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Including Professional Corporations
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LILIA PERKINS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

PHILIPS ORAL HEALTHCARE, INC.,
a Washington Corporation; PHILIPS
ELECTRONICS NORTH AMERICA
CORPORATION, a Delaware
Corporation; and DOES 1 through 20,
inclusive.

Defendants.

CASE NO.: 12-cv-1414H BGS

Judge: Hon. Marilyn L. Huff

**NOTICE OF MOTION AND MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT; AND
PLAINTIFF'S MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT**

Hearing Date:

Hearing Time:

Courtroom: 15A

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on _____, at _____ a.m. before the Honorable Marilyn L. Huff in Courtroom 15A, 15th Floor of the United States District Court for the Southern District of California, located at 333 West Broadway, San Diego, California 92101, Plaintiff Lilia Perkins will and hereby does move for an order (i) granting preliminary approval of the parties' proposed class settlement, (ii) conditionally certifying a settlement class, (iii) appointing Plaintiff as class representative and her attorneys as class counsel, (iv) directing dissemination of the proposed class notice, (v) barring new lawsuits through the time of the final order on confirmation, and (vi) setting the date and time of a fairness hearing to determine whether the settlement should be granted final approval and whether and to what extent fees should be awarded to class counsel and whether an "incentive" award should be provided to the Plaintiff.

Plaintiff's motion is based on this notice; the accompanying Memorandum of Points and Authorities, Declaration of Michael I. Rott and all attachments thereto (including the Settlement Agreement), and Proposed Order Granting Preliminary Approval of Class Settlement, Proposed Long Form Notice to the Settlement Class; and all other papers filed and proceedings had in this action.

Dated: May 28, 2013

HIDEN, ROTT & OERTLE, LLP

By: s/ERIC M. OVERHOLT

Michael Ian Rott, Esq.

Eric M. Overholt, Esq.

Attorneys for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

Plaintiff Lilia Perkins filed this class action to address the marketing of the Philips Sonicare AirFloss as a replacement for traditional floss. Plaintiff was concerned that other people in

California were misled about the efficacy of the AirFloss and the way that Philips advertised the product.

Plaintiff's counsel and Philips Oral Healthcare, Inc., and Philips Electronics North America Corporation ("Philips") have negotiated a settlement that addresses the primary concerns identified by Plaintiff, as well as additional issues identified since the filing of the case. If approved by the Court, the settlement will provide AirFloss owners in California with (1) notice of the marketing and efficacy issues and (2) a voucher for certain California residents who purchased an AirFloss in California between January 1, 2011 and June 24, 2013. Plaintiff and her counsel believe the settlement provides favorable relief to Class Members in a timely manner and therefore seek to begin the settlement approval process outlined in the Manual for Complex Litigation (Fourth) §§ 21.632-35 and applicable law. They respectfully request that the Court review the parties' Stipulated Class Settlement ("Settlement Agreement"), (Rott Decl., Exh. 1), and enter an order:

1. Granting preliminary approval of the settlement;
2. Certifying provisionally the proposed class for settlement purposes;
3. Appointing Plaintiff Lilia Perkins as class representative and her counsel, Michael I. Rott and Eric M. Overholt at Hiden, Rott & Oertle, LLP, as class counsel;
4. Directing that notice be disseminated to the class as proposed;
5. Enjoining any Settlement Class Members from instituting any new litigation against Philips or any of its affiliates related to the AirFloss and/or its marketing or sales until the court may rule on the Settlement at or after the Final Approval Hearing; and
6. Setting a hearing date and briefing schedule for final approval of the settlement and consideration of Plaintiff's fee application.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiff's Complaint

Plaintiff filed her initial complaint in June of 2011. *See* Dkt #1 (Compl.); Dkt #5 (FAC). Plaintiff alleged that the Sonicare AirFloss was advertised as a replacement for traditional floss, when it is not a proper replacement for traditional floss. Plaintiff alleged that the advertisement

1 as a replacement for floss induced her and members of the class to purchase the Sonicare
2 AirFloss.

3 On behalf of herself and the class of individuals in California who purchased a Sonicare
4 AirFloss, Plaintiff claimed that Philips violated California consumer protection laws by
5 representing that the AirFloss was a replacement for traditional floss when in reality it is an
6 adjunct to traditional flossing and brushing. Plaintiff requested damages, restitution, penalties,
7 disclosure about the true efficacy of the product and an injunction to prohibit Philips from
8 continuing to sell the product as a replacement for floss. Following preliminary discussions
9 between the parties, Plaintiff filed her First Amended Complaint on June 11, 2012, which
10 dismissed her claim under the Magnuson Moss Warranty Act, but otherwise asserted substantially
11 the same claims as the original complaint.

12 **B. Investigation, Litigation and Settlement Negotiations**

13 **1. Plaintiff's Pre-suit Investigation & Pre-suit Demand Letters**

14 In the course of investigating the claims against Philips, Plaintiff's counsel reviewed
15 numerous complaints on the internet about the efficacy of the product. (Rott Decl. par. 2).
16 Plaintiff's counsel also interviewed other consumers who had used the product and were
17 dissatisfied with the results. (*Id.*) The complaints on the internet and complaints of other
18 individuals mirrored Plaintiff's complaints and frustrations.

19 To determine if the AirFloss really did not function as a replacement to floss, Plaintiff's
20 counsel conducted their own research into the American Dental Association standards for floss.
21 To better substantiate their own research regarding whether an oral irrigator is the same as
22 traditional floss and to begin the long process of preparing a case, Plaintiff's counsel enlisted the
23 help dentists who answered our questions and provided guidance. (*Id at par. 3.*)

24 Plaintiff sent, with the assistance of counsel, a pre-lawsuit letter pursuant to the California
25 Consumer Legal Remedies Act outlining all of the complaints that she had regarding the AirFloss
26 and the way that it was advertised on the packaging and on the Philips website. In response to
27 that letter, Philips hired counsel and denied Plaintiff's allegations.

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2. Phillips' Motion to Dismiss

On October 31, 2012, Philips filed a Motion to Dismiss the FAC. *See* Dkt. 6. Philips argued that the Court should dismiss Plaintiff's First Amended Complaint in its entirety. After the issues were fully briefed, the Court issued an Order granting in part and denying in part Philips' Motion. The Court dismissed the express warranty claim and one of the three CLRA claims, but allowed the fraud-based claims, UCL claims, the express warranty claims and the remaining CLRA claims to go forward. The Court denied Philips' motion to dismiss any of the other claims.

3. Settlement Negotiations

Plaintiff and her counsel appeared at an Early Neutral Evaluation ("ENE") conference with the Honorable Judge Bernard G. Skomal on April 10, 2013. Prior to the ENE conference, Plaintiff's counsel and counsel for Philips had some initial discussions about Plaintiff's claims and the possibility of settlement. At the ENE, Judge Skomal assisted the parties in communicating the perceived strengths and weaknesses with the parties' respective positions. By the end of the ENE, the parties had a preliminary agreement on the amount of and conditions for the vouchers for the Class Members. Over the course of the next month Plaintiff's counsel and Philips' counsel engaged in continued negotiations about notice procedures and, ultimately, Plaintiff's attorneys' fees and costs.

Based on these negotiations and our firm's own investigation, the settlement is in the best interests of the putative class members. Plaintiff's counsel specifically balanced the terms of the proposed settlement, including both the settlement amount and the benefits conferred to class members against the probability of liability, the risk of non-certification, the risks and expense of trial as well as concerns about the likelihood of numerous appellate issues. Counsel also considered the timing of recovery, delays in receipt of funds due to trial and potential appeal and similar issues. (*Id.*, par 9)

C. Summary of the Settlement Agreement

1. Terms of the Settlement Agreement

Settlement Class Members who timely file a valid claim by an approved claims deadline

and provide all required proof of purchase, such as a receipt or other documentation to substantiate their AirFloss purchase, or return the product to Philips, as approved and validated by the Claims Administrator, shall have the right to obtain relief, as detailed below:

TIER 1 — CATEGORY A: Any Settlement Class Member who:

- (a) submits a timely, valid and written Claim; *and*
 - (b) provides proof that they purchased a new two-pack AirFloss; *and*
 - (c) provides an attestation that they never previously obtained any refund or other compensation from Philips or a retailer in connection with the AirFloss purchase for which they seek relief here,
- shall receive a voucher for \$33.00.

TIER 1 — CATEGORY B: Any Settlement Class Member who:

- (a) submits a timely, valid and written Claim; *and*
 - (b) provides proof that they purchased a new single-pack AirFloss; *and*
 - (c) provides an attestation that they never previously obtained any refund or other compensation from Philips or a retailer in connection with the AirFloss purchase for which they seek relief here,
- shall receive a voucher for \$23.00.

TIER 2: Any Settlement Class Member who:

- (a) submits a timely, valid and written Claim; *and*
 - (b) provides an attestation that they purchased a new AirFloss; *and*
 - (c) provides an attestation that they never previously obtained any refund or other compensation from Philips or a retailer in connection with the AirFloss purchase for which they seek relief here,
- shall receive a voucher for \$7.00.

There shall be no limit on the number of vouchers to be distributed in the aggregate to the Settlement Class Members. There shall be no limit on the value of the voucher payments under the Settlement Agreement. Settlement Class Members may submit, subject to proof, one Claim Form and are limited to two vouchers per household for Tier 1 Settlement Class Members and

one voucher per household for Tier 2 Settlement Class Members pursuant to the Settlement Agreement.

The terms of the Vouchers provided to Class Members is as follows:

- A. Vouchers shall be fully transferable; and
- B. Vouchers must be used within twelve months after issuance and after that date shall become valueless; and
- C. Vouchers may be used for the purchase of any new (i) Philips audio or video products (excluding televisions), (ii) Philips Norelco shaving and grooming products, (iii) Philips Sonicare oral care products, (iii) Philips accessories, and (iv) Avent-branded products (collectively the "Eligible Products").

The settlement vouchers provide substantial and meaningful benefits to the class members. *First*, the settlement vouchers can be used at many of the nation's largest retailers and are not limited to purchases made directly from Philips. *Second*, the amounts of the vouchers, particularly for Tier 1 Settlement Class Members, are sufficient to purchase a significant number of Philips products without requiring the Settlement Class Member to spend additional cash. *Third*, the vouchers are freely transferable. Taken together, these features enhance the value of the Settlement for the Settlement Class Members and support a finding that the Settlement should be preliminarily approved.

2. Costs of Notice and Administration, Class Representative Enhancement and Attorney Fees

Philips shall be responsible to pay all Claims Administrator Expenses and all Notice Expenses, including the CAFA notice.

Class Counsel agrees to make, and Philips agrees not to oppose, an application for the award of Attorneys' Fees and Expenses in this Action not to exceed a total of \$114,500.00. If and when ordered, such fees and expenses will be paid by Philips within ten business days of the Effective Date, as defined in the Stipulation of Class Action Settlement. Philips will not be liable for any attorneys' fees or costs to any party that exceeds this all-in number of \$114,500.

Philips agrees to pay the Class Representative the amount of such Incentive Award, if any,

as may be approved by the Court, up to \$750.00. Philips agrees that it will not object to, or otherwise challenge, the Class Representative's applications for an Incentive Award, so long as the Class Representative does not seek an award in excess of \$750.00. If awarded by the Court, the Incentive Award will be paid to Class Counsel for the benefit of the Class Representative within ten business days of the Effective Date, as defined in the Stipulation of Class Action Settlement. Any Incentive Award approved by the Court shall be paid by Philips in addition to the Settlement benefits to Settlement Class Members and the Attorneys' Fees and Expenses otherwise provided for in this Agreement. The Class Representative shall also be entitled to submit a Claim Form and participate in the Settlement as a Settlement Class Member.

3. Method of Notice

Subject to Court approval, notice shall be accomplished by the following:

a. mailing a postcard containing information related to the settlement and an URL for a specially-created website dedicated to the settlement (the "Settlement Website") to all purchasers of an AirFloss for whom Philips has a mailing address in its customer database (a copy of that post card can be found at Exhibit 6);

b. sending an email message containing information related to the settlement and a link to the Settlement Website to all purchases of an AirFloss for whom Philips has an email address in its customer database (note that for those customers for whom Philips has both an email and mailing address, only the email address will be used) (a copy of that email can be found at Exhibit 7);

c. a one-time publication of a 1/8 page advertisement in the Los Angeles Times and a one-time publication of a 1/8 page advertisement in the San Francisco Chronicle;

d. for the month following the publication, internet advertising targeting potential Class Members through keyword services provided by Google and Yahoo and other advertising on various social networking websites, including Facebook (which will include a posting of a link to the settlement Website on the AirFloss Facebook page);

e. the issuance of an agreed-upon press release with a link to the Settlement Website through the PR Newswire service, which will distribute the press release to

1 approximately 5,815 newspapers, television stations, radio stations and magazines as well as
 2 approximately 5,400 websites and online databases, including all major search engines (a copy of
 3 the press release can be found at Exhibit 8);

4 f. posting notice on the Philips website related to Sonicare and AirFloss
 5 products together with a link to the Settlement Website;

6 g. a toll-free telephone support system will be established that will provide
 7 Class Members with (1) general information about the settlement; (2) frequently asked questions;
 8 and (3) the ability to request a Notice and Claim Form;

9 h. Class Counsel shall provide a direct link to the Settlement Website from
 10 their firm's website;

11 Upon Preliminary Approval of the Settlement, as the Court may direct, the Claims
 12 Administrator shall cause the Class Notice to be disseminated to potential Settlement Class
 13 Members as provided herein. Notice shall be disseminated pursuant to the Notice Program on or
 14 before the Notice Date. Copies of the proposed forms of Class Notice are attached as Exhibits 4
 15 and 5 to the Settlement Agreement.

16 **III. ARGUMENT**

17 **A. Overview of the Class Action Settlement Process**

18 Prior to granting preliminary approval of a settlement, the Court should determine that the
 19 proposed settlement class is a proper class for settlement purposes. Manual for Complex
 20 Litigation § 21.632 (4th ed. 2004); *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 620 (1997). A
 21 class action settlement like the one proposed here must be approved by the Court to be effective.
 22 See Fed. R. Civ. P. 23(e). The process for court approval is comprised of three principle steps:

- 23 1. A preliminary approval hearing, at which the court considers whether the proposed
- 24 settlement is within the range of reasonableness possibly meriting final approval;
- 25 2. Dissemination of notice of the proposed settlement to Class Members for comment; and
- 26 3. A formal "fairness hearing," or final approval hearing, at which the Court decides
- 27 whether the proposed settlement should be approved as fair, adequate, and reasonable to
- 28 the class.

1 See Manual for Complex Litigation (Fourth) §§ 21.632-34 (2004); *see also Orvis v. Spokane*
 2 *County*, 281 F.R.D. 469, 476 (E.D. Wash. 2012) (“The Proposed Settlement Agreement . . .
 3 appears to be within the range of reasonableness and accordingly shall be submitted to the class
 4 members for their consideration and for a hearing under Fed. R. Civ. P. 23(e).”).

5 By this Motion, Plaintiff asks the Court to take the first step in the settlement approval
 6 process and grant preliminary approval of the settlement. Pursuant to the terms of the Settlement
 7 Agreement, Plaintiff requests that the Court:

8 a. Determine, preliminarily, that this Settlement Stipulation and the
 9 Settlement set forth herein fall within the range of reasonableness and merits possible final
 10 approval and dissemination of Notice to the Settlement Class;

11 b. Determine, preliminarily, that the Class Representative is a member of the
 12 Settlement Class and that, for purposes of the Settlement, she satisfies the requirements of
 13 typicality, and that she adequately represents the interests of the Settlement Class Members, and
 14 appoint her as the representative of the Settlement Class;

15 c. Determine, preliminarily, that the Settlement Class meets all applicable
 16 requirements of Fed. R. Civ. P. 23 (“Rule 23”), and conditionally certify the Settlement Class for
 17 purposes of the Agreement under Rule 23 for settlement purposes only;

18 d. Appoint Plaintiff’s Counsel as Class Counsel pursuant to Rule 23(g);

19 e. Schedule the Final Approval Hearing to: (i) determine finally whether the
 20 Settlement Class satisfies the applicable requirements of Rule 23 and should be finally certified
 21 for settlement purposes only; (ii) review objections, if any, regarding the Agreement; (iii)
 22 consider further the fairness, reasonableness and adequacy of the Settlement; (iv) consider Class
 23 Counsel’s application for an award of attorneys’ fees and reimbursement of expenses; (v)
 24 determine the validity of Requests for Exclusion and exclude from the Settlement Class those
 25 Persons who validly and timely Opt-Out; (vi) consider Class Counsel’s application for payment
 26 of an Incentive Award to the named Plaintiff; and (vii) consider whether the Court shall issue the
 27 Final Judgment and Order Approving Settlement approving the Settlement and dismissing the
 28 Action and all Constituent Actions with prejudice;

1 f. Set a briefing schedule for the Final Approval Hearing and Class Counsel's
2 request for attorneys' fees and expenses, and the Incentive Award for the Class Representative;

3 g. Consider and determine that the Class Notice and the Notice Program: (i)
4 meets the requirements of Rule 23(c)(3) and due process; (ii) is the best practicable notice under
5 the circumstances; (iii) is reasonably calculated, under the circumstances, to apprise Settlement
6 Class Members of the pendency of the Action and their right to object to the proposed Settlement
7 or Opt-Out of the Settlement Class; and (iv) is reasonable and constitutes due, adequate and
8 sufficient notice to all those entitled to receive notice;

9 h. Consider and approve the proposed Class Notice, Claim Form, and Notice
10 Program;

11 i. Direct Philips or its designee(s) to cause the Class Notice to be
12 disseminated in the manner set forth in the Notice Program on or before the Notice Date;

13 j. Consider and approve the designation of Dahl, Inc. as the Claims
14 Administrator;

15 k. Require each Settlement Class Member who wishes to Opt Out of the
16 Settlement Class to submit a timely written Request for Exclusion, on or before the Opt-Out and
17 Objection Date, to the Claims Administrator, to Class Counsel, and to Philips' Counsel;

18 l. Rule that any Settlement Class Member who does not submit a timely
19 written Request for Exclusion will be bound by all proceedings, orders and judgments in the
20 Action;

21 m. Require any Settlement Class Member who wishes to object to the fairness,
22 reasonableness or adequacy of the Agreement or to the award of attorneys' fees, costs and
23 expenses and/or the Incentive Awards to submit to the Claims Administrator and deliver to Class
24 Counsel and Philips' Counsel, postmarked on or before the Opt-Out and Objection Date, a
25 statement of his or her objection, as well as the specific reason, if any, for each objection,
26 including any legal support the Settlement Class Member wishes to bring to the Court's attention
27 and any evidence the Settlement Class Member wishes to introduce in support of his or her
28 objection, and to state whether the Settlement Class Member and/or his or her counsel wishes to

1 make an appearance at the Final Approval Hearing, or be forever barred from separately
2 objecting;

3 n. Enter an order enjoining any new litigation related the subject matter of
4 this action for the AirFloss by any Settlement Class Member;

5 o. Enter an order continuing all applicable pre-trial deadlines in the Action so
6 that Philips and Plaintiff shall in no way be prejudiced by their efforts to resolve the claims
7 resolved through this Agreement; and

8 p. Establish:

9 (i) the date and time of the Final Approval Hearing.

