; Robitussin Sugar-Free Cough+Chest Congestion DM Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Elderberry Cough+Chest Congestion DM Maximum Strength Syrups; Children's Robitussin Elderberry Cough & Chest Congestion DM Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength / Nighttime Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Severe Cough + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength / Nighttime Severe Cough Flu + Sore Throat CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Multi-Symptom Cold CF Syrups; Children's Robitussin Cough & Cold CF Syrups; Robitussin Long-Acting CoughGels; Robitussin 12 Hour Cough Relief Extended-Release Grape Syrups; Robitussin 12 Hour Cough Relief Extended-Release Orange Syrups for personal or household use, and not for resale, in the United States during the Class Period. Specifically excluded from the Settlement Class are (i) Haleon, its officers, directors, affiliates, legal representatives, employees, successors, and assigns, and entities in which Haleon has a controlling interest; (ii) judges presiding over the Litigation; (iii) local, municipal, state, and federal governmental entities; (iv) counsel of record for the Parties; and (v) all Persons who validly opt-out in a timely manner.

As defined in the Settlement Agreement, the term "Class Period" means the time period from February 16, 2016 through the Preliminary Approval Date.

4. **Class Counsel and Class Representatives.** The Court appoints Jonas B. Jacobson and Simon Franzini of Dovel & Luner, LLP as Class Counsel. Plaintiffs Nancy Calchi and Stacey Papalia are hereby appointed as Class Representatives.

5. **Jurisdiction.** The Court has subject-matter jurisdiction over the Litigation pursuant to 28 U.S.C. §§ 1332 and 1367 and personal jurisdiction over the Parties before it. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391.

6. **Final Approval Hearing.** A Final Approval Hearing shall be held on _____, at _____ [time] at the United States District Court for the Southern District of New York, in

Courtroom 521, in The Hon. Charles L. Briant Jr. Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York 10601, with details to be provided on the Settlement Website prior to the Final Approval Hearing, to determine, among other things: (a) whether the Litigation should be finally certified as a class action for settlement purposes only pursuant to Rule 23(a) and (b)(3); (b) whether the settlement of the Litigation should be finally approved as fair, reasonable, and adequate pursuant to Rule 23(e); (c) whether the Litigation should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (d) whether Settlement Class Members should be bound by the Release set forth in the Settlement Agreement; (e) whether Settlement Class Members and related persons should be permanently enjoined from pursuing lawsuits based on the Released Claims, as set forth in the Settlement Agreement; (f) whether the application of Class Counsel for an Attorneys' Fee, Cost, and Service Award should be approved pursuant to Rule 23(h); and (g) whether the application of the named Plaintiffs for a Service Award should be approved. The submissions of the Parties in support of final approval of the settlement, including Class Counsel's application for an Attorneys' Fee, Cost, and Service Award, shall be filed with the Court no later than thirty (30) days after the Preliminary Approval Date.

7. **Administration and Appointment of the Settlement Administrator.** In consultation with, and with the approval of, Haleon, Class Counsel is hereby authorized to establish the means necessary to administer the proposed settlement and implement the Claim process, in accordance with the terms of the Settlement Agreement. Angeion Group is hereby appointed by the Court as the Settlement Administrator, whose reasonable fees and costs are to be paid from the Gross Settlement Fund in accordance with the Settlement Agreement subject to the "not to exceed" proposal attached to the Affidavit of the Settlement Administrator attached to

Plaintiffs' motion for preliminary approval. The Settlement Administrator shall perform and comply with all notice and administration duties ascribed to it in the Settlement Agreement, this Preliminary Approval Order, and subsequent orders that may be entered by this Court in this case.

8. **Findings Concerning Notice.** The Court finds that the Notice Plan described in the Settlement Agreement and the notice documentation attached as exhibits to the Settlement Agreement: (a) will constitute the best notice practicable under the circumstances; (b) are reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Litigation, the terms of the proposed settlement, and their rights under the proposed settlement, including, but not limited to, their rights to object to or exclude themselves from the proposed settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Settlement Class Members and other persons entitled to receive notice; (d) meet all applicable requirements of law, including, but not limited to, 28 U.S.C. § 1715, Rule 23(c), the Due Process Clause(s) of the United States Constitution, and any other applicable laws; and (e) fairly and adequately informs Settlement Class Members that if they do not comply with the specified procedures and the deadline for objections, they will lose any opportunity to have any objection considered at the Final Approval Hearing or to otherwise contest approval of the settlement or appeal from any order or judgment entered by the Court in connection with the settlement. The Court further finds that all of the notices are written in simple terminology, are clear and readily understandable, and are materially consistent with the Federal Judicial Center's illustrative class action notices.