10 (ii) the Notice Date: The Parties propose that the Notice Date be eighty
11 days before the Final Approval Hearing.

12 (iii) the Opt-Out and Objection Date: The Parties propose that the Opt-
13 Out and Objection Date be twenty one days before the Final
14 Approval Hearing.

15 (iv) the Claims Deadline: The Parties propose that the Claims Deadline
16 be seventy-five days after the Final Approval Hearing.

17 **B. The Settlement Should be Preliminarily Approved**

18 **1. The Role of Preliminary Approval**

19 At the final approval stage, after the Class Members have been notified of the proposed
20 settlement and had an opportunity to comment, the Court will be called upon to appraise whether
21 the parties have negotiated a settlement that is fair, reasonable, and adequate to the class. At this
22 preliminary approval stage, however, the Court determines only whether the proposed settlement
23 “(1) appears to be the product of serious, informed, non-collusive negotiations; (2) has no obvious
24 deficiencies; (3) does not improperly grant preferential treatment to class representatives or
25 segments of the class; and (4) falls within the range of possible approval,” such that it is
26 worthwhile to give the class notice of the settlement and proceed to a formal fairness hearing.
27 *Harris v. Vector Marketing Corp.*, No. C-08-5198, 2011 WL 1627973, at *7 (N.D. Cal. Apr. 29,
28 2011); *see also* 4 Alba Conte & Herbert B. Newberg, Newberg on Class Actions § 11.25 (4th ed.

1 2002)

2 In other words, at the preliminary approval stage, the Court makes only a preliminary
3 determination of the settlement's fairness, reasonableness, and adequacy, pointing out any
4 settlement terms that are so unacceptable at the outset that a formal fairness hearing would be a
5 waste of time. *See* Manual for Complex Litigation (Fourth) §§ 21.632 (2004); Conte & Newberg,
6 Newberg on Class Actions § 11.25. The primary question for the Court at the preliminary-
7 approval stage is whether the proposed Settlement falls within the range of possible approval,
8 such that the class should be notified and a formal fairness hearing scheduled. *See Gautreaux v.*
9 *Pierce*, 690 F.2d 616, 621, n.3 (7th Cir. 1982) (the purpose of preliminary approval "is to
10 ascertain whether there is any reason to notify the class members of the proposed settlement and
11 to proceed with a fairness hearing"); *see also Malta v. Federal Home Loan Mortg. Corp.*, No. 10-
12 CV-1290 BEN (NLS), 2013 WL 444619, at *5 (S.D. Cal. Feb. 5, 2013) ("At the preliminary
13 approval stage, the Court need only review the parties' proposed settlement to determine whether
14 it is within the permissible 'range of possible approval' and thus, whether the notice to the class
15 and the scheduling of the formal fairness hearing is appropriate.") (citing *Alberto v. GMRI, Inc.*,
16 252 F.R.D. 652, 666 (E.D. Cal. 2008)).

17 **2. The Proposed Settlement Merits Preliminary Approval**

18 The proposed settlement here is the product of arm's length negotiations by Plaintiff's
19 counsel well versed in deceptive business practice class actions and thus entitled to an initial
20 presumption of fairness. *See Harris*, 2011 WL 1627973, at *8. The negotiations were aided by
21 preliminary investigations, and interviews with others who have used the product. (Rott Decl. at
22 par. 2.) In addition, Plaintiff's counsel consulted several dental professionals. (*Id.*, par 3.) Philips
23 naturally disputed the strength of Plaintiff's case, and the settlement reflects the parties'
24 compromise of their assessments of the worst-case and best-case scenarios, weighing the
25 likelihood of various potential outcomes.

26 In Plaintiff's counsel's view, the settlement contains no obvious deficiencies: it provides
27 class relief to address all of the products addressed in Plaintiff's complaint and does not provide
28 for attorneys' fees at the expense of the class. Nor does the settlement grant preferential treatment

1 to the class representatives or any segment of the class, except to the extent that a proof of
2 purchase is required to obtain higher relief amounts, which is a reasonable condition for higher
3 benefits. But even Class Members who cannot prove that they purchased the product are entitled
4 to some relief under the terms of the class settlement. Each Class Member is entitled to the same
5 notice and disclosure, the same type of voucher and for the same amount, depending on the
6 product purchased. Vouchers are fully transferable, valid for twelve months after issuance, may
7 be used at certain well-known Philips retailers and may be used to purchase Philips audio, video,
8 shaving, oral care, and accessory products, as well as Avent-branded products.

9 Further analysis confirms that the settlement falls within the range of possible approval as
10 it accomplishes now—without the risk or prejudicial delay associated with further litigation, a
11 trial, or appeals—much of what Plaintiff sought in the lawsuit. *See Harris*, 2011 WL 1627973, at
12 *8 (to evaluate the range of possible approval, courts primarily consider the value provided by the
13 settlement against the claims' expected recovery if tried).

14 Plaintiff believes that the strongest claims were based on Philips' alleged failure to
15 disclose that its product is not a replacement for floss. By settling now, Class Members who are
16 unaware that the AirFloss does not replace traditional floss, as alleged by Plaintiff, will be alerted
17 sooner rather than later. The remedy provided by the settlement is, in this sense, more valuable
18 than could be obtained through a trial, even without discounting for the possibility that Philips
19 could demonstrate that their statements were mere puffery and that their product is as good as
20 traditional floss. Under this settlement, rather than risk no recovery or a delayed recovery by
21 going to trial, Class Members who purchased the \$119.99 AirFloss will receive a \$33.00 voucher,
22 which represents 27% of the full value of the product.

23 Given the favorable terms of the settlement and the manner in which they were negotiated,
24 the proposed settlement should be viewed, at least preliminarily, as a fair, reasonable, and
25 adequate compromise of issues in dispute and within the range of reasonableness meriting
26 preliminary approval.

27 ///

28 ///

C. The Proposed Settlement Class Should be Certified for Settlement Purposes and Plaintiff's Counsel Appointed As Class Counsel

1. The Proposed Settlement Class Meets the Requirements of Rule 23(a)

Before granting preliminary approval of the settlement, the Court should determine that the proposed settlement class provisionally meets the requirements of Rule 23. *See Amchem Prods.*, 521 U.S. at 619-20; Manual for Complex Litigation §§ 21.632. The prerequisites for certifying a class are (1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation, each of which is satisfied here. *See Fed. R. Civ. P. 23(a)*.

Numerosity: The parties' proposed settlement class, set forth above in section II.C.1, encompasses owners of approximately 6,000 currently registered Sonicare AirFloss products in California plus an estimated 50,000 other consumers in California, (Rott Decl. par. 5-6), and so readily satisfies the numerosity requirement. *See Hanlon v. Chrysler Corp.* 150 F.3d 1011, 1019 (1998) ("The prerequisite of numerosity is discharged if 'the class is so large that joinder of all members is impracticable.'").

Typicality & Commonality: Plaintiff and each member of the settlement class purchased an AirFloss that Plaintiff has alleged was marketed as a replacement for traditional floss.

Plaintiff thus satisfies the typicality requirement for purposes of this settlement, as her consumer protection claims arise from the same alleged marketing to members of the class. *See Hanlon*, 150 F.3d at 1020 (typicality satisfied where plaintiffs' claims are "reasonably coextensive with those of class members"). For similar reasons, Plaintiff's claims also meet the commonality requirement for purposes of settlement in that they raise "questions of law or fact common to the class," including whether Philips marketed the AirFloss as the same as or a replacement for dental floss. *See Fed. R. Civ. P. 23(a)(2); see also Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011) (explaining that "[c]ommonality requires the plaintiff to demonstrate that the class members 'have suffered the same injury,'" and claims arising from that injury depend on a "common contention . . . of such a nature that it is capable of class wide resolution.").

Adequacy of Representation: The final requirement of Rule 23(a), adequacy of representation, is also satisfied. Plaintiff and her counsel have shown, through their prosecution of

1 this action and negotiation of this proposed settlement, that they “will fairly and adequately
 2 protect the interests of the class.” Fed. R. Civ. P. 23(a)(4); *see also Amchem Prods.*, 521 U.S. at
 3 619-20 (the existence of a proposed settlement is relevant to class certification, including whether
 4 absent class members’ interests are being adequately represented).

5 **2. The Proposed Settlement Class Meets the Requirements of Rule 23(b)(3)**

6 “In addition to meeting the conditions imposed by Rule 23(a), the parties seeking class
 7 certification must also show that the action is maintainable under Fed. R. Civ. P. 3(b)(1), (2), or
 8 (3).” *Hanlon*, 150 F.3d at 1022. Here, the proposed class is maintainable under Rule 23(b)(3) as
 9 common questions predominate over any questions affecting only individual members and class
 10 resolution is superior to other available methods for a fair resolution of the controversy. *See id.* at
 11 1022-23 (citing Fed. R. Civ. P. 23(b)(3)); *Pierce v. County of Orange*, 526 F.3d 1190, 1198 (9th
 12 Cir. 2008). When assessing predominance and superiority, the court may consider that the class
 13 will be certified for settlement purposes only, and that a showing of manageability at trial is not
 14 required. *See Amchem Prods.*, 521 U.S. at 618.

15 “The requirement of Rule 23(b)(3) that common questions predominate over individual
 16 questions ‘tests whether proposed classes are sufficiently cohesive to warrant adjudication by
 17 representation.’” *Blades v. Monsanto Co.*, 400 F.3d 562, 566 (8th Cir. 2005) (quoting *Amchem*
 18 *Prods.*, 521 U.S. at 623). Class Members’ consumer protection claims here involve
 19 predominantly common legal and factual issues that can be fairly resolved for all through a class-
 20 wide settlement. As Plaintiff has contended throughout the litigation, the validity of these claims
 21 depends primarily on (i) whether the AirFloss is in fact a replacement for traditional floss, and (ii)
 22 whether a “reasonable consumer” would believe that the AirFloss is a replacement for traditional
 23 floss based on the packaging and advertisements. Each of these issues can be addressed (in this
 24 case through settlement) for all Class Members at once, justifying certification of these claims for
 25 settlement purposes.

26 At root, these claims depend on a legal analysis and interpretation of Philip’s advertising,
 27 which is a common issue across the class and which is particularly well suited to class wide
 28 resolution. With all Class Members’ claims hinging on common questions of advertising practices

1 it is both fair and logical to resolve those questions through a class-wide settlement. *See Wiener*
 2 *v. Dannon Co., Inc.*, 255 F.R.D. 658, 664-65 (C.D. Cal. 2009) (“The proposed class members
 3 clearly share common legal issues regarding [Defendant’s] alleged deception and
 4 misrepresentations in its advertising and promotion of the Products.”).

5 Turning lastly to Rule 23(b)(3)’s superiority requirement, there is little doubt that
 6 resolving all Class Members’ claims jointly—particularly through a class-wide settlement
 7 negotiated on their behalf by counsel well-versed in consumer protection litigation—is superior to
 8 a series of individual lawsuits. As the Ninth Circuit has stated: “From either a judicial or litigant
 9 viewpoint, there is no advantage in individual members controlling the prosecution of separate
 10 actions. There would be less litigation or settlement leverage, significantly reduced resources and
 11 no greater prospect for recovery.” *Hanlon*, 150 F.3d at 1023. Indeed, the terms of the settlement
 12 negotiated on behalf of the class, which provide relief for consumers who do not think that the
 13 product was marketed correctly, demonstrate the advantages of a collective bargaining and
 14 resolution process.

15 **3. Plaintiff’s Counsel Meet the Requirements of Rule 23(g).**

16 In connection with any order certifying a class, Rule 23(g) requires that the Court formally
 17 appoint class counsel. Plaintiff’s counsel has a great depth of experience in consumer class action
 18 litigation (Rott Decl. par. 10) and will zealously prosecute, as they have before, the claims of the
 19 Class Members. Plaintiff’s counsel requests they be appointed to represent the certified settlement
 20 class.

21 **D. The Court Should Preliminarily Approve the Proposed Settlement**

22 After certifying the settlement class, the Court should preliminarily approve the
 23 settlement. The procedure for review of a proposed class action settlement is a well-established
 24 two-step process. Fed. R. Civ. P. 23(e); *see also* Alba & Conte, 4 Newberg on Class Actions,
 25 §11.25, at 38-39 (4th Ed. 2002). The first step is a preliminary, pre-notification hearing to
 26 determine whether the proposed settlement is “within the range of possible approval.” Newberg,
 27 §11.25, at 38-39 (quoting Manual for Complex Litigation §30.41 (3rd ed. 1995)); *In re Syncor*
 28 *ERISA Litig.*, 516 F.3d 1095, 1110 (9th Cir. 2008). This hearing is not a fairness hearing; its

purpose, rather, is to ascertain whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing. *In re Syncor ERISA Litig.*, 516 F.3d at 1110. Notice of a settlement should be sent where “the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible approval.” *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007). The Manual for Complex Litigation characterizes the preliminary approval stage as an “initial evaluation” of the fairness of the proposed settlement made by the court on the basis of written submissions and informal presentation from the settling parties. Manual for Complex Litigation § 21.632 (4th ed. 2004). If the court finds a settlement proposal “within the range of possible approval,” it then proceeds to the second step in the review process—the final approval hearing. Newberg, §11.25, at 38-39. “To determine whether preliminary approval is appropriate, the settlement need only be potentially fair, as the Court will make a final determination of its adequacy at the hearing on Final Approval, after such time as any party has had a chance to object and/or opt out.” *Acosta v. Trans Union, LLC*, 243 F.R.D. 377, 386 (C.D. Cal. 2007) (citing *Armstrong v. Bd. of Sch. Dirs. of the City of Milwaukee*, 616 F.2d 305, 314 (7th Cir.1980), *overruled on other grounds*, *Felzen v. Andreas*, 134 F.3d 873 (7th Cir.1998)).

A strong judicial policy exists that favors the voluntary conciliation and settlement of complex class action litigation. *In re Syncor*, 516 F.3d at 1101 (citing *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615 (9th Cir. 1982). While the district court has discretion regarding the approval of a proposed settlement, it should give “proper deference to the private consensual decision of the parties.” *Hanlon*, 150 F.3d at 1027. In fact, when a settlement is negotiated at arms’ length by experienced counsel, there is a presumption that it is fair and reasonable. *In re Inter-Op Hip Prosthesis Liab. Litig.*, 204 F.R.D. 359, 380 (N.D. Ohio 2001). Ultimately, the Court’s role is to ensure that the settlement is fundamentally fair, reasonable, and adequate. Fed. R. Civ. P. 23(e)(2); *In re Syncor*, 516 F.3d at 1100.

///

E. The Court Should Order Dissemination of the Proposed Class Notice

1. The Settlement Agreement Provides for the Best Method of Notice Practicable Under the Circumstances

The Federal Rules require that before finally approving a class settlement, “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e). Where the settlement class is certified pursuant to Rule 23(b)(3), the notice must be the “best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B).

The parties have agreed on a notice plan that would provide Class Members with individual notice by a postcard or an email for all owners of an AirFloss who have registered with Philips. (*See* Rott Decl. Exhibit 1, Settlement Agreement F(a) and (b).)

In addition, Notice will be provided to unknown consumers by the following methods:

- a. a one-time publication of a 1/8 page advertisement in the Los Angeles Times and a one-time publication of a 1/8 page advertisement in the San Francisco Chronicle
- b. for the month following the publication, internet advertising targeting potential Class Members through keyword services provided by Google and Yahoo and other advertising on various social networking websites, including Facebook (which will include a posting of a link to the settlement Website on the AirFloss Facebook page);
- c. the issuance of an agreed-upon press release with a link to the Settlement Website through the PR Newswire service, which will distribute the press release to approximately 5,815 newspapers, television stations, radio stations and magazines as well as approximately 5,400 websites and online databases, including all major search engines;
- d. posting notice on the Philips website related to Sonicare and AirFloss products together with a link to the Settlement Website;

e. a toll-free telephone support system will be established that will provide Class Members with (1) general information about the settlement; (2) frequently asked questions; and (3) the ability to request a Notice and Claim Form;

f. Class Counsel will provide a direct link to the Settlement Website from their firm's website.

"The court must direct notice in a reasonable manner to all class members who would be bound by a proposed settlement, voluntary dismissal, or compromise." Fed. R. Civ. P. 23(e)(1). Notice is "adequate if it may be understood by the average class member." *Newberg on Class Actions*, §11.53, at 167 (4th Ed. 2002). Because the proposed settlement provides for a notice campaign designed to reach virtually all members of the proposed class, Plaintiff requests that the Court approve the method of notice.

2. The Proposed Form of Notice Adequately Informs Class Members of the Litigation and Their Rights in Connection with the Settlement

The notice provided to Class Members should "clearly and concisely state in plain, easily understood language" the nature of the action; the class definition; the class claims, issues, or defenses; that the Class Member may appear through counsel; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on Class Members. Fed. R. Civ. P. 23(c)(2)(B). The form of notice proposed by the parties complies with those requirements. (*See* Ex. 1 - 4 attached to Declaration of MIR.) It clearly and accurately informs Class Members of the material terms of the settlement and their rights pertaining to it, including the right to opt out from or object to the settlement. Plaintiff thus requests that the Court approve the form of notice as well.

3. Notice of the Settlement will be Provided to Appropriate Federal and State Officials

Notice of the proposed settlement will also be provided to the Attorneys General of the United States and the State of California, as required by the Class Action Fairness Act, 28 U.S.C. § 1715(b). (*See* Rott Decl, Exhibit 1, Settlement Agreement C(3)) Philips will provide these government officials with copies of all required materials—including the Settlement Agreement,

1 Class Notice, and the amended complaint—so that the state and federal government may make an
 2 independent evaluation of the settlement and bring any concerns to the Court's attention prior to
 3 final approval.

4 **F. The Court Should Set a Schedule for Final Approval**

5 The next steps in the settlement approval process are to notify the class of the proposed
 6 settlement, allow Class Members an opportunity to file any objections or opt-outs, and hold a
 7 final approval hearing. Toward those ends, the parties propose the following schedule:

- 8 a. The Notice Date: The Parties propose that the Notice Date be eighty days before the
 9 Final Approval Hearing.
- 10 b. The Opt-Out and Objection Date: The Parties propose that the Opt-Out and Objection
 11 Date be twenty one days before the Final Approval Hearing.
- 12 c. The Claims Deadline: The Parties propose that the Claims Deadline be seventy-five
 13 days after the Final Approval Hearing.

14 **IV. CONCLUSION**

15 For the foregoing reasons, Plaintiff's counsel respectfully requests that the Court enter the
 16 accompanying Proposed Order granting preliminary approval of the proposed settlement,
 17 conditionally certifying the settlement class, appointing Plaintiff as Class Representative and her
 18 attorneys as Class Counsel, directing dissemination of the class notice, and setting a hearing for
 19 the purpose of deciding whether to grant final approval of the settlement.

20
 21 Dated: May 28, 2013

HIDEN, ROTT & OERTLE, LLP

22
 23 By: s/ERIC M. OVERHOLT
 24 Michael Ian Rott, Esq.
 25 Eric M. Overholt, Esq.
 26 *Attorneys for Plaintiff, on behalf of herself*
 27 *and all others similarly situated*
 28

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Attorneys for LILIA PERKINS

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LILIA PERKINS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

PHILIPS ORAL HEALTHCARE, INC.,
a Washington Corporation; PHILIPS
ELECTRONICS NORTH AMERICA
CORPORATION, a Delaware
Corporation; and DOES 1 through 20,
inclusive.

Defendants.

CASE NO.: 12-cv-1414H BGS

Judge: Hon. Marilyn L. Huff

**DECLARATION OF MICHAEL IAN
ROTT IN SUPPORT OF MOTION
FOR ORDER OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, SETTING FINAL
APPROVAL HEARING AND
APPROVAL OF NOTICES
THEREON**

Hearing Date:
Hearing Time:
Courtroom: 15A

I, Michael Ian Rott, hereby declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts of this state. I am a partner in the law firm of Hiden Rott & Oertle LLP, counsel of record for Plaintiff Lilia Perkins in the above-captioned matter. Based on my personal knowledge and my review of relevant records and documents in this matter, I could and would testify to the matters set forth herein if called upon to do so in any court of law.

2. Our firm spent significant time researching the product on the internet, reviewing

1 customer complaints on the internet, interviewing consumers of the product, including Plaintiff
2 and other putative class members, as part of our investigation. This level of informal discovery
3 allowed us to quickly and effectively evaluate the strengths and weaknesses of the lawsuit.

4 3. In addition, we interviewed several dentists to discuss the efficacy of oral irrigators
5 in general and the AirFloss specifically.

6 4. We have been informed by Defendants Philips Oral Healthcare, Inc. and Philips
7 North America Corporation (collectively, "Philips") that there are approximately 6,000 registered
8 AirFloss users in California.

9 5. We requested regional sales information from Philips, but Philips is not in
10 possession of data that would indicate how many people purchased an AirFloss in California, nor
11 do they know how many AirFloss units were shipped to California.

12 6. From the 6,000 registered units in California data, our Firm has extrapolated that
13 there are approximately 50,000 AirFloss owners in California.

14 7. On April 10, 2013, the parties appeared for an ENE in front of the Honorable
15 Judge Bernard G. Skomal

16 8. At the ENE, Judge Skomal assisted the parties in communicating the perceived
17 strengths and weaknesses with the parties' respective positions. By the end of the ENE, the
18 parties had a preliminary agreement on the amount of the vouchers for the class members. Over
19 the course of the next month Plaintiff's counsel and Philips engaged in continued negotiations
20 about notice procedures and attorney fees.

21 9. Based on these negotiations and our firm's own investigation, we believe that the
22 settlement is in the best interests of the putative class members. We have specifically balanced
23 the terms of the proposed settlement, including both the settlement amount and the benefits
24 conferred to class members against the probability of liability, the risk of non- certification, the
25 risks and expense of trial as well as concerns about the likelihood of numerous appellate issues.
26 We also considered the timing of recovery, delays in receipt of funds due to trial and potential
27 appeal and similar issues.

28 10. This firm, Hiden, Rott & Oertle, LLP, has extensive experience in Class Action

1 litigation. This firm has been class counsel in a number of class actions that have received final
 2 approval for class action settlement before the San Diego Superior Court including *Moore and*
 3 *Ramirez v. The Check Cashing Place, et al.* and *Tormey v. The Vons Companies, Inc., et al.* In
 4 addition, myself and Eric M. Overholt were appointed to the Executive Committee in the
 5 nationwide class action lawsuit against Apple, Inc over Apple deceptively advertising the iPhone
 6 3G in *Gillis v. Apple, Inc.* (In re Apple iPhone 3G Products Liability Litigation) Additionally, I
 7 and Mr. Overholt are co-counsel on a team that recently received class certification in *Herr, et al.*
 8 *v. Apple, Inc.* in the San Diego Superior Court for deceptive advertising practices surrounding the
 9 pricing structure of all iPhones sold at the Apple Store. Further, this Firm currently has a class
 10 action pending in this Court for the 2011 Blackouts in *Busalacchi, et al. v. SDG&E* (12-CV-
 11 00298-H). We are currently working on the briefing for the opposition to summary judgment in
 12 that matter.

13 11. The Joint Stipulation of Settlement and Release negotiated and agreed to between
 14 the parties is attached hereto as Exhibit 1.

15 I declare under penalty of perjury under the laws of the State of California that the
 16 foregoing is true and correct and that this declaration was executed on May 28, 2013 at San
 17 Diego, California.

18
 19 _____/s/ MICHAEL I. ROTT _____
 20 Michael Ian Rott
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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**LILIA PERKINS v. PHILIPS ORAL
HEALTHCARE, INC., et al.**

Case No. 12-CV-1414H BGS
Class Action

STIPULATION OF CLASS ACTION SETTLEMENT

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for the Class*

STIPULATION OF CLASS ACTION SETTLEMENT

This Stipulation of Class Action Settlement, including its attached Exhibits (collectively, the “Settlement Stipulation” or “Agreement”), is entered into this 20th day of May 2013 by and among Plaintiff, on behalf of herself and on behalf of each of the Settlement Class Members, and Philips Oral Healthcare, Inc. and Philips Electronics North America Corporation (together “Philips”). Capitalized terms used herein are defined in Section A below or indicated in parentheses elsewhere in the Settlement Stipulation.

Subject to Court approval as required by the applicable Federal Rules of Civil Procedure, and as provided herein, the Parties hereby stipulate and agree that, in consideration of the

promises and covenants set forth in the Settlement Stipulation and upon the entry by the Court of a Final Judgment and Order Approving Settlement and the occurrence of the Effective Date, the claims of the Settlement Class pursued in the Action shall be dismissed with prejudice, settled and compromised upon the terms and conditions contained herein.

WHEREAS, on June 11, 2012, a putative class actions was filed in the Southern District of California arising out of the marketing and sale of AirFloss, seeking damages and equitable relief under the federal Magnuson Moss Warranty Act and California state law;

WHEREAS, on September 20, 2012, Plaintiff filed a First Amended Class Action Complaint (the “Amended Complaint”) seeking damages and equitable relief under California state law;

WHEREAS, on October 31, 2012 Philips filed a motion to dismiss the Amended Complaint and, on December 7, 2012, following briefing, the Court ruled on the motion, granting and denying it in part;

WHEREAS, Philips has denied and continues to deny Plaintiff’s allegations and claims in the Amended Complaint, including those related to whether class treatment is appropriate, and has denied any wrongdoing or liability to Plaintiff;

WHEREAS, in reaching the Agreement, the Parties have engaged in arm’s-length negotiations, including their participation in an Early Neutral Evaluation Conference with the Honorable Bernard G. Skomal on April 10, 2013;

WHEREAS, Plaintiff believes that the claims asserted in the Action have substantial merit; however, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving the claims of the Settlement Class, Plaintiff’s Counsel

have concluded that the Settlement Stipulation provides substantial benefits to the Settlement Class, and is fair, reasonable, adequate, and in the best interests of Plaintiff and the Settlement Class;

WHEREAS, although Philips denies wrongdoing of any kind and Plaintiff's allegations in the Amended Complaint, and believes that the Action is without merit, Philips also has taken into account the uncertainty, risk, delay and costs inherent in litigation and agreed to enter into the Agreement to avoid any further litigation expenses and inconvenience, and to remove the distraction of burdensome and protracted litigation;

WHEREAS, it is the intention and desire of the Plaintiff and Philips to compromise, resolve, dismiss and release all allegations and claims for damages or equitable relief relating to the marketing, design and sale of AirFloss as set forth in the Amended Complaint and that have been or could have been brought by the Settlement Class Members against Philips in the Action;

WHEREAS, the Parties have agreed that an appropriate resolution of this controversy is accomplished through the benefits, releases and orders set forth in or attached to the Settlement Stipulation, and intend that the Settlement resolves all claims and disputes arising out of, or relating to, the marketing, design and sale of AirFloss on the terms set forth in the Settlement Stipulation; and

NOW, THEREFORE, the Settlement Stipulation is entered into by and among the Parties, by and through their respective counsel and representatives, and the Parties agree that: (a) upon approval of the Court after the hearing(s) provided for in the Settlement Stipulation, the claims of the Settlement Class in the Action shall be settled and compromised as between Plaintiff and the Settlement Class, and Philips; and (b) upon Court approval of the Agreement, the [Proposed] Final Judgment and [Proposed] Order Approving Settlement, substantially in the

form attached as Exhibits 1 and 2 hereto, shall be entered dismissing the claims of the Settlement Class in the Action with prejudice and releasing all Released Claims, as defined herein, against Defendant and all Released Parties, all on the following terms and conditions:

A. DEFINITIONS

As used in the Settlement Stipulation and the Exhibits hereto, in addition to any definitions elsewhere in parentheses in the Settlement Stipulation, the following terms shall have the meanings set forth herein:

1. “Action” or “AirFloss Litigation” means *Lilia Perkins v. Philips Oral Healthcare, Inc., et al.*, No. 12-CV-1414H BGS (S.D. Cal.).
2. “AirFloss” means Philips Sonicare AirFloss.
3. “Amended Complaint” means the First Amended Class Action Complaint filed in the Action on September 20, 2012.
4. “Award” means the monetary relief obtained by Settlement Class Members pursuant to Section D.1. of this Agreement, as may be applicable to such person.
5. “Attorneys’ Fees and Expenses” means such funds as may be awarded by the Court to Plaintiff’s Counsel to compensate them for their fees and expenses in connection therewith, as described more particularly in Section I of this Settlement Stipulation.
6. “CAFA Notice” means the notice required under 28 U.S.C. § 1715(b).
7. “Claim” means a request for relief pursuant to Section E of this Agreement submitted by a Settlement Class Member on a Claim Form filed with the Claims Administrator in accordance with the terms of the Settlement Stipulation.

8. “Claim Form” means the form or forms to be used by Settlement Class Members for filing Claims with the Claims Administrator. The proposed Claim Form are subject to Court approval and attached hereto as Exhibit 3.

9. “Claims Administration Expenses” means the expenses incurred by the Claims Administrator in administering the Notice Program and processing all Claims by Settlement Class Members.

10. “Claims Administrator” means Dahl, Inc., which, subject to Court approval, is the Person identified by Philips to administer the Notice Program, to respond to inquiries from Settlement Class Members, and to oversee the timely processing and payment of Claims as set forth in the Settlement Stipulation.

11. “Claims Deadline” means the court-approved date by which all Claim Forms must be postmarked or received by the Claims Administrator to be considered timely. The Claims Deadline shall be set forth in the Court Orders granting preliminary and final approval of the Settlement, the Notices, and on the Settlement Website.

12. “Class Counsel” or “Plaintiff’s Counsel” means the law firm of Hiden, Rott & Oertle, LLP.

13. “Class Notice” or “Notice” means the forms of notice to be disseminated to Settlement Class Members with regard to the Settlement. The proposed long-form and short-form notices are attached respectively hereto at Exhibits 4 and 5.

14. “Class Representative” or “Plaintiff” means Lilia Perkins.

15. “Covered Product” means a Philips Sonicare AirFloss.

16. “Court” means the United States District Court for the Southern District of California, the Honorable Marilyn L. Huff presiding.

17. “Defendants” means Philips Oral Healthcare, Inc. and Philips Electronics North America Corporation.

18. “Effective Date” means either: (a) the date thirty-five days after the entry of the Final Judgment and Order Approving Settlement, if no motions for reconsideration and/or no appeals or other efforts to obtain review have been filed; or (b) in the event that an appeal or other effort to obtain review has been initiated, the date thirty-five days after such appeal or other review has been finally concluded and is no longer subject to any further review, whether by appeal, petitions for rehearing, petitions for rehearing en banc, petitions for writ of certiorari, or otherwise. However, in the event of an appeal or other effort to obtain review, the Parties may jointly agree in writing to deem the Effective Date to have occurred in accordance with Section A.19 in the absence of a court order to the contrary; however, there is no obligation to agree to advance the Effective Date.

19. “Final Approval Hearing” means the hearing to be conducted by the Court in connection with its determination of the fairness, adequacy and reasonableness of the Settlement in accordance with applicable jurisprudence, and which shall occur no earlier than the 91st day after the last CAFA Notice is provided hereunder by Philips.

20. “Final Judgment and Order Approving Settlement” means the Final Judgment and Order Approving Settlement to be entered by the Court, substantially in the form of Exhibit 2 and conforming to Section J herein, approving the Settlement without material alteration, as fair, adequate and reasonable, confirming the certification of the Settlement Class for purposes of the Settlement only, dismissing the Action with prejudice, and issuing such other findings and determinations as the Court and/or the Parties deem necessary and appropriate to implement the Settlement.

21. “Incentive Award” means the payment approved by the Court and made by Philips to compensate Plaintiff for efforts undertaken by her on behalf of the Settlement Class Members.

22. “Notice Date” means the date upon which the Class Notice is first disseminated to the Settlement Class.

23. “Notice Expenses” means the reasonable costs and expenses incurred in connection with preparing, printing, disseminating, posting, emailing, internet hosting and publishing the Class Notice, and all other aspects of administering the Notice Program.

24. “Notice Program” means the plan as set forth in Section F herein and approved by the Court for disseminating the Class Notice.

25. “Opt-Out and Objection Date” means the date, to be set by the Court, by which a Request For Exclusion must be filed with the Claims Administrator in order for a Settlement Class Member to be excluded from the Settlement Class, and the date by which Settlement Class Members must submit objections to the Claims Administrator and the parties, if any, to the Settlement in accordance with Section F herein.

26. “Party” or “Parties” means the parties to this Agreement, *i.e.*, the Class Representative and/or Philips.

27. “Person(s)” means any adult individual and any minor child of whom such adult individual is the parent or guardian, any corporation, trust, partnership, limited liability company or other legal entity, and their respective successors or assigns.

28. “Philips” means Philips Oral Healthcare, Inc. and Philips Electronics North America Corporation, and all of their current or former United States and foreign subsidiaries, predecessors, successors, parents, affiliates and assigns.

29. “Philips’ Counsel” means the law firm of Sullivan & Cromwell LLP.

30. “Preliminary Approval Order” means the order to be entered by the Court, substantially in the form of Exhibit 1 and conforming to Section C.1. herein, conditionally certifying the Settlement Classes, preliminarily approving the Settlement, setting the date of the Final Approval Hearing, appointing Plaintiff’s Counsel as Counsel for the Settlement Class, approving the Notice Program, Class Notice, and Claim Form, barring the commencement of further litigation by Settlement Class Members relating to a Released Claim and setting dates for the Claims Deadline, Opt-Out and Objection Date, and Notice Date.

31. “Proof of Purchase” means documentation from a third-party commercial source reasonably establishing the fact of purchase of and payment for AirFloss or the returned AirFloss product for which the Settlement Class Member submits a Claim, as determined by the Claims Administrator.

32. “Released Claim” is defined in Paragraph H.1. herein.

33. “Released Party” is defined in Paragraph H.1. herein.

34. “Releasing Party” is defined in Paragraph H.1. herein.

35. “Releases” means the releases contemplated in accordance with Sections G and H herein.

36. “Request For Exclusion” means the written communication that must be filed with the Claims Administrator and postmarked on or before the Opt-Out and Objection Date by a Settlement Class Member who wishes to be excluded from the Settlement Class.

37. “Settlement” and “Settlement Stipulation” means the terms and conditions of this Stipulation of Class Action Settlement.

38. “Settlement Class” and “Settlement Class Member(s)” means all California residents who purchased a new AirFloss in California between January 1, 2011 and June 24, 2013. Excluded from the Settlement Class are: (1) any Person that has already obtained any refund from Philips or any retailer in connection with the AirFloss for which the Class Members seek relief in this case, (2) any Person who files a valid, timely Request for Exclusion; (3) any Person who purchased an AirFloss, but gave it away as a gift; and (4) any Judges to whom this Action is assigned and any member of their immediate families.

39. “Settlement Consideration” means the consideration exchanged by and between Philips and the Settlement Class, as set forth in this Settlement Stipulation.

40. “Settlement Website” means an Internet website hosted by the Claims Administrator containing relevant details of the Settlement, as further provided in Section E.6.

41. “Voucher” means the document that Settlement Class Members will receive under Section D.1 herein and that will entitle the Person presenting such Voucher to a participating retailer to purchase products manufactured by or for Philips as specified in Section D.3.

B. FOR SETTLEMENT PURPOSES ONLY

1. This Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in, this Agreement or its Exhibits, nor any action taken hereunder shall constitute, be construed as, or be admissible in evidence as an admission of: (a) the validity of any claim or allegation by Plaintiff or of any defense asserted by Philips in the Action or any other action or proceeding; (b) the appropriateness of the Settlement Class as a class for purposes of further litigation and trial; (c) any wrongdoing, fault, violation of law, or liability of any kind on the part of any Party, Defendant, Released Party, Settlement Class Member or their respective

counsel; or (d) the merits or lack thereof of the claims or defenses of the Excluded Plaintiffs against Philips.

2. The Settlement Stipulation is without prejudice to the rights of each Releasing Party and each Released Party to seek or oppose class certification in the Action for purposes of further litigation and trial should the Settlement Stipulation not be finally approved or implemented for any reason.