9. **Class Notice.** Having reviewed the Settlement Notice and Notice Plan and in light of the findings in the previous Paragraph, the proposed Settlement Notice and Notice Plan

described in the Settlement Agreement and the exhibits attached to the Settlement Agreement are hereby approved:

- a. Not later than the Notice Commencement Date, the Settlement Administrator shall establish the Settlement Website utilizing the domain name www.NonDrowsyRobitussinSettlement.com. The Settlement Website will inform Settlement Class Members of the terms of the Settlement Agreement, their rights, dates and deadlines, and related information. The Settlement Website shall include, in Portable Document Format (“PDF”), materials agreed upon by the Parties and as further ordered by this Court.
- b. Not later than the Notice Commencement Date, the Settlement Administrator shall establish a toll-free telephone number that will provide settlement-related information to Settlement Class Members as set forth in the Settlement Agreement.
- c. The Settlement Administrator shall commence the Notice Plan no later than the Notice Commencement Date and timely disseminate any remaining notice, as stated in the Settlement Agreement and/or the Affidavit of the Settlement Administrator.
- d. Haleon will provide the Settlement Administrator with reasonably available and accessible information that identifies possible Settlement Class Members from their existing records.
- e. Haleon, through the Settlement Administrator, shall notify the appropriate Federal and State officials under the Class Action Fairness Act of 2005 and 28 U.S.C. § 1715. Proof of compliance will be filed with the Motion for Final Approval.

10. **Creation of Settlement Fund.** Within ten (10) days after the Preliminary Approval Date, Haleon will deposit or cause to be deposited into the Settlement Escrow Account a cash sum equal to the maximum “not to exceed” price obtained from the Settlement Administrator to cover Settlement Administration Costs.

11. **Requests for Exclusion from the Settlement Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class may elect to opt out of the settlement, relinquishing his or her rights to monetary compensation under the Settlement Agreement. Settlement Class Members who opt out of the settlement will not release their claims that accrued during the Class Period. To validly request exclusion from the Settlement Class, a member of the Settlement Class must submit a written request to opt out to the Settlement Administrator so that it is postmarked by the Objection and Opt-Out Deadline stating that “I wish to exclude myself from the Settlement Class in the Robitussin Non-Drowsy Class Action Settlement” (or substantially similar clear and unambiguous language). That written request shall contain said Person’s printed name, address, telephone number, and email address. The request for exclusion must contain the written signature of said Person seeking to exclude himself or herself from the Settlement Class. The Settlement Administrator will provide copies of all requests for exclusion to counsel for the Parties on a weekly basis by email. Any Settlement Class Member who does not submit a valid and timely written request for exclusion shall be bound by all subsequent proceedings, orders, and judgments in this Litigation, including, but not limited to, the Release, the Final Approval Order, and the Final Judgment, even if such Settlement Class Member has litigation pending, or subsequently initiates litigation, against any Released Party relating to the Released Claims. A member of the Settlement Class who opts out can, on or before the Objection and Opt-Out Deadline, withdraw their request for exclusion by submitting a written

request to the Settlement Administrator stating their desire to revoke their request for exclusion along with their written signature. Any statement or submission purporting or appearing to be both an objection and an opt-out shall be treated as a request for exclusion. A member of the Settlement Class who submits a request for exclusion cannot object to the settlement. Not later than seven (7) days after the Objection and Opt-out Deadline, the Settlement Administrator shall provide to Class Counsel and Counsel for Haleon a complete list of opt-outs together with copies of the opt-out requests and any other related information. Requests for exclusion cannot be made on a group or class basis.

12. **Objections and Appearances.** A Settlement Class Member who does not submit a written Request for Exclusion may object to the settlement pursuant to Paragraph E.2. and subparts of the Settlement Agreement. A Settlement Class Member who wishes to submit an objection must deliver to the Court and the Settlement Administrator so that it is postmarked by the Objection and Opt-Out Deadline, a detailed written objection.

- a. That written objection shall contain (a) the Settlement Class Member's printed name, address, and telephone number; (b) evidence showing that the objector is a Settlement Class Member; (c) a detailed written statement of the objection(s) and the aspect(s) of the settlement being challenged, as well as the specific reasons, if any, for each such objection, including any evidence and legal authority that the Settlement Class Member wishes to bring to the Court's attention, (d) any other supporting papers, materials, or briefs that the Settlement Class Member wishes the Court to consider when reviewing the objection; (e) the written signature of the Settlement Class Member making the objection; and (f) a statement on whether the

objecting Settlement Class Member and/or his or her counsel intend to appear at the Final Approval Hearing.