C. PRELIMINARY APPROVAL; CAFA NOTICE; COOPERATION THROUGH FINAL APPROVAL

1. Preliminary Approval

On or before May 27, 2013, the Parties shall file the Settlement Stipulation with the Court for its Preliminary Approval and shall jointly move the Court for entry of an order, substantially in the form of Exhibit 1 hereto, which by its terms shall:

- a. Determine, preliminarily, that this Settlement Stipulation and the Settlement set forth herein fall within the range of reasonableness and merits possible final approval and dissemination of Notice to the Settlement Class;
- b. Determine, preliminarily, that the Class Representative is a member of the Settlement Class and that, for purposes of the Settlement, she satisfies the requirements of typicality, and that she adequately represents the interests of the Settlement Class Members, and appoint her as the representative of the Settlement Class;
- c. Determine, preliminarily, that the Settlement Class meets all applicable requirements of Fed. R. Civ. P. 23 ("Rule 23"), and conditionally certify the Settlement Class for purposes of the Agreement under Rule 23 for settlement purposes only;
- d. Appoint Plaintiff's Counsel as Class Counsel pursuant to Rule 23(g);

e. Schedule the Final Approval Hearing to: (i) determine finally whether the Settlement Class satisfies the applicable requirements of Rule 23 and should be finally certified for settlement purposes only; (ii) review objections, if any, regarding the Agreement; (iii) consider further the fairness, reasonableness and adequacy of the Settlement; (iv) consider Class Counsel's application for an award of attorneys' fees and reimbursement of expenses; (v) determine the validity of Requests for Exclusion and exclude from the Settlement Class those Persons who validly and timely Opt-Out; (vi) consider Class Counsel's application for payment of an Incentive Award to the named Plaintiff; and (vii) consider whether the Court shall issue the Final Judgment and Order Approving Settlement approving the Settlement and dismissing the Action and all Constituent Actions with prejudice pursuant to Rule 54(b);

f. Set a briefing schedule for the Final Approval Hearing and Class Counsel's request for attorneys' fees and expenses, and the Incentive Award for the Class Representative;

g. Consider and determine that the Class Notice and the Notice Program: (i) meets the requirements of Rule 23(c)(3) and due process; (ii) is the best practicable notice under the circumstances; (iii) 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; and (iv) is reasonable and constitutes due, adequate and sufficient notice to all those entitled to receive notice;

h. Consider and approve the proposed Class Notice, Claim Form, and Notice Program;

i. Direct Philips or its designee(s) to cause the Class Notice to be disseminated in the manner set forth in the Notice Program on or before the Notice Date;

j. Consider and approve the designation of Dahl, Inc. as the Claims Administrator;

k. Require each Settlement Class Member who wishes to Opt-Out of the Settlement Class to submit a timely written Request for Exclusion, on or before the Opt-Out and Objection Date, to the Claims Administrator, to Class Counsel, and to Philips' Counsel, as specified in Section F herein;

l. Rule that any Settlement Class Member who does not submit a timely written Request for Exclusion will be bound by all proceedings, orders and judgments in the Action;

m. Require any Settlement Class Member who wishes to object to the fairness, reasonableness or adequacy of the Agreement or to the award of attorneys' fees, costs and expenses and/or the Incentive Awards to submit to the Claims Administrator and deliver to Class Counsel and Philips' Counsel, postmarked on or before the Opt-Out and Objection Date, a statement of his or her objection, as well as the specific reason, if any, for each objection, including any legal support the Settlement Class Member wishes to bring to the Court's attention and any evidence the Settlement Class Member wishes to introduce in support of his or her objection, and to state whether the Settlement Class Member and/or his or her counsel wishes to make an appearance at the Final Approval Hearing, or be forever barred from separately objecting;

n. Enter an order enjoining any new litigation related to AirFloss by any Settlement Class Member;

o. Enter an order continuing all applicable pre-trial deadlines in the Action so that Philips and Plaintiff shall in no way be prejudiced by their efforts to resolve the claims resolved through this Agreement; and

p. Establish:

- (i) the date and time of the Final Approval Hearing.
- (ii) the Notice Date: The Parties propose that the Notice Date be eighty days before the Final Approval Hearing.
- (iii) the Opt-Out and Objection Date: The Parties propose that the Opt-Out and Objection Date be twenty one days before the Final Approval Hearing.
- (iv) the Claims Deadline: The Parties propose that the Claims Deadline be seventy-five days after the Final Approval Hearing.

2. Cooperation

The Parties acknowledge that each intends to implement the Settlement. The Parties shall, in good faith, cooperate and assist with and undertake all reasonable actions and steps in order to accomplish all required events on the schedule set by the Court, and shall use their best efforts to implement all terms and conditions of the Settlement Stipulation. Nothing in this provision, however, requires either Party to waive its rights hereunder, or to change the consideration provided hereunder.

3. CAFA Compliance

Philips shall provide the CAFA Notice, as required by 28 U.S.C. § 1715(b), on the Attorneys General of the United States and the State of California to ensure that the Releases provided herein are fully enforceable in accordance with their terms. The Parties shall cooperate to provide the CAFA Notice as soon as possible after the filing of this Settlement Stipulation, but in no event no later than ten days after the filing of this Settlement Stipulation with the Court. As set forth below, Philips shall bear the costs associated with providing this CAFA Notice.

4. Certification of Settlement Class

As part of this Settlement Stipulation, the Parties stipulate to certification of the Settlement Class for settlement purposes only pursuant to Fed. R. Civ. P. 23.

D. SETTLEMENT CONSIDERATION

1. Monetary Relief for Settlement Class Members

In addition to all other Settlement Consideration set forth in the Agreement, Settlement Class Members who timely file Claims by the Claims Deadline and provide all required Proof of Purchase or documentation and comply with all other conditions and requirements specified herein, all as approved and validated by the Claims Administrator, shall have the right to obtain relief, as detailed herein.

TIER 1 — CATEGORY A: Any Settlement Class Member who:

- (a) submits a timely, valid and written Claim; *and*
- (b) provides Proof or Purchase of a new two-pack AirFloss; *and*
- (c) provides an attestation that they never previously obtained any refund or other compensation from Philips or a retailer in connection with the AirFloss purchase for which they seek relief here,

shall receive a voucher for \$33.00.³

TIER 1 — CATEGORY B: Any Settlement Class Member who:

- (a) submits a timely, valid and written Claim; *and*
- (b) provides Proof of Purchase of a new single-pack AirFloss; *and*

³ As described below, each Settlement Class Member is limited to one voucher.

(c) provides an attestation that they never previously obtained any refund or other compensation from Philips or a retailer in connection with the AirFloss purchase for which they seek relief here,

shall receive a voucher for \$23.00.

TIER 2: Any Settlement Class Member who:

(a) submits a timely, valid and written Claim; *and*

(b) provides an attestation that they purchased a new AirFloss; *and*

(c) provides an attestation that they never previously obtained any refund or other compensation from Philips or a retailer in connection with the AirFloss purchase for which they seek relief here,

shall receive a voucher for \$7.00.

2. Limits on Class Member Relief and Reallocations

There shall be no limit on the number of vouchers to be distributed in the aggregate to the Settlement Class Members. There shall be no limit on the value of the voucher payments under the Settlement Agreement. Settlement Class Members may submit, subject to proof, one Claim Form and are limited to two vouchers per household for Tier 1 Settlement Class Members and one voucher per household for Tier 2 Settlement Class Members pursuant to the Settlement Agreement.

3. Voucher Terms

- A. Vouchers shall be fully transferable; and
- B. Vouchers must be used within twelve months after issuance and after that date shall become valueless; and

- C. Vouchers may be used for the purchase of any new (i) Philips audio or video products (excluding televisions), (ii) Philips Norelco shaving and grooming products, (iii) Philips Sonicare oral care products, (iii) Philips accessories, and (iv) Avent-branded products (collectively the “Eligible Products”).

4. Costs of Notice, Administration, and Other Costs and Expenses

Philips shall be responsible to pay all Claims Administration Expenses and all Notice Expenses, including the CAFA Notice.

E. CLAIMS DEADLINES, CLAIM FORMS, AND ADMINISTRATION

1. All Claims must be submitted with a Claim Form postmarked by the Claims Deadline. The Claims Deadline shall be clearly set forth in the Settlement Class Notice, the websites of the Claims Administrator and of Class Counsel, and the Claim Form. Settlement Class Members who do not timely submit a completed Claim Form shall not be eligible for an Award, and waive any rights to such an Award. The Claims shall permit a Settlement Class Member who makes a timely Claim an opportunity to remedy deficiencies in such Settlement Class Member’s Claim Form or related documentation.

2. Those Settlement Class Members submitting Claims under any of the categories detailed above must submit to the Claims Administrator a timely Claim Form. Claim Forms must be signed by the Settlement Class Member by hand under penalty of perjury (but need not be notarized). Claim Forms will be made available by mail and for downloading from the Settlement Website maintained by the Claims Administrator and on the websites of Class Counsel. Class Members may submit completed and signed Claim Forms to the Claims Administrator by mail, private courier, or facsimile. Philips agrees that information provided by Settlement Class Members on Claim Forms shall be kept confidential, shall be used only for

purposes of administering the Settlement, and shall not be used for marketing or any other commercial purposes.

3. Philips appoints, and the Class Representative and Class Counsel accept, Dahl, Inc. to serve as the Claims Administrator. The Claims Administrator will be approved by the Court and will be subject to the Court's supervision and direction as circumstances may require. The Claims Administrator will administer the Notice Program and Claims process, and oversee the distribution of Awards to Settlement Class Members in accordance with the terms of the Settlement and orders of the Court. The Claims Administrator shall determine if a Settlement Class Member is making a claim on a Covered Product. The Claims Administrator shall also maintain the Settlement Website to which Settlement Class Members shall be directed for further information regarding the Settlement and other information as set forth in Section E.6. In its discretion after the Claims Deadline has passed, the Claims Administrator may determine to take down the Settlement Website, or portions of it.

4. The Claims Administrator shall administer the relief for Settlement Class Members provided by the Agreement by resolving Claims in a cost effective and timely manner, taking into account all of the circumstances presented to the Claims Administrator. Nothing in this Stipulation shall require the Claims Administrator to provide Awards before the Effective Date or process claims before the Effective Date. The Claims Administrator may utilize the resources of Philips to identify Class Members; to facilitate providing notice; to assist with establishing the Settlement Website; and to accomplish such other purposes as may be approved by Philips and Class Counsel; provided, however, that the determination of the validity of Claims shall be made by the Claims Administrator. The Claims Administrator shall maintain records of all Claims submitted. The Claims Administrator shall maintain all such records until the later of

ninety days after either the Effective Date or all Claims have been finally resolved, and such records will be made available at any time to Class Counsel or Philips' Counsel upon request by Class Counsel and Philips' Counsel. Claim Forms and supporting documentation will be kept confidential by the Claims Administrator and will be provided only to the Court upon request and to Class Counsel and Philips' Counsel to monitor the progress of the payment of the Awards, to monitor the filing of claims, and to the extent necessary to resolve issues pursuant to Section E.5. The Claims Administrator also shall provide such reports and such other information to the Court as it may require.

5. The Claims Administrator will review and validate all Claims submitted by Settlement Class Members. The Claims Administrator shall have the discretion to review Claims with the objectives of efficiency and effecting substantial justice to the Parties and the Settlement Class Members. The Claims Administrator shall have the right to contact Settlement Class Members to validate Claims. The validity of a Claim will be assessed based on the totality of the Claim. Issues regarding the validity of Claims that cannot be resolved by the Claims Administrator shall be submitted to Counsel for Philips and Class Counsel for resolution and, if no resolution is reached, to the Court.

6. The Claims Administrator shall cause a website to be created containing Claims information and relevant documents, including but not limited to, all applicable deadlines; the long-form Class Notice; downloadable Claim Forms; FAQs and answers; orders of the Court pertaining to the Settlement; this Stipulation; a toll-free telephone number and addresses to contact the Claims Administrator by e-mail and mail. Philips shall pay the cost of creating and maintaining the Settlement Website and the Settlement Website may be rendered inactive at Philips' sole discretion after the Claims Deadline.

F. NOTICE TO THE SETTLEMENT CLASS, OBJECTION, AND OPT-OUT RIGHTS

1. Subject to Court approval, notice shall be accomplished by the following:

- a. mailing a postcard containing information related to the settlement and an URL for a specially-created website dedicated to the settlement (the “Settlement Website”) to all purchasers of an AirFloss for whom Philips has a mailing address in its customer database (a copy of that post card can be found at Exhibit 6);
- b. sending an email message containing information related to the settlement and a link to the Settlement Website to all purchases of an AirFloss for whom Philips has an email address in its customer database (note that for those customers for whom Philips has both an email and mailing address, only the email address will be used)(a copy of that email can be found at Exhibit 7);
- c. a one-time publication of a 1/8th page advertisement in the Los Angeles Times and a one-time publication of a 1/8th page advertisement in the San Francisco Chronicle;
- d. for the month following the publication, internet advertising targeting potential class members through keyword services provided by Google and Yahoo and other advertising on various social networking websites, including Facebook (which will include a posting of a link to the Settlement Website on the AirFloss Facebook page);
- e. the issuance of an agreed-upon press release with a link to the Settlement Website through the PR Newswire service, which will distribute the press release to approximately **5,815** newspapers, television stations, radio stations and magazines as well as approximately **5,400** websites and online databases, including all major search engines;
- f. posting notice on the Philips website related to Sonicare and AirFloss products together with a link to the Settlement Website;

g. a toll-free telephone support system will be established that will provide Class Members with (1) general information about the settlement; (2) frequently asked questions; and (3) the ability to request a Notice and Claim Form;

h. Class Counsel shall provide a direct link to the Settlement Website from their firm's website;

2. Upon Preliminary Approval of the Settlement, as the Court may direct, the Claims Administrator shall cause the Class Notice to be disseminated to potential Settlement Class Members as provided herein. Notice shall be disseminated pursuant to the Notice Program on or before the Notice Date. Copies of the proposed forms of Class Notice are attached as Exhibits 4 and 5.

3. The Class Notice shall:

a. contain a short, plain statement of the background of the Action and the proposed Settlement;

b. describe the proposed Settlement relief as set forth in this Agreement;

c. inform Settlement Class Members that, if they do not exclude themselves from the Settlement Class, they may be eligible to receive relief;

d. describe the procedures for participating in the Settlement and advise Settlement Class Members of their rights, including their right to file a Claim to receive an Award under the Settlement, to Opt-Out of same, or object thereto;

e. explain the scope of the Release and Covenant Not To Sue, and the impact of the proposed Settlement on any existing litigation, arbitration or other proceeding;

f. state that any Award to Settlement Class Members under the Settlement is contingent on the Court's final approval of the proposed Settlement;

g. explain that neither Class Counsel, nor Philips' Counsel, nor the Claims Administrator may advise on the tax consequences of participating or not participating in the Settlement;

h. explain the procedures for opting out of the Settlement and specifying that so-called "mass" or "class" Opt-Outs shall not be allowed;

i. provide that any objection to the Settlement and any papers submitted in support of said objection will be considered only if the Settlement Class Member making an objection has submitted timely notice of his or her intention to do so, with the grounds for the objection, and has submitted copies of such papers he or she proposes to submit at the Final Approval Hearing to the Claims Administrator and served copies of such papers on Class Counsel and Philips' Counsel on or before the Opt-Out and Objection Date, as approved by the Court and specified in the Class Notice; and

j. identify the existence of an injunction, barring new suits by Class Members relating to the Released Claims, until consideration of the Settlement Stipulation is concluded by the Court.

4. Any Settlement Class Member who intends to object must do so on or before the Opt-Out and Objection Date. In order to object, the Settlement Class Member must include in the objection submitted to the Claims Administrator and served on Class Counsel and Philips' Counsel: (a) the name, address, telephone number of the Person objecting and, if represented by counsel, of his/her counsel; and (b) Proof of Purchase of an AirFloss or a full attestation regarding whether the Person purchased an AirFloss, including an attestation regarding why such purported Settlement Class Member does not have Proof of Purchase; and (c) a list of all cases in which the objector has filed an objection related to any class action settlement within the past

three years. An objecting Settlement Class Member must state, specifically and in writing, all objections and the basis for the objections, and provide a statement of whether he/she intends to appear at the Final Approval Hearing, either with or without counsel. Any Settlement Class Member who fails to submit and serve timely a written objection and notice of his or her intent to appear at the Final Approval Hearing pursuant to this Section F.3., as detailed in the Notice, shall not be permitted to object to the approval of the Settlement at the Final Approval Hearing and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means. The Claims Administrator shall provide copies of all objections to Philips' Counsel and Class Counsel, who shall file them with the Court. An objecting Settlement Class Member may only object on his or her own individual behalf; so-called "mass" or "class" objections shall not be permitted.

5. Prior to the Final Approval Hearing, the Claims Administrator shall provide to the Court documentation that Notice was provided in accordance with the Notice Program.

6. A Settlement Class Member who wishes to Opt-Out of the Settlement Class must do so on or before the Opt-Out and Objection Date. In order to Opt-Out, a Settlement Class Member must complete and send to the Claims Administrator a Request For Exclusion that is post marked no later than the Opt-Out and Objection Date. The Request for Exclusion must be personally signed by hand by the Settlement Class Member requesting exclusion and contain a statement that indicates a desire to be excluded from the Settlement Class. So-called "mass" or "class" opt-outs shall not be allowed.

7. Except for those Settlement Class Members who timely and properly file a Request for Exclusion, all other Settlement Class Members will be deemed to be Settlement Class Members for all purposes under the Settlement Stipulation, and upon the Effective Date,

will be bound by its terms, regardless of whether they file a Claim or receive any monetary relief.

8. Any Settlement Class Member who properly opts out of the Settlement Class shall not: (a) be bound by any orders or judgments entered in the Action relating to the Settlement; (b) be entitled to relief under, or be affected by, the Agreement; (c) gain any rights by virtue of the Agreement; or (d) be entitled to object to any aspect of the Settlement.

9. The Claims Administrator shall provide Class Counsel and Philips' Counsel with a list of all timely Requests For Exclusion within five (5) business days after the Opt-Out and Objection Date.

G. EXCLUSIVE REMEDY; RELEASES; JURISDICTION OF COURT

The Settlement Stipulation shall be the sole and exclusive remedy for any and all Released Claims of all Releasing Parties against all Released Parties. The Releases are entirely independent from the dismissals with prejudice contained in, and made a part of, this Settlement Stipulation. No Released Party shall be subject to liability or expense of any kind to any Releasing Party with respect to any Released Claim. Upon entry of the Final Judgment and Order Approving Settlement, each and every Releasing Party shall be permanently barred and enjoined from initiating, asserting and/or prosecuting any Released Claim against any Released Party in any court or any forum.

H. RELEASES AND COVENANT NOT TO SUE

1. The following terms have the meanings set forth herein:

a. "Released Claim" means any individual, class, representative, group or collective claim, liability, right, demand, suit, matter, obligation, damage, loss, action or cause of action, of every kind and description that a Releasing Party has or may have, including assigned

claims, whether known or unknown, asserted or unasserted, latent or patent, suspected or unsuspected, concealed or hidden, that is, has been, could have been or in the future might reasonably be asserted under any body of law by the Releasing Party either in the Court or any other court or forum, regardless of legal theory or relief claimed, and regardless of the type of relief or amount of damages claimed, against any of the Released Parties arising from, or in any way relating to, the design, sale, marketing or advertising of an AirFloss. Nothing in these Releases shall be deemed a release of a claim for personal injuries arising out of the use of an AirFloss.

b. “Released Party” means Philips, and any retail seller and/or distributor of AirFloss, including all of their current and former predecessors, successors, assigns, parents, subsidiaries, divisions, departments, and affiliates, and any and all of their past, present and future officers, directors, employees, stockholders, partners, agents, servants, successors, attorneys, insurers, representatives, licensees, licensors, customers, subrogees and assigns.

c. “Releasing Party” means each Settlement Class Member (including the Class Representative) and any Person claiming by or through him/her/it as his/her/its spouse, child, ward, next friend, heir, devisee, legatee, invitee, employee, customer, associate, co-owner, attorney, agent, administrator, predecessor, successor, assignee, representative of any kind, shareholder, partner, director, or affiliate.

d. “Covenant Not To Sue” means the agreement that, upon entry of the Final Judgment and Order Approving Settlement, each Releasing Party covenants that he or she will not initiate, maintain, or prosecute any legal action, in any forum, against any Released Party that is related in any way to any Released Claim.

2. Upon entry of the Final Judgment and Order Approving Settlement, each Releasing Party shall be deemed to have released and forever discharged each Released Party of and from liability for any and all Released Claims.

3. To ensure that these Releases are enforced fully and in accordance with their terms, with respect to any and all Released Claims, and upon entry of the Final Judgment and Order Approving Settlement without further action, for good and valuable consideration, Plaintiff, on behalf of herself and the Settlement Class and as the representative of the Settlement Class, shall expressly, and Releasing Parties shall be deemed to have, and by operation of the Final Judgment and Order Approving Settlement shall, to the fullest extent permitted by law, fully, finally, and forever expressly waived and relinquished with respect to the Released Claims, any and all provisions, rights, and benefits of Section 1542 of the California Civil Code and any and all similar provisions, rights, and benefits conferred by any law of any state or territory of the United States or principle of common law that is similar, comparable, or equivalent to Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

4. **Additional Mutual Releases**

a. On and after the Effective Date, each of the Released Parties shall be deemed to have fully, finally, and forever released, relinquished and discharged the Class Representative and each and all of Settlement Class Members, and their respective present and former parents, subsidiaries, divisions, and affiliates, the present and former partners, employees, officers and directors of each of them, the present and former attorneys, accountants, experts,

consultants, insurers, and agents of each of them, each of the foregoing solely in their capacity as such, and the predecessors, successors, heirs, and assigns of each, from all claims of every nature and description, known and unknown, relating to the initiation, assertion, prosecution, non-prosecution, settlement, and/or resolution of the Action or the Released Claims.

b. On and after the Effective Date, each of the Releasing Parties shall be deemed to have fully, finally, and forever released, relinquished and discharged Philips and any retail seller and/or distributor of AirFloss, their respective present and former parents, subsidiaries, divisions, and affiliates, the present and former partners, employees, officers and directors of each of them, the present and former attorneys, accountants, experts, consultants, insurers and agents of each of them, each of the foregoing solely in their capacity as such, and the predecessors, successors, heirs, and assigns of each of them, from all claims of every nature and description, known and unknown, relating to the defense, settlement and/or resolution of the Action or the Released Claims.

5. The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Parties, Settlement Class Members, Class Counsel and the Claims Administrator to interpret and enforce the terms, conditions, and obligations under the Settlement Stipulation.

I. COUNSEL FEES AND COSTS

1. Class Counsel agrees to make, and Philips agrees not to oppose, an application for the award of Attorneys' Fees and Expenses in this Action not to exceed a total of \$114,500.00. If and when ordered, such fees and expenses will be paid by Philips within ten business days after the Effective Date. Philips will not be liable for any attorneys' fees or costs for any party that exceed this all-in number of \$114,500.00.

2. Philips agrees to pay the Class Representative the amount of such Incentive Award, if any, as may be approved by the Court, up to \$750.00. Philips agrees that it will not object to, or otherwise challenge, the Class Representative's applications for an Incentive Award, so long as the Class Representative does not seek an award in excess of \$750.00. If awarded by the Court, the Incentive Award will be paid to Class Counsel for the benefit of the Class Representative within ten business days after the Effective Date. Any Incentive Award approved by the Court shall be paid by Philips in addition to the Settlement benefits to Settlement Class Members and the Attorneys' Fees and Expenses otherwise provided for in this Agreement. The Class Representative shall also be entitled to submit a Claim Form and participate in the Settlement as a Settlement Class Member.

J. THE FINAL JUDGMENT AND ORDER APPROVING SETTLEMENT

1. This Agreement is subject to and conditioned upon the issuance by the Court of the Final Judgment and Order Approving Settlement that finally certifies the Settlement Class for the purposes of settlement only, and grants final approval of the Settlement pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, and provides the relief specified herein, which relief shall be subject to the terms and conditions of the Agreement and the Parties' performance of their continuing rights and obligations hereunder. Such Final Judgment and Order Approving Settlement shall:

- a. Confirm the final certification, for settlement purposes only, of the Settlement Class;
- b. Confirm the compliance of the Settlement Class with all requirements of Rule 23, including confirmation of the adequacy of the representation of Plaintiff as a Class Representative of the Settlement Class;

- c. Confirm that the Notice Program complied in all respects with the requirements of due process and Rule 23 by providing due, adequate, and sufficient notice to the Settlement Class;
- d. Determine that the Agreement is entered into in good faith, is reasonable, fair and adequate, and is in the best interest of the Settlement Class;
- e. Make all appropriate and necessary findings of fact required to enter a final judgment pursuant to Rule 54(b);
- f. Dismiss the Complaint with prejudice as to the Released Parties;
- g. Release each Released Party from the Released Claims that any Releasing Party has, had, or may have in the future, against each Released Party and provide that the Covenant Not To Sue has been given by each Settlement Class Member in favor of each Released Party and that all Settlement Class Members are bound thereby;
- h. Bar and enjoin all Releasing Parties from asserting against any Released Party any Released Claim;
- i. Release each Releasing Party and Settlement Class Member, and their respective present and former parents, subsidiaries, divisions and affiliates, the present and former partners, employees, officers and directors of each of them, the present and former attorneys, accountants, experts, consultants and insurers, and agents of each of them, each of the foregoing solely in their capacity as such, and the predecessors, successors, heirs and assigns of each of them, from all claims of every nature and description, known and unknown, that any Released Party has had, or may in the future have relating to the initiation, assertion, prosecution, non-prosecution, settlement and/or resolution of the Action or the Released Claims, and bar and enjoin all Released Parties from asserting the same;

j. Release Philips and any retail seller and/or distributor of AirFloss, their respective present and former parents, subsidiaries, divisions, and affiliates, the present and former partners, employees, officers and directors of each of them, the present and former attorneys, accountants, experts, consultants, insurers and agents of each of them, each of the foregoing solely in their capacity as such, and the predecessors, successors, heirs, and assigns of each of them of each of them, the present and former attorneys, accountants, experts, consultants, insurers and agents of them, from all claims of every nature and description, known and unknown, that any Releasing Party has, had or may in the future have relating to the defense, settlement and/or resolution of the Action or the Released Claims, and bar and enjoin all Releasing Parties from asserting the same; and

k. Retain the Court's continuing and exclusive jurisdiction over the Parties to the Agreement, including all Settlement Class Members, to construe and enforce the Agreement in accordance with its terms for the mutual benefit of the Parties.

K. REPRESENTATIONS AND WARRANTIES

1. Philips represents and warrants: (a) that it has the requisite corporate power and authority to execute, deliver and perform the Settlement Stipulation and to consummate the transactions contemplated hereby; (b) that the execution, delivery and performance of the Settlement Stipulation and the consummation by it of the actions contemplated herein have been duly authorized by necessary corporate action on the part of Philips; and (c) that the Settlement Stipulation has been duly and validly executed and delivered by Philips and constitutes its legal, valid and binding obligation. Philips' Counsel represents and warrants that they are fully authorized to execute this Settlement Stipulation on behalf of Philips and thereby to bind Philips.

2. Plaintiff represents and warrants that she is entering into the Settlement Stipulation on behalf of herself, individually and as a representative of the Settlement Class Members and the Releasing Parties, of her own free will and without the receipt of any consideration other than what is provided in the Settlement Stipulation or disclosed to, and authorized by, the Court. Plaintiff represents and warrants that she has reviewed the terms of the Settlement, believes it to be fair and reasonable, and covenants that she will not file a Request for Exclusion from the Settlement Class or object to the Settlement. Class Counsel represents and warrants that they are fully authorized to execute the Settlement Stipulation on behalf of Plaintiff, individually and as a representative of the Settlement Class Members and Releasing Parties.

3. The Parties warrant and represent that no promise, inducement or consideration for the Settlement has been made, except those set forth herein. No consideration, amount or sum paid, accredited, offered or expended by Philips in its performance of this Settlement Stipulation and the Settlement constitutes a fine, penalty, punitive damages or other form of assessment for any claim against it.

L. NO ADMISSIONS; NO USE

1. The Settlement Stipulation shall in no event be construed or deemed to be evidence or an admission or a concession on the part of Plaintiff, Philips, any Releasing Party, or any Released Party with respect to any issue in the case, including any claim of any fault or liability, any defense, or any claim of injury or damages.

2. The Settlement Stipulation, whether or not consummated, and any proceedings taken pursuant to it, are not and shall not in any event be:

a. Construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession or an admission by Plaintiff, Philips, any Settlement Class Member, or any Released Party of the truth of any fact alleged or the validity of any claim or defense that has been, could have been, or in the future might be asserted in any litigation or the deficiency of any claim or defense that has been, could have been, or in the future might be asserted in any litigation, or of any liability, fault, wrongdoing or otherwise of such Party; or

b. Construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession or an admission of any liability, fault or wrongdoing, or in any way referred to for any other reason, by Plaintiff, Philips, any Releasing Party or any Released Party in the Action or in any other civil, criminal or administrative action or proceeding other than such proceedings as may be necessary to effectuate the provisions of the Agreement.

M. MISCELLANEOUS PROVISIONS

1. Entire Agreement

The Settlement Stipulation, including all Exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the Settlement and shall supersede any previous agreements, representations, communications and understandings among the Parties with respect to the subject matter of the Settlement, with the exception of the limit for Opt-Outs. The Settlement Stipulation may not be changed, modified, or amended except in a writing signed by all Parties and, if required, approved by the Court. The Parties contemplate that certain of the Exhibits to the Agreement relating to Class Notice may be modified by subsequent agreement of Philips and Class Counsel prior to dissemination to the Settlement Class.

2. Governing Law

The Agreement shall be construed under and governed by the laws of the State of California, applied without regard to laws applicable to choice of law.

3. Execution by Counterparts

The Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile signatures or signatures sent by e-mail shall be treated as original signatures and shall be binding.

4. Notices

Any notice, instruction, application for Court approval or application for Court orders sought in connection with the Settlement and the Agreement or other document to be given by any Party to any other Party shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, if to Philips to the attention of Philips' Counsel, and if to Settlement Class Members, to the attention of Class Counsel on their behalf.

All notices to the Parties or counsel required by the Agreement shall be made in writing and communicated by fax and mail to the following addresses:

a. If to Plaintiff or Class Counsel:

Michael Ian Rott
Eric M. Overholt
HIDEN, ROTT & OERTLE, LLP
2635 Camino del Rio South, Suite 306
San Diego, California 92108
Telephone: (619) 296-5884
Facsimile: (619) 296-5171
mrott@hrollp.com
eoverholt@hrollp.com

- b. If to Philips or Philips' Counsel:

Michael H. Steinberg
Brian R. England
SULLIVAN & CROMWELL LLP
1888 Century Park East, Suite 2100
Los Angeles, California 90067
Telephone: (310) 712-6600
steinbergm@sullcrom.com
englandb@sullcrom.com

5. Miscellaneous Provisions

a. The Agreement shall be binding upon, and inure to the benefit of, the heirs, successors, assigns, executors and legal representatives of the Parties to the Agreement and Defendant and Released Parties.

- b. Time is of the essence.

c. Subject to Court approval, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Agreement. Nothing in this Settlement Stipulation, or any other understanding, shall require such agreement.

d. The determination of the terms of, and the drafting of, the Agreement has been by mutual understanding after negotiation, with consideration by, and participation of, the Parties hereto and their counsel.

e. The waiver by one Party of any provision or breach of the Agreement shall not be deemed a waiver of any other provision or breach of the Agreement.

f. In the event of any variance between the terms of this Settlement Stipulation and any of the Exhibits hereto, the terms of this Settlement Stipulation shall control and supersede the Exhibit(s), except if such Exhibit shall become an entered order, in which case the Parties shall petition the Court for an amendment of such entered order to ensure that the terms of this Settlement Stipulation shall control.

g. All Exhibits to this Settlement Stipulation are material and integral parts hereof, and are incorporated by reference as if fully rewritten herein.

h. No opinion concerning the tax consequences of the Settlement to any Settlement Class Member is given or will be given by Philips, Philips' Counsel, or Class Counsel; nor is any Party or their counsel providing any representation or guarantee respecting the tax consequences of the Settlement as to any Settlement Class Member. The Class Notice will direct Settlement Class Members to consult their own tax advisors regarding the tax consequences of the Settlement and any tax reporting obligations with respect thereto. Each Settlement Class Member is responsible for his/her tax reporting and other obligations respecting the Settlement, if any.

i. It is expressly understood that, to the extent a Released Party is not a Party to the Settlement Stipulation, all such Released Parties are intended third party beneficiaries of the Settlement Stipulation.

N. TERMINATION OF THIS AGREEMENT

1. In the event that:

a. By October 30, 2013, the Court does not enter an order granting Preliminary Approval Order conforming in all material respects to Section C.1 herein and Exhibit 1 hereof;

b. The Court does not conditionally and finally certify the Settlement Class as defined herein or the Court's order certifying the Settlement Class is reversed, vacated, or modified in any respect by another court;

c. The Court does not enter a Final Judgment and Order Approving Settlement conforming in all material respects to Section J herein and Exhibit 2, or if entered,

such Final Judgment and Order Approving Settlement is reversed, vacated, or modified in any material respect by another court; then either of the Parties may terminate this Agreement within ten (10) business days of the event giving rise to the right to terminate by serving written notice upon the other Party and Court.

2. In the event of a termination under Sections N.1.b. or N.1.c. herein, Philips shall cause the Claims Administrator to post information regarding the termination on the Settlement Website established for the Settlement and to e-mail such information to those Settlement Class Members who provided an e-mail address to the Claims Administrator. It is expressly agreed that neither the failure of the Court to award Attorneys' Fees and Expenses to Class Counsel or Incentive Award to Plaintiff, nor the amount of such Attorney's Fees and Expenses or Incentive Awards that may be finally determined and awarded, shall provide a basis for termination of this Agreement.

3. In the event that more than a certain confidential number of Settlement Class Members as specified in that separate and confidential side-letter dated May 20, 2013, shall file valid Opt-Outs, then Philips, in its discretion, shall have the ability to terminate this Settlement Stipulation.

4. In the event of the termination of this Settlement Stipulation, all Parties shall be restored to their respective positions as of immediately prior to the date of execution of this Settlement Stipulation. Upon termination, Sections B and L herein shall survive and be binding on the Parties, but this Settlement Stipulation shall otherwise be null and void.

5. In the event that the Court approves the terms of the Settlement but does not approve (or reserves judgment on) the request for Attorneys' fees, expenses and/or incentive

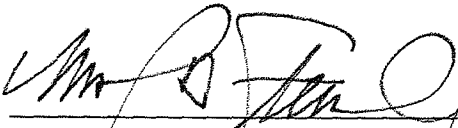
awards, the Settlement and Settlement Consideration may nonetheless be distributed to Class Members without delay.

IN WITNESS WHEREOF, each of the Parties hereto has caused the Settlement Stipulation to be executed on its behalf by its duly authorized counsel of record, all as of the day set forth below.

AGREED:

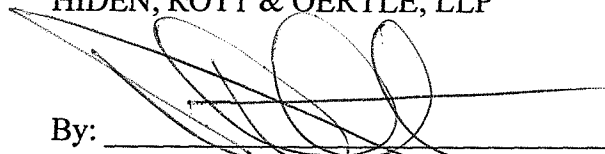
Dated: May 18, 2013

SULLIVAN & CROMWELL LLP

By: 
Counsel for Defendants Philips Oral
Healthcare, Inc. and Philips Electronics North
America Corporation

Dated: May 20, 2013

HIDEN, ROTT & OERTLE, LLP

By: 
Counsel for Plaintiff Lilia Perkins and Class
Counsel

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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**LILIA PERKINS v. PHILIPS ORAL
HEALTHCARE, INC., et al.**

**Case No. 12-CV-1414H BGS
Class Action**

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT, CONDITIONALLY CERTIFYING
SETTLEMENT CLASS, DIRECTING DISTRIBUTION OF CLASS
NOTICE, APPOINTING PLAINTIFF’S COUNSEL AS COUNSEL TO THE
SETTLEMENT CLASS, AND SETTING HEARING FOR
DETERMINATION OF FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

WHEREAS, the Plaintiff and Defendants have entered into a Stipulation of Class Action Settlement (the “Settlement Agreement”) intended to fully resolve the litigation pending in this Court;

WHEREAS, the Court finds that it has jurisdiction over this Action;

WHEREAS, the Settlement Agreement, together with the supporting materials, sets forth all of the terms and conditions for a proposed Settlement and dismissal with prejudice of the above-captioned action against Philips Oral Healthcare, Inc. and Philips Electronics North America Corporation (together “Philips” or “Defendants”);

WHEREAS, the Court has before it Plaintiff’s Unopposed Motion for Preliminary Approval of Settlement, Memorandum of Law in Support of the Motion for Preliminary Approval of Settlement, together with the Settlement Agreement, dated May 20, 2013, and exhibits thereto; and

WHEREAS, the Court is satisfied that the terms and conditions set forth in the Settlement Agreement were the result of good faith, arm’s length settlement

1 negotiations between competent and experienced counsel for both Plaintiff and
2 Defendants, including through an Early Neutral Evaluation (“ENE”) conference
3 before the Honorable Bernard G. Skomal, and that the requirements for granting
4 preliminary approval to the settlement are otherwise satisfied.

5 **IT IS HEREBY ORDERED AS FOLLOWS:**

6 **I. PRELIMINARY APPROVAL OF THE SETTLEMENT**
7 **AGREEMENT**

8 1. The terms of the Settlement Agreement are hereby preliminarily
9 approved, subject to further consideration thereof at the Final Approval Hearing
10 provided for below. Unless otherwise provided here, capitalized terms used in this
11 Order have the meanings assigned to them in the Settlement Agreement. The
12 Court finds that said Settlement Agreement is sufficiently within the range of
13 reasonableness and merits possible final approval, and that notice to Class
14 Members of the proposed Settlement should be given as provided in this Order
15 pursuant to the Notice Plan set forth in the Settlement Agreement.

16 **II. CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS AND**
17 **APPOINTMENT OF CLASS COUNSEL**

18 2. For purposes of settlement only, the Court conditionally:

19 (a) finds that Plaintiff Lilia Perkins (the “Class Representative”) is
20 a member of the Settlement Class, the Class Representative can fairly and
21 adequately represent the interests of absent Class Members, and the Class
22 Representative’s claims are typical of the claims of the Settlement Class, and the
23 Court conditionally appoints her as Class Representative for the Settlement Class.