- b. A Settlement Class Member may object on his or her own behalf or through an attorney; however, even if represented, the Settlement Class Member must individually sign the objection and all attorneys who are involved in any way asserting objections on behalf of the Settlement Class Member must be listed on the objection papers. Counsel for the Parties may take the deposition of any objector prior to the Final Approval Hearing in a location convenient for the objector (including by remote video deposition at the Parties' election).
- c. Any objector who serves a timely written objection as described above may appear at the Final Approval Hearing, either in person at their own expense or through personal counsel hired at the objector's expense, to object to the fairness, reasonableness, or adequacy of any aspect of the settlement on the basis set forth in his or her objection. As noted above, objectors or their attorneys who intend to make an appearance at the Final Approval Hearing must state their intention to appear in the written objection delivered to the Settlement Administrator. An objector who did not submit a timely and valid written objection, as described above, may not present any objection at the hearing.
- d. Any Settlement Class Member who fails to comply with the provisions of Paragraph E.2 and its subparts shall waive and forfeit any and all rights that he or she may have to appear separately and/or to object to the settlement, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders and judgments in the Litigation, including, but not limited to, the Release, the Final

Approval Order, and the Final Judgment, even if such Settlement Class Member has litigation pending or subsequently initiates litigation, against any Released Party relating to the Released Claims.

- e. The exclusive means for any challenge to this settlement shall be through the provisions of Paragraph E.2 and its subparts. Without limiting the foregoing, any challenge to the Settlement Agreement, the Final Approval Order, the Final Judgment, or any Attorneys' Fee, Cost, and Service Award Order shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.
- f. An objector shall be entitled to all of the benefits of the settlement if the Settlement Agreement is approved, as long as the objector complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including the timely and complete submission of a Claim Form and other requirements herein. A Settlement Class Member who objects can, on or before the Objection and Opt-Out Deadline, withdraw their objection by submitting a written request to the Settlement Administrator stating their desire to withdraw their objection along with their signature.
- g. If a Settlement Class Member or counsel for the Settlement Class Member who submits an objection to this settlement has objected to a class action settlement on any prior occasion, the objection shall also disclose all cases in which they have filed an objection by caption, court, and case number, and for each case, the disposition of the objection.

h. The Parties shall be entitled to file responses to any objections to the settlement no later than seven (7) days prior to the Final Approval Hearing.

13. **Disclosures.** The Settlement Administrator, Counsel for Haleon, and Class Counsel shall promptly furnish to each other copies of any and all objections or written requests for exclusion that might come into their possession.

14. **Settlement Escrow Account.** The Court hereby approves the establishment of the Settlement Escrow Account. The Settlement Escrow Account shall be governed by Section 468B-1 through 468B-5 of the Treasury Regulations to maintain the Settlement Escrow Account as a “Qualified Settlement Fund,” and the Parties agree to work in good faith to maintain such status. The Court shall retain continuing jurisdiction over the Settlement Escrow Account, pursuant to Section 468B-1(c)(1) of the Treasury Regulations. The Settlement Escrow Account is to be established to resolve or satisfy one or more claims that have resulted or may result from an event that has occurred and that has given rise to at least one claim asserting liabilities. The assets of the Settlement Escrow Account are to be segregated from other assets of Haleon, the transferor of the payments to the Settlement Escrow Account. Under the “relation back” rule provided under Section 468B-1(j)(2)(i) of the Treasury Regulations, the Court finds that Haleon and the Settlement Administrator may jointly elect to treat the Settlement Escrow Account as coming into existence as a “qualified settlement fund” on the latter of the date the Settlement Escrow Account meets the requirements of this Paragraph of this Preliminary Approval Order or January 1 of the calendar year in which all of the requirements of this Paragraph of this Preliminary Approval Order are met. If such a relation-back election is made, the assets held in the Settlement Escrow Account on such date shall be treated as having been transferred to the Settlement Escrow Account on that date.

15. **Termination of Settlement.** This Preliminary Approval Order shall become null and void and shall not prejudice the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if: (a) the settlement is not finally approved by the Court, or does not become final and effective, pursuant to the terms of the Settlement Agreement; (b) the settlement is terminated in accordance with the Settlement Agreement; or (c) the settlement does not become effective as required by the terms of the Settlement Agreement for any other reason. In such event, the settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders relating to the settlement, including this Preliminary Approval Order, shall be used or referred to for any purpose. The certification of the Settlement Class provided for herein will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any party's position on the issue of the appeal, class certification, or any other issue. In such event, Haleon retains all rights to assert that the Litigation may not be certified as a class action, other than for settlement purposes.