24 (b) determines that the Settlement Class meets all applicable
25 requirements of Federal Rule of Civil Procedure 23 (“Rule 23”), and pursuant to
26 Rule 23, the Court conditionally certifies, for purposes of settlement only, the
27 following Settlement Class: all California residents who purchased a new AirFloss
28 in California between January 1, 2011 and June 24, 2013.

(c) appoints the following as Class Counsel for the Settlement Class:

Michael Ian Rott
Eric M. Overholt
HIDEN, ROTT & OERTLE, LLP
2635 Camino del Rio South, Suite 306
San Diego, California 92108.

3. In appointing Class Counsel for the Settlement Class, and for purposes of settlement only, the Court has considered the work that they have done in investigating and pursuing potential claims in the action, finds that they have experience in handling complex litigation and the types of claims asserted in the action, concludes they have demonstrated their knowledge of the applicable law and that they have committed and will continue to commit resources to representing the Settlement Class. *See generally* Fed. R. Civ. P. 23(g)(1).

III. FINAL APPROVAL HEARING

4. The Court hereby sets a Final Approval Hearing to (i) determine finally whether the Settlement Class satisfies the applicable requirements of Rule 23 and should be finally certified for settlement purposes only; (ii) review objections, if any, regarding the Settlement Stipulation; (iii) consider the fairness, reasonableness and adequacy of the Settlement; (iv) consider counsel's application for an award of attorneys' fees and reimbursement of expenses; (v) consider the request by the Class Representative for an Incentive Award for consideration (\$750) independent of and in addition to the consideration otherwise paid to a Settlement Class Member; (vi) determine the validity of Requests for Exclusion and exclude from the Settlement Class those persons who validly and timely opt out; and (vii) consider whether the Court shall issue a final judgment and order approving the Settlement and dismissing this Action and all Constituent Actions against Philips with prejudice.

5. The hearing will take place on September 9, 2013 at ____ a.m.

6. The date and time of the Final Approval Hearing shall be subject to adjournment by the Court without further notice to the members of the Settlement Class, other than that which may be posted by the Court. Class Counsel shall advise members of the Settlement Class of any scheduling updates by way of notice appearing on the Settlement Website.

IV. BRIEFING SCHEDULE AND OTHER DEADLINES

7. In addition to the foregoing, the Court sets the following deadlines for the Final Approval Hearing and Class Counsel's request for attorneys' fees and expenses, and incentive award for the Class Representative:

70 days before Final Approval Hearing	Last day to complete class notice (the "Notice Date").
60 days before Final Approval Hearing	Last day to file papers in support of final approval of the Settlement and any application for attorneys' fees and expenses, and incentive awards for the Class Representative.
21 days before Final Approval Hearing	Last day to file comments in support of or in objection to the Settlement, the fee application and the Incentive Award and the last day for Class Members to request exclusion from the Settlement Class (the "Opt-Out and Objection Date").
11 days before Final Approval Hearing	Last day for responses to any objections to the Settlement and/or fee application
September 9, 2013 at ____ a.m.	Final Approval Hearing
75 days after Final Approval Hearing	Date by which all claims must be received by Claims Administrator (the "Claims Deadline").

V. NOTICE TO SETTLEMENT CLASS

8. The Court finds that the Notice Program (i) meets the requirements of Rule 23(c)(3) and due process; (ii) is the best practicable notice under the circumstances; (iii) 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; and (iv) is reasonable and constitutes due, adequate and sufficient notice to all those entitled to receive notice.

9. Additionally, the proposed Class Notice adequately informs Class Members of their rights in the Action. The Class Notice clearly and concisely states the nature of the action; the class definition; the class claims, issues, or defenses; that the class member may appear through counsel; that the court will exclude from the class any member who requests exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on class members. *See* Fed. R. Civ. P. 23(c)(2).

10. The Court hereby approves the Notice Program and Class Notice as set forth in Section F of the Settlement Agreement and the Claim Form attached as an exhibit thereto. Philips or its designee(s) shall cause the Class Notice to be disseminated in the manner set forth in the Notice Program on or before the Notice Date. Prior to the Final Approval Hearing, Philips and/or the Claims Administrator shall file with the Court a sworn statement attesting to compliance with meeting of the Notice Plan deadlines, and serve such statement upon Class Counsel.

11. Upon consideration of the resume of Dahl, Inc. (Exhibit B to the Memo. of Law in Support of Plaintiff's Unopposed Motion for Preliminary Approval of the Settlement Agreement and Provisional Class Certification), the Parties' Counsel are authorized to retain Dahl, Inc. as the Claims Administrator in accordance with the terms of the Settlement Agreement and this Order.

VI. OPT-OUT PROVISION

12. Settlement Class Members are permitted to opt out of this Settlement through an opt-out procedure. Any member of the Settlement Class that wishes to be excluded (“Opt Out”) from the Settlement Class must send a written Request for Exclusion to the Claims Administrator, to Co-Lead Counsel and to Philips’ Counsel, postmarked on or before the Opt-Out and Objection Deadline as specified in Section F of the Settlement Agreement. The Request for Exclusion shall fully comply with the requirements set forth in the Settlement Agreement. Members of the Settlement Class may not exclude themselves by filing Requests for Exclusion as a group or class, but must in each instance individually and personally execute a Request for Exclusion.

13. Any Settlement Class Member who does not properly and timely request exclusion from the Settlement Class shall be bound by all proceedings, orders and judgments in the Action, whether or not such person objected to the Settlement and whether or not such person made a claim upon, or participated in, the Exchange Program pursuant to the Settlement Agreement.

14. All members of the Settlement Class who do not personally and timely request to be excluded from the Settlement Class are enjoined from proceeding against Defendants for the claims released in the Settlement Agreement.

15. Any person that does not elect to be excluded from the Settlement Class may, but need not, enter an appearance through his or her own attorney. Settlement Class Members who do not enter an appearance through their own attorneys will be represented by Class Counsel.

VII. OBJECTION TO SETTLEMENT

16. Any person who does not elect to be excluded from the Settlement Class may, but need not, submit comments or objections to the proposed Settlement. Any Settlement Class Member may object to the fairness,

1 reasonableness or adequacy of the proposed Settlement, entry of Final Order and
2 Judgment approving the Settlement, and Class Counsel's application for attorneys'
3 fees, costs and expenses, and/or the Plaintiff's Incentive Award request by
4 submitting a written statement of his or her objection ("Objection") to the Claims
5 Administrator, Co-Lead Counsel, and to Philips' Counsel postmarked on or before
6 the Opt-Out and Objection Date as specific in Section F of the Settlement
7 Agreement. The Claims Administrator will then cause all received objections to be
8 filed with the Court.

9 17. Any Class Member making an Objection (an "Objector") must sign
10 the Objection personally. An Objection must also include the following
11 information: (a) the Objector's name, address, telephone number and, if
12 represented by counsel, information for his or her counsel; and (b) the Objector's
13 proof of purchase of an AirFloss (or a full attestation regarding whether he or she
14 purchased an AirFloss, including an attestation regarding why he or she does not
15 have any such Proof of Purchase); and (c) a list of all cases in which the Objector
16 has filed an objection related to any actual or proposed class action settlement
17 within the past three years. In addition, Objectors are required to submit the
18 specific reason, if any, for each objection, including any legal support the
19 Settlement Class Member wishes to bring to the Court's attention and any evidence
20 the Settlement Class Member wishes to introduce in support of his or her
21 objection, and to state whether the Settlement Class Member and/or his or her
22 counsel wishes to make an appearance at the Final Approval Hearing, or be forever
23 barred from separately objecting.

24 18. Any Class Member who objects to the Settlement may, but need not,
25 appear in person or through counsel, at his or her own expense, at the Final
26 Approval Hearing to present any evidence or argument that may be proper or
27 relevant. Objections, along with any notices of intent to appear, must be
28 postmarked on or before the Opt-Out and Objection Deadline. If counsel is

1 appearing on behalf of more than one Class Member, counsel must identify each
 2 such Settlement Class Member and each Settlement Class Member must have
 3 complied with the requirements of this Order.

4 19. Objections, along with any notices of intent to appear, must also be
 5 mailed to the following Class Counsel and counsel for Defendants at the addresses
 6 listed below:

7 **COUNSEL FOR PLAINTIFF**

8 Michael Ian Rott
 9 Eric M. Overholt
 10 HIDDEN, ROTT & OERTLE, LLP
 11 2635 Camino del Rio South, Suite 306
 12 San Diego, California 92108

13 **COUNSEL FOR PHILIPS**

14 Michael H. Steinberg
 15 Brian R. England
 16 SULLIVAN & CROMWELL LLP
 17 1888 Century Park East, Suite 2100
 18 Los Angeles, California 90067

19 20. Only Class Members who have served valid and timely notices of
 20 objection shall be entitled to be heard at the Final Approval Hearing. Any Class
 21 Member who does not timely serve an objection in writing to the Settlement, the
 22 entry of Final Judgment, or to Class Counsel's application for fees, costs, and
 23 expenses, and/or the Incentive Award request for the named Plaintiff, in
 24 accordance with the procedure set forth in the Class Notice and mandated in this
 25 Order, shall be deemed to have waived any such objection by appeal, collateral
 26 attack, or otherwise.

27 21. Persons wishing to be heard at the hearing are required to serve
 28 written comments or objections and indicate in their written comments or

1 objections their intention to appear at the hearing. Settlement Class Members need
2 not appear at the hearing or take any other action to indicate their approval.

3 **VIII. FURTHER ORDERS**

4 22. From the date of this Order forward, the Court hereby enjoins, without
5 requirement of a bond, any Settlement Class Members from instituting any new
6 litigation against Philips or any of its affiliates related to the AirFloss and/or its
7 marketing or sales until the Court may rule on the Settlement at or after the Final
8 Approval Hearing.

9 23. All applicable pre-trial deadlines in the Action shall be continued
10 indefinitely, so that Philips and Plaintiff shall in no way be prejudiced by their
11 efforts to resolve the claims resolved through this Agreement.

12 24. If the Settlement Agreement is terminated or not consummated for
13 any reason whatsoever, the conditional certification of the Settlement Class shall
14 be void, the Defendants shall have reserved all of their rights to oppose any and all
15 class certification motions, to contest the adequacy of Plaintiff as a typical or
16 adequate representatives of any putative class, to contest the merits of Plaintiff's
17 claims, and to contest the adequacy of Plaintiff's Counsel as Class Counsel.
18 Similarly, Plaintiff reserves all of her rights, including the right to continue with
19 the litigation, pending at the time of the Settlement should the Settlement
20 Agreement not be consummated and/or receive final approval from this Court.

21 **IT IS SO ORDERED.**

22 Dated: _____

23
24 _____
25 HON. MARILYN HUFF
26 UNITED STATES DISTRICT JUDGE
27
28

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**LILIA PERKINS v. PHILIPS ORAL
HEALTHCARE, INC., et al.**

**Case No. 12-CV-1414H BGS
Class Action**

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND
CERTIFYING SETTLEMENT CLASS**

WHEREAS, this matter has come before the Court pursuant to the Motion for Order Granting Final Approval of Class Action Settlement and Certifying Settlement Class (the “Motion”);

WHEREAS, the Court finds that it has jurisdiction over this Action;¹

WHEREAS, on [September __], 2013, this Court granted Plaintiff’s Unopposed Motion for Preliminary Approval of the Settlement Agreement and Provisional Class Certification (the “Preliminary Approval Order”);

WHEREAS, the Settlement Class conditionally certified in the Preliminary Approval Order has been appropriately certified for settlement purposes only;

WHEREAS, the Court has held a hearing on _____ to consider the fairness, reasonableness and adequacy of the Settlement Stipulation, has been advised of all objections to the Settlement and has given fair consideration to such objections;

WHEREAS, the Court has considered the Motion, the Stipulation of Class Action Settlement, dated May 20, 2013, and the exhibits thereto (the “Settlement Stipulation” or the “Settlement”), and objections to the proposed Settlement; and

¹ Capitalized terms herein have the meaning as specified in the Settlement Stipulation, dated May 20, 2013.

1 **WHEREAS**, the Court is otherwise fully advised in the premises and has
 2 considered the record of these proceedings, the representations, arguments, and
 3 recommendation of counsel for the parties, and the requirements of law.

4 **IT IS HEREBY ORDERED THAT:**

5 **I. FINAL APPROVAL OF THE SETTLEMENT AGREEMENT**

6 1. The terms of the Settlement Stipulation are approved. The Settlement
 7 is in all respects fair, reasonable, adequate and proper, and in the best interest of
 8 the Class. In reaching this conclusion, the Court has considered a number of
 9 factors, including an assessment of the likelihood that Plaintiff would prevail at
 10 trial; the range of possible recovery available to Plaintiff; the consideration
 11 provided to Settlement Class Members pursuant to the Settlement Stipulation as
 12 compared to the range of possible recovery discounted for the inherent risks of
 13 litigation; the complexity, expense and possible duration of such litigation in the
 14 absence of a settlement; the nature and extent of any objections to the Settlement;
 15 and the stage of proceedings at which the Settlement was reached.

16 2. The proposed Settlement was entered into by experienced counsel and
 17 only after extensive arms-length negotiations, including through an Early Neutral
 18 Evaluation conference before the Honorable Bernard G. Skomal. The proposed
 19 Settlement is not the result of collusion. The proposed Settlement was entered into
 20 in good faith, is reasonable, fair and adequate, and is in the best interest of the
 21 Settlement Class. Class Counsel and the Class Representative have fairly and
 22 adequately represented the Settlement Class for purposes of entering into and
 23 implementing the Settlement Stipulation.

24 **II. CLASS CERTIFICATION**

25 **A. CERTIFICATION OF SETTLEMENT CLASS**

26 3. Preliminary approval was granted with respect to the proposed
 27 Settlement Class on _____, 2013:
 28

1 All California residents who purchased a new AirFloss in California
2 between January 1, 2011 and June 24, 2013.

3 **B. Rule 23(a)**

4 4. With respect to the proposed Settlement Class as set forth in the
5 Settlement Stipulation, this Court has determined that, for purposes of a settlement
6 of the Action only, Plaintiff has satisfied each of the Rule 23(a) Prerequisites:

7 (a) The Class Members are so numerous that joinder of all
8 members is impracticable. Fed. R. Civ. P. 23(a)(1).

9 (b) There are questions of law or fact common to the Settlement
10 Class. Fed. R. Civ. P. 23(a)(2). Common questions of law or fact include:

11 (1) whether the Philips advertised AirFloss as “An Easier Way to Floss”;
12 (2) whether Philips represented that AirFloss replaces flossing; (3) whether
13 Philips’ conduct was unlawful; and (4) how any resulting monetary damages to
14 consumers should be calculated.

15 (c) The claims of the Class Representative are typical of the claims
16 of the Settlement Class. Fed. R. Civ. P. 23(a)(3). Here, Plaintiff has alleged that
17 Philips marketed AirFloss as a replacement for flossing and failed to disclose or
18 adequately disclose material facts to members of the Settlement Class. Plaintiff
19 asserts that there was sufficient uniform treatment by Philips so that the Class
20 Representative and each Settlement Class Member (i) presents the same claim
21 concerning (ii) the same conduct and (iii) seeks the same relief from Philips. The
22 ability of the parties to achieve a settlement on terms applicable to the entire
23 Settlement Class underscores the finding of typicality.

24 (d) The Class Representative will fairly and adequately protect the
25 interests of the Settlement Class. Fed. R. Civ. P. 23(a)(4). The Class
26 Representative does not have interests that are antagonistic to the Class and her
27 interests are fully aligned with the interests of other Class Members. Accordingly,
28

1 the Court finds that the Class Representative has satisfied Rule 23(a) for purposes
2 of evaluating this Settlement.

3 **C. Rule 23(b)(3)**

4 5. With respect to the Settlement as contained in the Settlement
5 Stipulation, the Court also “finds that the questions of law or fact common to class
6 members predominate over any questions affecting only individual members,” and
7 “that a class action is superior to other available methods for fairly and efficiently
8 adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3).

9 6. Here, Settlement Class Members share a common legal grievance
10 arising from Philips’ alleged marketing of AirFloss as a replacement for
11 flossing and Philips’ failure to disclose or adequately disclose material facts
12 related to AirFloss to any of the purchasers of AirFloss. Common legal and factual
13 questions are central to all Class Members’ claims and predominate over any
14 individual questions that may exist for purposes of this Settlement, and the fact that
15 the Parties are able to resolve the case on terms applicable to all Settlement Class
16 Members underscores the predomination of common legal and factual questions
17 for purposes of this Settlement. In concluding that Settlement Class should be
18 certified pursuant to Rule 23(b)(3) for settlement purposes only, the Court further
19 finds that a class action is superior for purposes of resolving these claims because
20 individual Class Members have not shown any interest in individually controlling
21 the prosecution of separate actions. Moreover, the cost of litigation far outpaces
22 the individual recovery available to any Plaintiff. *See* Fed. R. Civ. P. 23(b)(3)(A).
23 Accordingly, the Court finds that, for purposes of this Settlement, Rule 23(b)(3)
24 has also been satisfied.

25 7. The Court finds that the Class Representative is an adequate
26 representative to maintain her consumer fraud claims on behalf of the Settlement
27 Class Members. The Court hereby certifies, for settlement purposes only, the
28 following Settlement Class:

1 All California residents who purchased a new AirFloss in California
2 between January 1, 2011 and June 24, 2013.

3 **III. NOTICE**

4 8. The Court finds that the Notice Program (i) satisfied the requirements
5 of Rule 23(c)(3) and due process; (ii) was the best practicable notice under the
6 circumstances; (iii) reasonably apprised Settlement Class Members of the
7 pendency of the action and their right to object to the proposed Settlement or opt
8 out of the Settlement Class; and (iv) was reasonable and constituted due, adequate
9 and sufficient notice to all those entitled to receive notice. Additionally, the Class
10 Notice adequately informed Class Members of their rights in the Action. *See* Fed.
11 R. Civ. P. 23(c)(2).

12 **IV. COUNSEL FEES AND COSTS**

13 9. The Court hereby grants Class Counsel's request for an award of
14 reasonable attorneys' fees and expenses in the amount of \$_____ to be paid by
15 Philips, and an Incentive Award for the Class Representative in the amount of
16 \$___ to be paid by Philips.

17 **V. RELEASES AND FURTHER RELIEF**

18 10. As the terms are defined in the Settlement Stipulation, each Released
19 Party is released from the Released Claims that any Releasing Party has, had, or
20 may have in the future, against each Released Party. The Releases are independent
21 of the dismissals with prejudice provided herein. The Covenant Not To Sue has
22 been given by each Settlement Class Member in favor of each Released Party, by
23 which all Settlement Class Members are bound. Settlement Class Members are
24 barred and enjoined from asserting against any Released Party any Released
25 Claim.

26 11. Further, each Releasing Party and Settlement Class Member, and their
27 respective present and former parents, subsidiaries, divisions and affiliates, the
28 present and former partners, employees, officers and directors of each of them, the

1 present and former attorneys, accountants, experts, consultants and insurers, and
2 agents of each of them, each of the foregoing solely in their capacity as such, and
3 the predecessors, successors, heirs and assigns of each of them, are released from
4 all claims of every nature and description, known and unknown, that any Released
5 Party has had, or may in the future have relating to the initiation, assertion,
6 prosecution, non-prosecution, settlement and/or resolution of the Action or the
7 Released Claims, and all Released Parties are barred and enjoined from asserting
8 the same.

9 12. Further, Philips and any retail seller and/or distributor of AirFloss,
10 their respective present and former parents, subsidiaries, divisions and affiliates,
11 the present and former partners, employees, officers, and directors of each of them,
12 the present and former attorneys, accountants, experts, consultants, insurers and
13 agents of them, and the predecessors, successors, heirs and assigns of each of them
14 are released from all claims of every nature and description, known and unknown,
15 that any Releasing Party has, had or may in the future have relating to the defense,
16 settlement and/or resolution of the Action or the Released Claims, and all
17 Releasing Parties are barred and enjoined from asserting the same.

18 **VI. OPT-OUTS**

19 13. A list of those members of the Class who have timely elected to opt
20 out of the Settlement and the Class, and who therefore are not bound by the
21 Settlement, the provisions of the Settlement Stipulation, and this Order, has been
22 submitted to the Court and is attached as Exhibit "A" and incorporated by
23 reference herein. All other members of the Settlement Class (as permanently
24 certified herein) shall be subject to all of the provisions of the Settlement, the
25 provisions of the Settlement Stipulation, and this Order.

26 **VII. CONTINUING JURISDICTION**

27 14. Without any way affecting the finality of this Order, the Court hereby
28 retains jurisdiction over the Parties to the Settlement Stipulation, including all

1 Settlement Class Members, and Class Counsel to construe and enforce the
2 Settlement Stipulation in accordance with its terms for the mutual benefit of the
3 Parties.

4 **IT IS SO ORDERED.**

5 Dated: _____
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7 HON. MARILYN HUFF
8 UNITED STATES DISTRICT JUDGE
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CLAIM INFORMATION

You must answer each question or statement below.

1. I purchased a new Philips Sonicare AirFloss for which I am submitting a claim on or about the following date: _____/_____/_____
 2. I purchased the Philips Sonicare AirFloss in the following city and state: _____
 3. I am a resident of California ☐ YES ☐ NO
 4. I purchased the following type of Philips Sonicare AirFloss:
☐ SINGLE-PACK
☐ DOUBLE-PACK
 5. I have attached proof of purchase of the Philips Sonicare AirFloss for which I am submitting a claim (acceptable proof includes a store receipt or warranty registration). ☐ YES ☐ NO
 6. I have enclosed the AirFloss for which I am submitting a claim. ☐ YES ☐ NO
 7. I received a refund from Philips or a retailer for the Philips Sonicare AirFloss for which I am submitting a claim. ☐ YES ☐ NO

DECLARATION

I declare, under penalty of perjury under the laws of the United States, that all the information submitted on this Proof of Claim Form, and any documents attached to it, is true and correct to the best of my knowledge.

PRINT NAME

[illegible]

SIGNATURE

DATE _____

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THIS CLAIM FORM MUST BE POSTMARKED BY [REDACTED], 2013 AND MAILED TO:

**PHILIPS AIRFLOSS SETTLEMENT
P.O. BOX 3614
MINNEAPOLIS, MN 55403-0614.**

LEGAL NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Perkins v. Philips Oral Healthcare, Inc., et al.

Case No. 12-CV-1414H BGS (S.D. Cal.)

If you are a California resident who purchased a new Philips Sonicare AirFloss in California between January 1, 2011 and June 24, 2013, you may be entitled to a voucher from a proposed class action settlement.

A proposed settlement has been reached in a class action lawsuit involving Philips Sonicare AirFloss products ("AirFloss") that were sold in California ("Proposed Settlement"). The lawsuit claims that Philips Oral Healthcare, Inc. and Philips Electronics North America Corporation (together, "Philips") violated certain California laws in the marketing and sale of AirFloss. Philips denies these allegations, but has agreed to settle the lawsuit to avoid the costs and uncertainty of continued litigation. The Proposed Settlement will provide vouchers to certain "Settlement Class Members" who submit a Proof of Claim Form ("Claim Form"). If you are a Settlement Class Member, you must submit a Claim Form to get a voucher. Claim Forms can be obtained at www.PhilipsAirFlossSettlement.com or by calling 1-877-421-6828. A California federal court (the Court) has authorized this notice. Before any vouchers are provided, the Court will have a hearing to decide whether to approve the Proposed Settlement.

Am I a Settlement Class Member? You are a Settlement Class Member if you are a California resident who purchased a new AirFloss in California between January 1, 2011 and June 24, 2013.

What Does the Proposed Settlement Provide? The Proposed Settlement makes available valuable benefits in the form of transferrable vouchers that can be used for certain Philips- or Avent-branded products. Visit www.PhilipsAirFlossSettlement.com to read more about the factors that determine the amount of the vouchers and which products can be purchased using the vouchers.

What Are My Options? To receive benefits under the Proposed Settlement, you must accurately and completely fill out a Claim Form and return the completed Claim Form to the Settlement Administrator.

To receive a copy of the full Notice of Class Action and Proposed Settlement ("Settlement Notice") and the Claim Form, please contact the Settlement Administrator by mail at Philips AirFloss Settlement, c/o Dahl Administration, P.O. Box 3614, Minneapolis, MN 55403-0614; by phone at 1-877-421-6828; or by email at mail@PhilipsAirFlossSettlement.com. The Settlement Notice and the Claim Form may also be downloaded from the Settlement Website, www.PhilipsAirFlossSettlement.com.

The completed and signed Claim Form **must be postmarked and sent to the Settlement Administrator by [date]**. If you do not wish to be included in the Proposed Settlement, you may exclude yourself from the Settlement Class by notifying the Settlement Administrator in writing. Any request for exclusion from the Settlement Class **must be postmarked or sent to the Settlement Administrator email by [date]**. Or you may stay in the Settlement Class and object to any element of the Proposed Settlement by [date] in accordance with certain instructions from the Court. This process is described in greater detail on the Settlement Website.

Do I Have a Lawyer in this Case? The Court assigned the following attorneys ("Class Counsel") to represent you and the other Settlement Class Members: Michael Ian Rott and Eric Overholt, HIDDEN, ROTT & OERTLE, LLP, 2625 Camino del Rio South, Suite 306, San Diego, CA 92108.

You will not be charged for these lawyers. If you want to be represented by a different lawyer, you may hire one at your own expense.

You are also represented by the named Plaintiff, whom the Court assigned to serve as a "Class Representative" for you and the other Settlement Class Members.

The Court will hold a hearing in Courtroom 15A at the U.S. District Court for the Southern District of California, located at 333 West Broadway, San Diego, California 92101 at **[] a.m./p.m. on [date]** to consider whether to approve the Proposed Settlement, and whether to grant Class Counsel's request for \$114,500 in attorneys' fees and expenses and to pay \$750 in an "incentive award" to the Settlement Class Representative, to which Philips does not object. You do not have to attend the hearing.

For more information and details about the Proposed Settlement, visit the Settlement Website, www.PhilipsAirFlossSettlement.com, call toll free 1-877-421-6828, or write to Philips AirFloss Settlement, c/o Dahl Administration, P.O. Box 3614, Minneapolis, MN 55403-0614.

Please do not contact the Court with questions about the Proposed Settlement.

CLAIM FORMS MUST BE POSTMARKED BY [date].

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**LILIA PERKINS v. PHILIPS ORAL
HEALTHCARE, INC., et al.**

Case No. 12-CV-1414H BGS
Class Action

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

IF YOU ARE A CALIFORNIA RESIDENT WHO PURCHASED A NEW PHILIPS SONICARE AIRFLOSS (“AIRFLOSS”) IN CALIFORNIA BETWEEN JANUARY 1, 2011 AND JUNE 24, 2013 (“CLASS PERIOD”), THIS NOTICE INFORMS YOU OF A PROPOSED CLASS ACTION SETTLEMENT THAT COULD AFFECT YOUR LEGAL RIGHTS

A California federal court (the “Court”) has authorized this Notice. This is not a solicitation from a lawyer.

The Proposed Settlement¹ provides benefits to certain California residents who purchased a new Philips Sonicare AirFloss in California between January 1, 2011 and June 24, 2013.

If you are a Settlement Class Member, your legal rights are affected whether you act or do not act. Read this Notice carefully.

Your Legal Rights and Options as a Member of the Settlement Class:	
Submit a Claim Form by [date].	The only way to receive a voucher.
Exclude Yourself from the Proposed Settlement (“Opt Out”) By [date].	Get no voucher. This is the only option that allows you to pursue claims against Defendants about the legal claims in this case.
Object by [date].	Write to the Court if you do not like the Proposed Settlement and tell the Court why you think it should not be approved.
Go to the Hearing on [date] at [] a.m./p.m.	Tell the Court in person what you think about the fairness of the Proposed Settlement.
Do Nothing	Get no voucher. Give up your legal rights.

These rights and options are explained in this Notice.

The Court presiding over this case still has to decide whether to approve the Proposed Settlement. Vouchers will be distributed if the Court approves the Proposed Settlement and after any appeals are resolved. Please be patient.

¹ Capitalized terms used in this Notice of Class Action and Proposed Settlement are meant to refer to the terms in the Stipulation of Class Action Settlement (“Proposed Settlement”), which is available at www.PhilipsAirFlossSettlement.com. Further, this Notice is intended simply to summarize the terms of the Proposed Settlement and is not intended to alter or modify the Proposed Settlement in any way. To the extent there are any inconsistencies, the Stipulation of Class Action Settlement filed with the Court controls.

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Basic Information

1) Introduction

This Notice applies to any California resident that purchased a Philips Sonicare AirFloss (“AirFloss”) in California between January 1, 2011 and June 24, 2013. The Court ordered the publication of this Notice to provide Settlement Class Members with notice that they may be eligible for benefits under a proposed class action settlement relating to the AirFloss (the “Proposed Settlement”). You have the right to know about the Proposed Settlement in a class action lawsuit, and what your options are, before the Court decides whether to approve the Proposed Settlement. This Notice discusses the lawsuit, the Proposed Settlement, your legal rights and the consequences of failing to act, who is eligible for benefits under the Proposed Settlement, and how to get them.

The Court presiding over the case is in the United States District Court for the Southern District of California, and the case caption is *Lilia Perkins v. Philips Oral Healthcare, Inc., et al.*, Case No 12-CV-1414H BGS. Plaintiff in this case seeks certification as a class action lawsuit. In a class action, one or more people sue on behalf of the people who have similar claims (the “Class”). Plaintiff also seeks class certification for purposes of the Proposed Settlement. All people in the Proposed Settlement Class collectively are known as “Settlement Class Members.” One court resolves the issues for all Settlement Class Members, except for those who request exclusion from the Proposed Settlement Class. The consumer who brought the lawsuit is the “Plaintiff,” and the companies she sued (Philips Oral Healthcare, Inc. and Philips Electronics North America Corporation, collectively “Philips”) are the “Defendants.”

Here, Philips marketed and sold the AirFloss. Plaintiff claims that Philips violated certain California laws in the marketing and sale of AirFloss. Philips denies these allegations and denies any wrongdoing or liability to Plaintiff or the Settlement Class. Plaintiff and Philips have reached a Proposed Settlement to resolve the case. The Court has preliminarily approved the Proposed Settlement and, if it is finally approved, you may be entitled to a voucher if you purchased an AirFloss in California. If the Court approves the Proposed Settlement, the lawsuit will be dismissed with prejudice, and Settlement Class Members who do not take steps to opt out of the Settlement will be bound by the Settlement and the dismissals and will no longer have the right to bring the same claims against Philips.

2) Why Should I Read This Notice?

Because you may be a Settlement Class Member, your legal rights may be affected if the Proposed Settlement is finally approved by the Court.

The purpose of this Class Notice is to inform you about (1) what this case is about; (2) the terms of the Proposed Settlement; (3) how the Proposed Settlement may affect your rights; (4) your rights and options with respect to the lawsuit, including the right to object to the Proposed Settlement or exclude yourself from the Settlement Class if you choose not to participate; and (5) the hearing to be held by the Court to consider whether the Proposed Settlement should be finally approved.

This Notice, which has been approved by the Court, is only a summary of the Proposed Settlement. You can find out more details by obtaining a copy of the Stipulation of Class Action Settlement, dated as of May 20, 2013, at www.PhilipsAirFlossSettlement.com, by requesting one from the Settlement Administrator at the toll free number: 1-877-421-6828. Further, this Notice is intended simply to summarize the terms of the Proposed Settlement and is not intended to alter or modify the Proposed Settlement in any way. To the extent there are any inconsistencies, the Stipulation of Class Action Settlement filed with the Court controls, and a copy of the same can be found at the settlement website.

3) What Is this Lawsuit About?

Defendant Philips marketed and sold a product called the Philips Sonicare AirFloss (“AirFloss”). Plaintiff filed a lawsuit about AirFloss in United States District Court for the Southern District of California. Plaintiff sought class action status so that she could serve as a representative of all California residents who purchased AirFloss in California between January 1, 2011 and June 24, 2013. Plaintiff made claims against Philips for violation of certain California state laws, alleging that Philips advertised AirFloss as “An Easier Way to Floss” and represented that AirFloss replaces flossing. Philips moved to dismiss the case, and the Court granted Philips’ motion in part and denied the motion in part. Following settlement talks between the parties, including at an Early Neutral Evaluation Conference presided over by the Honorable Bernard G. Skomal, the parties reached a negotiated settlement. The Court has provisionally certified the Settlement Class for purposes of the Proposed Settlement. The Court appointed Plaintiff’s counsel, the law firm of Hiden, Rott & Oertle, LLP, as Counsel for the Settlement Class.

Class Counsel believes that the claims asserted in the case have substantial merit. However, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving the claims of the Settlement Class, Class Counsel have concluded that the Proposed Settlement is fair, reasonable, adequate and in the best interests of Plaintiff and the Class.

Although Philips denies wrongdoing of any kind, denies all of Plaintiff’s allegations in the Amended Complaint, and believes that the lawsuit is without merit, Philips also has taken into account the uncertainty, risk, delay and costs inherent in litigation and agreed to enter into the Proposed Settlement to avoid any further litigation expenses and inconvenience, and to remove the distraction of burdensome and protracted litigation.

Who Is in the Settlement Class?

4) How Do I Know if I am Part of the Settlement Class?

If you fit this description, you are considered a “Settlement Class Member”:

All California residents who purchased a new Philips Sonicare AirFloss in California between January 1, 2011 and June 24, 2013. Excluded from the Settlement Class are: (1) any Person that has already obtained any refund from Philips or any retailer in connection with the AirFloss for which the Class Members seek relief in this case, (2) any Person who files a valid, timely Request for Exclusion; (3) any Person who purchased an AirFloss, but gave it away as a gift; and (4) any Judges to whom this Action is assigned and any member of their immediate families.

If you fall within this definition, you may be a member of the Settlement Class unless you exclude yourself by “opting out” as described in this Notice. Settlement Class Members who do not exclude themselves will be bound by the Proposed Settlement if it is approved by the Court and can never again bring a lawsuit based on any Released Claims or based upon the dismissal with prejudice to be entered by the Court. The dismissals with prejudice are independent of the releases and could bar certain claims. Persons who exclude themselves from the Settlement Class will neither benefit from, nor be bound by the terms of, the Proposed Settlement.

5) What Product Is Included in the Proposed Settlement?

Any new Philips Sonicare AirFloss purchased by a current California resident between January 1, 2011 and June 24, 2013 in California is included in the Proposed Settlement.

The Settlement Benefits—What Do You Get?

6) What Can I Get From the Proposed Settlement?

The Settlement Class Members have been divided into two Tiers. Settlement Class Members who possess Proof of Purchase (as defined in the Stipulation of Class Action Settlement) are eligible for Tier 1 benefits as follows:

- Tier 1 Settlement Class Members who submit a valid and timely Claim and provide proof that they purchased a **double-pack** AirFloss are eligible to receive a voucher for **\$33.00**.
- Tier 1 Settlement Class Members who submit a valid and timely Claim and provide proof that they purchased a **single-pack** AirFloss are eligible to receive a voucher for **\$23.00**.

Settlement Class Members who do not possess Proof of Purchase, but who submit a valid and timely Claim, including an attestation that they purchased a new AirFloss, are eligible for Tier 2 benefits.

- Tier 2 Settlement Class Members are eligible to receive a voucher for **\$7.00**.

7) Are There Any Limits on the Recovery?

There is no limit on the total number of vouchers that can be distributed to the Settlement Class as a whole. There is also no limit on the total value of the voucher payments to be paid to the Settlement Class as a whole under the Settlement. If you are a Tier 1 Settlement Class Member you can receive up to two vouchers per household. If you are a Tier 2 Settlement Class Member you are limited to one voucher per household.

8) How Do I File a Claim and Get a Voucher?

To receive a voucher you must obtain a Proof of Claim Form (“Claim Form”) at www.PhilipsAirFlossSettlement.com or by calling 1-877-421-6828, follow all instructions and submit the requested paperwork about your Claim by [date], 2013.

Please be careful to read and follow all the instructions on the Claim Form and submit all requested paperwork about your Claim, so that your Claim can be approved. A Claim Form, together with instructions, are attached to this document. Additional copies are available for downloading at www.PhilipsAirFlossSettlement.com, calling 1-877-421-6828, or by writing to the Settlement Administrator at Philips AirFloss Settlement, c/o Dahl Administration, P.O. Box 3614, Minneapolis, MN 55403-0614. The Claim Form must be signed by you under penalty of perjury under the laws of the United States.

If you receive a Voucher as part of the Proposed Settlement, it may be used to purchase any (i) Philips audio or video products (excluding televisions), (ii) Philips Norelco shaving and grooming products, (iii) Philips Sonicare oral care products, (iii) Philips accessories, and (iv) Avent-branded products (collectively the “Eligible Products”). The Voucher shall be transferable and it must be used within twelve months after issuance. After that date the Voucher will become valueless. Lost or stolen Vouchers will not be replaced or reissued.

The Settlement Administrator, who has been appointed by the Court, has the authority to accept or reject your Claim according to the terms and conditions set forth in the Stipulation of Class Action Settlement. The Settlement Administrator may contact you to validate and verify your claims. Issues regarding the validity of Claims that cannot be resolved by the Settlement Administrator shall be submitted to Counsel for Philips and Class Counsel for resolution and, if no resolution is reached, to the Court. By filing a Claim, you are consenting to the Court’s jurisdiction to resolve any disputes about your Claim.