16. **Stay of Proceedings.** Pending the Final Approval Hearing, the Court hereby also stays all proceedings in this case, other than those proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement. Pursuant to 28 U.S.C. §§ 1651(a) and 2283, the Court finds that issuance of this preliminary injunction is necessary and appropriate in aid of the Court's continuing jurisdiction and authority over this action. Moreover, pending final determination of whether the settlement should be approved, Plaintiffs, all other Settlement Class Members, and each of them, and anyone who acts or purports to act on their behalf, shall not institute, commence, or prosecute any action that asserts Released Claims against any Released Party in any court or tribunal, unless they file a timely and valid request for exclusion from the

settlement. Such injunction shall remain in force until the Effective Date or until such time as the Parties notify the Court that the settlement has been terminated. Under the All Writs Act, the Court finds that issuance of this nationwide stay and injunction binding Settlement Class Members is necessary and appropriate in aid of the Court's jurisdiction over this action. The Court finds no bond is necessary for issuance of this injunction.

17. **Effect of Settlement Agreement and Preliminary Approval Order.** The Parties entered this settlement for the sole purpose of attempting to consummate a settlement of the Litigation on a class-wide nationwide basis. This Settlement Agreement is made in compromise of disputed claims and shall not be construed as a presumption, concession, or admission by or against any Party of any default, liability, or wrongdoing as to any facts or claims alleged or asserted in the action, or in any action or proceedings, whether civil, criminal, or administrative, including, but not limited to, factual or legal matters relating to any effort to certify the action as a class action. Nothing in this Preliminary Approval Order or pertaining to the Settlement Agreement, including any of the documents or statements generated or received pursuant to the claims administration process, shall be used as evidence in any further proceeding in this case or any other litigation or proceeding, including, but not limited to, motions or proceedings seeking treatment of the action as a class action. Because this is a class action settlement, this Settlement Agreement must receive preliminary and final approval by the Court. It is an express condition of this Settlement Agreement that the Court shall enter the Final Approval Order and Final Judgment and that the Settlement Agreement reach the Effective Date. In the event that the Effective Date does not occur, this Settlement Agreement shall be terminated and only those provisions necessary to effectuate such termination and to restore fully the Parties to their respective positions before entry of this Settlement Agreement shall be given effect and enforced. In such event, the Parties

shall bear their own costs and attorneys' fees in all respects, including without limitation with regard to the efforts to obtain any Court approval under this Settlement Agreement (except the costs of the Notice Plan and Settlement Administration actually incurred at the time of termination, which shall be borne solely from the Gross Settlement Fund).

18. **Retaining Jurisdiction.** This Court shall maintain continuing jurisdiction over these settlement proceedings to assure the effectuation thereof for the benefit of the Settlement Class.

19. **Further Efforts.** Class Counsel and Counsel for Haleon are hereby authorized to use all reasonable procedures in connection with approval and administration of the settlement that are not materially inconsistent with this Preliminary Approval Order or the Settlement Agreement, including making, without further approval of the Court, minor changes to the Settlement Agreement, to the form or content of the Settlement Notice, or to the form or content of any other exhibits attached to the Settlement Agreement, that the Parties jointly agree are reasonable or necessary, and which do not limit the rights of Settlement Class Members under the Settlement Agreement.

20. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the Final Approval Hearing without further written notice to the Settlement Class, although any updates concerning the date, time, and/or format of the Final Approval Hearing shall be posted to the Settlement Website.

21. The Court sets the following schedule for the Final Approval Hearing and the actions which must precede it:

- a. Settlement Administrator shall commence notice program by no later than [21 days after the Preliminary Approval Date] _____ (the “Notice Commencement Date”).
- b. Settlement Administrator shall establish the Settlement Website and toll-free phone number by no later than [the Notice Commencement Date] _____.
- c. Plaintiffs shall file their Motion for Attorneys’ Fees, Cost, and Service Awards by no later than [30 days after the Notice Commencement Date,] _____.
- d. Requests from Settlement Class Members to exclude themselves must be postmarked by no later than [60 days after the Notice Commencement Date] _____.
- e. Settlement Class Members must send any objections to the Court and Settlement Administrator postmarked no later than [60 days after the Notice Commencement Date] _____.
- f. Claim Forms from Settlement Class members must be postmarked by no later than [90 days after the Notice Commencement Date] _____.
- g. Plaintiffs shall file their Motion for Final Approval by no later than [21 days prior to the Final Approval Hearing]
- h. The Parties must file any responses to objections by no later than [21 days prior to the Final Approval Hearing] _____.
- i. The Settlement Administrator must file or cause to be filed, if necessary, a supplemental declaration with the Court by no later than [5 days prior to the Final Approval Hearing] _____.

- j. The Final Approval Hearing shall take place on [at least 135 days after the Court's the Preliminary Approval Date] _____ at _____ at the United States District Court for the Southern District of New York, in Courtroom 521, in The Hon. Charles L. Briant Jr. Federal Building and United States Courthouse, 300 Quarropas Street, White Plains, New York, or by virtual attendance at the Court's discretion and the details of which to be provided before the Final Approval Hearing on the Settlement Website.

SO ORDERED

DATED: _____, 2024

Honorable Kenneth M. Karas