9) When Would I Get My Voucher?

The Court will hold a hearing on **[], 2013 at [] a.m./p.m.** to decide whether to approve the Proposed Settlement. If the Court approves the Proposed Settlement after that, there may be appeals. It is always uncertain when any appeals will be resolved, and it may take more than a year. Settlement Class members who submit a Claim Form will be informed of the progress of the Proposed Settlement. Please be patient.

10) Will the Class Representative and Class Counsel Receive Payments Under the Proposed Settlement?

Philips has agreed that the Class Representative shall, with the approval of the Court, be able to obtain compensation of up to \$750, in addition to a voucher as specified above, for her role in obtaining the Proposed Settlement described herein.

Further, Class Counsel is seeking an award of up to \$114,500 for its role in acting as counsel to the Settlement Class. Philips does not object to this request.

11) Tax Consequences of the Proposed Settlement

Filing a Claim under the Stipulation of Class Action Settlement may have tax consequences for you, depending upon your individual circumstances. You should consult your personal tax advisor regarding the tax consequences of the Proposed Settlement and any tax reporting obligations with respect thereto. No opinion concerning the tax consequences of the Proposed Settlement to any Settlement Class Member is being given, or will be given, by Philips, Philips' Counsel, Class Counsel, or the Settlement Administrator. None of the Parties to the lawsuit, their lawyers, or the Court is providing any representation or guarantee as to the tax consequences of the Proposed Settlement to any Class Member. Each Settlement Class Member is solely responsible for his/her tax reporting and other obligations with respect to the Proposed Settlement, if any.

12) What Am I Giving Up to Stay in the Class and Receive Benefits Under the Proposed Settlement?

If you meet the definition of "Settlement Class Member," you are part of the Class unless you file a Request for Exclusion. As part of the Settlement Class, you will be bound by the Proposed Settlement and the Court orders and will be bound by all proceedings, orders and judgments in the case.

Also, during the time that the Settlement is being considered, the Court has entered an order barring further litigation against Philips for any of the claims that will be Released Claims until the final hearing on the Proposed Settlement.

When and if the Proposed Settlement is approved, all Settlement Class Members who do not file a "Request for Exclusion" and every "Releasing Party" (as defined in the Stipulation of Class Action Settlement) will be deemed to release every "Released Party" (as defined in the Stipulation of Class Action Settlement) of any liability for every "Released Claim" (as defined in the Stipulation of Class Action Settlement) relating to AirFloss. In the Stipulation of Class Action Settlement, the "Released Party" includes Philips, its distributors and retailers marketing or selling the AirFloss. The dismissals are independent of the releases provided in this Settlement. Settlement Class Members will also provide a "Covenant Not To Sue" (as defined in the Stipulation of Class Action Settlement).

When and if the Court enters the final judgment and approves the Proposed Settlement, Settlement Class Members will be deemed to have given up all their rights as to the Released Claims and will be barred from suing the "Released Party" (again, as defined in the Stipulation of Class Action Settlement), which includes Philips, any AirFloss retailers and distributors or the other Released Parties. In addition, Settlement Class Members will be bound by a Covenant Not to Sue. Also, when the Proposed Settlement becomes effective, each of the Released and Releasing Parties shall be deemed to mutually release one another, and their respective affiliates, employees,

officers and directors, and representatives from all claims relating to this lawsuit, as described in more detail in the Proposed Settlement. Separately and in addition, Philips shall obtain the benefits of a dismissal of the case against it with prejudice.

Settlement Class members and the Released Parties may still seek the assistance of the Court to enforce the Stipulation of Class Action Settlement, and the Court will continue to oversee the lawsuit in order to interpret and enforce the Proposed Settlement.

If you are a Settlement Class Member, you may choose, at your own expense, to enter an appearance in this lawsuit personally or through a lawyer of your choice. If you do not enter an appearance before [date], your interests will be represented by the Class Counsel listed below.

How Can You Exclude Yourself from the Proposed Settlement?

If you are a Settlement Class Member, you will automatically be bound by the terms of the Proposed Settlement, unless you take affirmative steps to get out of the Settlement Class. This is called “excluding yourself” or “opting out” of the Proposed Settlement and the Settlement Class.

13) How Do I Exclude Myself from the Proposed Settlement?

To exclude yourself or “opt out” from the Proposed Settlement, you must send a written Request for Exclusion to the Settlement Administrator post-marked by [date] to Philips AirFloss Settlement, c/o Dahl Administration, P.O. Box 3614, Minneapolis, MN 55403-0614.

You must **personally** sign the Request for Exclusion and include: (1) your name; (2) your address and telephone number; and (3) a statement that you wish to be excluded from the Settlement Class and from participating in the proposed Settlement. Requests for Exclusion will be accepted only from the individual signing the Request. So-called “mass” or “class” opt-outs are not permitted.

If you “opt out” of the Settlement Class, you will not: (1) be legally bound by anything that happens in this lawsuit; (2) get any voucher; (3) gain any rights under the Proposed Settlement; or (4) be able to object to any aspect of the Proposed Settlement.

14) If I Exclude Myself, Can I Get a Voucher in the Proposed Settlement?

No. If you exclude yourself, do not send in a Claim Form to ask for a voucher. Also, you cannot object to the Proposed Settlement. But, you may sue Philips in the future about the AirFloss on your own and at your own expense.

15) How Do I Tell the Court that I Do Not Like the Proposed Settlement?

If you’re a Settlement Class Member, you can object to the Proposed Settlement if you don’t like any part of it. You can also give reasons why you think the Court shouldn’t approve it. The Court will consider your views so long as you follow the directions below.

To object, you must send a letter as discussed below, saying that you object to the Proposed Settlement in *Perkins v. Phillips Oral Healthcare, Inc., et al.*, and explain all of your objections and the reasons why you think the Proposed Settlement should not be approved by the Court. You must also state whether you intend to appear personally at the Final Approval Hearing, or have your attorney make an appearance. Be sure to include your name, address, telephone number, and either Proof of Purchase of an AirFloss or an attestation that you purchased an AirFloss. You must send the objection to Class Counsel, Philips’ Counsel and the Settlement Administrator, postmarked by no later than [date], at the following addresses:

CLASS COUNSEL	PHILIPS' COUNSEL	SETTLEMENT ADMINISTRATOR
Michael Ian Rott Eric M. Overholt HIDEN, ROTT & OERTLE, LLP 2625 Camino del Rio South, Suite 306 San Diego, California 92108	Michael H. Steinberg Brian R. England SULLIVAN & CROMWELL LLP 1888 Century Park East, Suite 2100 Los Angeles, California 90067	Philips AirFloss Settlement c/o Dahl Administration P.O. Box 3614 Minneapolis, Minnesota 55403-0614

16) What Is the Difference Between Excluding Myself and Objecting to the Proposed Settlement?

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

The Court's Final Approval Hearing

The Court will hold a "Final Approval Hearing" to decide whether to approve the Proposed Settlement. You may attend and ask to speak at that hearing, but you do not have to.

17) When and Where Is the Hearing?

The Court scheduled a hearing for final approval of the Proposed Settlement on [date], at [] a.m./p.m., in Courtroom 15A, at the United States District Court for the Southern District of California, located at 333 West Broadway, Suite 1510, San Diego, California 92101. The Court may reschedule the Final Approval Hearing without further notice.

At the hearing, the Court will consider whether the Proposed Settlement is fair, reasonable and adequate, and whether to enter final judgment in light of the Proposed Settlement. The Court will consider how much Philips will pay Class Counsel and what incentive award Philips will pay the Class Representative. After the hearing, the Court will make the final decision on these issues. We do not know how long it will take for the Court to make the final decision.

18) May I Speak at the Hearing?

You may, but need not, ask the Court for permission to speak at the Final Approval Hearing to object to: (i) the Proposed Settlement; (ii) dismissal of this lawsuit in light of the Proposed Settlement; (iii) the Release of Settlement Class Members' claims against Philips and the other Released Parties; (iv) the request of Class Counsel for attorneys' fees and expenses; or (v) the request of the Settlement Class Representative for an incentive award.

To speak at the hearing, you must send a letter called a "Notice of Intention to Appear in Perkins v. Phillips Oral Healthcare, Inc., et al." Be sure to include your name, address, telephone number, and either a Proof of Purchase of an AirFloss or attestation that you purchased an AirFloss and serve or postmark the letter no later than [date]. You must send your letter to Class Counsel, Philips' Counsel, and to the Settlement Administrator at the addresses on page [add], in question 15.

Any Settlement Class Member who does not make his or her objections according to all these requirements waives their objections to the Proposed Settlement, to payment of Class Counsel for attorneys' fees and expenses, and to payment of incentive awards to Settlement Class Representatives.

You cannot speak at the hearing if you exclude yourself from the Settlement Class.

19) What Happens if the Proposed Settlement Is Approved?

When and if the Court approves the Proposed Settlement after the Final Approval Hearing, the Court will enter a “Final Judgment” which, among other things, will:

- Order all the Parties to carry out the terms of the Proposed Settlement;
- Dismiss the lawsuit against Philips with prejudice; and
- Put into effect the Releases and Covenant Not to Sue detailed above.

20) What if the Court Does Not Approve the Settlement?

If the Court does not approve the Proposed Settlement, you will not receive a voucher as described in this Notice. However, even if the Court does not award Class Counsel attorneys’ fees and expenses, or Plaintiffs’ incentive awards, but nonetheless approves the Proposed Settlement, the Proposed Settlement will still go through and you may receive a voucher as described in this Notice.

If the Proposed Settlement fails for any reason, no Settlement Class Member will be legally affected by the Proposed Settlement or anything else in this lawsuit, all the Parties in this lawsuit will be back where they were before the Proposed Settlement was reached, and no Party may use or refer to the Stipulation of Class Action Settlement to the disadvantage of the other Party.

Who Is Representing You?

21) Do I Have a Lawyer in This Case?

The Court assigned the following attorneys to represent you and the other Settlement Class Members:

Michael Ian Rott
Eric M. Overholt
HIDEN, ROTT & OERTLE, LLP
2625 Camino del Rio South, Suite 306
San Diego, CA 92108

Together the lawyers are called “Class Counsel.” You will not be charged for these lawyers. If you want to be represented by a different lawyer, you may hire one at your own expense.

You are also represented by the Plaintiff, Lilia Perkins, whom the Court assigned to serve as a “Class Representative” for you and the other Settlement Class Members.

22) How Will My Representatives Be Paid?

The Class Counsel will apply to the Court for their fees and expenses up to \$114,500, to which Philips does not object. This will not affect the amount of relief available to any Settlement Class Member. Philips also agreed to pay up to \$750 to the Class Representative as an “incentive award” if approved by the Court, which will also not affect the amount of relief available to the Settlement Class.

Getting More Information

23) Are More Details About the Proposed Settlement Available?

This Notice is just a summary of the Proposed Settlement and may not answer all your questions. There are

more details in the Stipulation of Class Action Settlement and the “Exhibits” to the Stipulation of Class Action Settlement, including the Claim Form.

24) How Do I Get More Information?

For more information, visit www.PhilipsAirFlossSettlement.com or contact the Settlement Administrator directly by calling 1-877-421-6828, or by writing to:

Philips AirFloss Settlement
c/o Dahl Administration
P.O. Box 3614
Minneapolis, MN 55403-0614

You may also read the papers about this lawsuit at the Office of the Clerk of the Court, United States District Court for the Southern District of California, 333 West Broadway, San Diego, California 92101.

You may seek advice from your attorney at your own expense.

PLEASE DO NOT CONTACT THE COURT, THE CLERK’S OFFICE, PHILIPS’ COUNSEL, OR PHILIPS FOR INFORMATION. ALL INQUIRIES SHOULD BE DIRECTED TO THE CLASS COUNSEL AND THE SETTLEMENT ADMINISTRATOR AT THE NUMBERS OR ADDRESSES PROVIDED ABOVE.

PHILIPS AIRFLOSS SETTLEMENT
SETTLEMENT ADMINISTRATOR
C/O DAHL ADMINISTRATION
PO BOX 3614
MINNEAPOLIS MN 55403-0614

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NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

U.S. District Court for the Southern District of California
***Perkins v. Philips Oral Healthcare, Inc. et al.*, Case No. 12-CV-1414H BGS (S.D. Cal.)**

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT.
YOUR LEGAL RIGHTS MIGHT BE AFFECTED BY THIS SETTLEMENT.
PLEASE READ THIS NOTICE CAREFULLY.

You have been provided with this notice because you may be a California resident who purchased a new Philips Sonicare AirFloss ("AirFloss") in California between January 1, 2011 and June 24, 2013. This lawsuit claims that that Philips Oral Healthcare, Inc., et al. ("Philips") violated certain California laws in the marketing and sale of the AirFloss. Philips denies these claims. A Proposed Settlement in this lawsuit has been reached, subject to Court approval.

Under the Proposed Settlement, you may be entitled to benefits in the form of a Voucher for the purchase of certain Philips or AVENT products. Visit the Settlement Website at www.PhilipsAirFlossSettlement.com to read more about the factors that determine the amount of the vouchers.

To obtain benefits from this Proposed Settlement, you must submit a Claim Form, postmarked by [date]. Claim Forms can be found at the Settlement Website, www.PhilipsAirFlossSettlement.com or requested by calling 1-877-421-6828.

If you want to request exclusion from the Class, you must exclude yourself from the Proposed Settlement by [date]. If you do not exclude yourself from the Settlement Class, you will be bound by the terms of the Proposed Settlement. If you stay in the Class, you may formally object to the Proposed Settlement by [date]. The Court will hold a hearing on [date] to consider whether to approve the Proposed Settlement, a request for incentive award for the Class Representative in the amount of \$750, and a request of attorneys' fees and expenses of no more than \$114,500.

For more information go to www.PhilipsAirFlossSettlement.com or call 1-877-421-6828 or email mail@PhilipsAirFlossSettlement.com.

Email Subject: NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Email Text:

U.S. District Court for the Southern District of California

***Perkins v. Philips Oral Healthcare, Inc., et al.*, Case No. 12-CV-1414H BGS**

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

**YOUR LEGAL RIGHTS MIGHT BE AFFECTED BY THIS PROPOSED
SETTLEMENT.**

PLEASE READ THIS NOTICE CAREFULLY.

You have been provided with this notice because you may be a California resident who purchased a new Philips Sonicare AirFloss ("AirFloss") in California between January 1, 2011 and June 24, 2013. This lawsuit claims that that Philips Oral Healthcare, Inc., et al. ("Philips") violated certain California laws in the marketing and sale of AirFloss. A Proposed Settlement in this lawsuit has been reached, subject to Court approval.

Under the Proposed Settlement, you may be entitled to benefits in the form of a Voucher for the purchase of certain Philips or Avent products. Visit the settlement website at www.PhilipsAirFlossSettlement.com to read more about the factors that determine the amount of the Vouchers.

To obtain benefits from this Settlement, you must submit a Claim Form, postmarked by [date]. The Claim Form can be found at the settlement website, www.PhilipsAirFlossSettlement.com or requested by calling 1-877-421-6828 or emailing mail@PhilipsAirFlossSettlement.com.

If you want to exclude yourself from the Settlement Class, you must request exclusion from the Proposed Settlement by [date]. If you do not exclude yourself from the Settlement Class, you will be bound by the terms of the Proposed Settlement. If you stay in the Settlement Class, you may formally object to the Proposed Settlement by [date]. The Court will hold a hearing on [date] to consider whether to approve the Proposed Settlement, a request for an incentive award for the Class Representative in the amount of \$750, and attorneys' fees and expenses of no more than \$114,500.

For more information go to www.PhilipsAirFlossSettlement.com or email mail@PhilipsAirFlossSettlement.com or call 1-877-421-6828.

Do not reply to this email for additional information. It was sent from an unattended mailbox and replies are not reviewed.

Court Grants Preliminary Approval to a Class Action Settlement Related to the Philips Sonicare AirFloss

For Immediate Release

SAN DIEGO, CALIFORNIA, [date] /PRNewswire - The law firm of HIDDEN, ROTT & OETLE, LLP announces that on [date], the United States District Court for the Southern District of California granted preliminary approval to a proposed class action settlement with Philips Oral Healthcare, Inc. and Philips Electronics North America Corporation (together "Philips"). The Proposed Settlement resolves a lawsuit alleging that Philips violated California laws in the marketing and sale of the Philips Sonicare AirFloss ("AirFloss").

The Proposed Settlement would entitle qualifying Settlement Class Members who purchased a new AirFloss to receive a voucher for the purchase of certain Philips or Avent-branded products. Only California residents who purchased a new AirFloss in California between January 1, 2011 and June 24, 2013 qualify for participation in this Proposed Settlement.

The Court has scheduled a hearing on [date] at [time] a.m./p.m. to determine whether to grant final approval to the Proposed Settlement.

To be eligible to receive the benefits made available pursuant to this Proposed Settlement, Settlement Class Members must submit to the Settlement Administrator a claim form that is postmarked by [date].

To obtain additional information about the Proposed Settlement, to determine whether your AirFloss purchase qualifies, or to obtain a claim form, you can visit the Settlement Website at www.PhilipsAirFlossSettlement.com. You can also contact the Settlement Administrator by calling 1-877-421-6828, by writing to Philips AirFloss Settlement, c/o Dahl Administration, P.O. Box 3614, Minneapolis, MN 55403-0614, or by emailing mail@PhilipsAirFlossSettlement.com.

HIDEN, ROTT & OERTLE, LLP
Michael Ian Rott
Eric Overholt
2635 Camino del Rio South, Suite 306
San Diego, CA 92108

Contact: Michael Ian Rott, Eric Overholt, HIDEN, ROTT & OERTLE, LLP, (619) 296-5884.

1 Perkins v. Philips Oral Healthcare, Inc., et al.
2 United States District Court – Southern District
3 Case No. 12-cv-1414H-BGS

4 PROOF OF SERVICE

5 I, Eric M. Overholt, declare as follows:

6 I am over the age of eighteen years and not a party to the case. I am employed in the
7 County of San Diego, California, where the mailing occurs; and my business address is 2635
8 Camino del Rio South, Suite 306, San Diego, California 92108.

9 On May 28, 2013, I served the following documents:

10 **1. Notice of Motion and Motion For Preliminary Approval of Class Action
11 Settlement**

12 on the interested parties in this action by sending a true copy as follows:

13 CM/ECF

14 Sullivan & Cromwell, LLP
15 Attn.: Brian England
16 1888 Century Park E
17 Los Angeles, CA 90067

18 (x) BY Email/ECF. By electronically filing the foregoing with the Clerk of the
19 District Court using its ECF system, which electronically notifies them via email as indicated
20 above.

21 I declare under penalty of perjury under the laws of the State of California that the above
22 is true and correct, and that I am employed in the office as a member of the bar of this Court.

23 Executed May 28, 2013 at San Diego, California.

24 By: /s/ Eric M. Overholt
25 Eric M. Overholt
26
27
28