

## **SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (the “Agreement”) is made and entered into by and between the following parties: Plaintiff Alex Arreguin, Jr., individually and on behalf of the Settlement Class (collectively, “Plaintiff” and/or “Class Representative”), and defendant Telebrands, Inc. (“Defendant”) and their respective counsel of record.

### **I. DEFINITIONS**

As used in this Agreement and all related documents, the following terms have the following meanings:

A. “Action” means the civil action entitled *Alex Arreguin, Jr., individually and on behalf of all others similarly situated v. Telebrands, a New Jersey Corporation*, which was filed in the Superior Court for the State of California, County of San Bernardino, on November 7, 2013.

B. “Authorized Claimant” means any Settlement Class Member who timely submits a valid Claim Form.

C. “Claims Deadline” means the date set by the Court for the last date on which Claim Forms may be submitted or postmarked. The Claims Deadline shall be at least sixty (60) days after the last date of publication of the Publication Notice.

D. “Claim Form” means the form Settlement Class Members must submit to participate in the refund provisions of the settlement under this Agreement substantially in the form attached as Exhibit “A.”

E. “Class Counsel” means Milstein Adelman LLP.

F. “Class Period” means November 6, 2009 through the date of entry of the Preliminary Approval Order.

G. “Complaint” means the Complaint filed on November 7, 2013 in the Superior Court for the State of California, County of San Bernardino.

H. “Court” means the Superior Court for The State of California, County of Los Angeles.

I. “Covered Products” means the products bearing the labeled brand name Pocket Hose that are marketed and/or distributed by Defendant, including all sizes.

J. “Effective Date” means (a) if no objection is raised to this Settlement at the Final Approval Hearing, the date on which the Final Approval Order and Judgment is entered; or (b) if any objections are raised to the proposed settlement at the Final Approval Hearing, the latest of (i) the expiration date of the time for the filing or notice of any appeal from the Final Approval Order and Judgment, (ii) the date of final affirmance of any appeal of the Final Approval Order and Judgment, (iii) the expiration of the time for, or the denial of, a petition for writ of review of the Final Approval Order and Judgment and, if the writ is granted, the date of final affirmance of the Final Approval Order and Judgment following review pursuant to that grant; or (iv) the date of final dismissal of any appeal from the Final Approval Order and Judgment or the final dismissal of any proceeding on *certiorari* to review the final approval order and judgment.

K. “Final Approval Hearing” means the hearing scheduled to take place at least thirty (30) days after the Claims Deadline at which the Court shall, among other things: (a) determine whether to grant final approval to this Agreement; (b) consider any timely objections to this Settlement and all responses thereto; and (c) rule on any application for attorneys’ fees, costs, and/or incentive awards.

L. “Final Approval Order and Judgment” means the order, substantially in the form of Exhibit “B” attached hereto, in which the Court grants final approval of this Settlement and authorizes the entry of a final judgment and dismissal of the Action with prejudice.

M. “Long Form Notice” means notice of the proposed settlement to be provided to Settlement Class Members under Section V of this Agreement substantially in the form attached as Exhibit “C.”

N. “Objection/Exclusion Deadline” means the date set by the Court for the submission of objections or requests for exclusion from the class, and shall be at least sixty (60) days after the last date of publication of the Publication Notice.

- O. “Parties” means Class Representatives and Defendant.
- P. “Preliminary Approval” means the date the Court preliminarily approves the settlement of the Action, including but not limited to, the terms and conditions of this Agreement.
- Q. “Preliminary Approval Order” means the order, substantially in the form of Exhibit “D” attached to this Agreement, in which the Court grants its preliminary approval to the Settlement, conditionally certifies the Settlement Class, approves and authorizes notice to the Settlement Class, appoints the Settlement Administrator, and sets a Final Approval Hearing.
- R. “Publication Notice” means notice of this Settlement to be provided to Settlement Class Members under section V of the Agreement substantially in the form attached as Exhibit “E.”
- S. “Request for Exclusion” means a valid request for exclusion from a member of the Class.
- T. “Settlement” means the operative terms of this Agreement.
- U. “Settlement Administrator” means Epiq Systems, Inc.
- V. “Settlement Class” means all persons who purchased Covered Products in the United States, its territories, or at any United States military facility or exchange during the Class Period. Excluded from the Settlement Class are all persons who validly opt out of the Settlement Class in a timely manner, counsel of record (and their respective law firms) for the Parties, Defendant and any of its parents, affiliates, subsidiaries, independent service providers and all of their respective employees, officers, and directors; the presiding judge in any of the Actions, and all of his or her relatives within the third degree of consanguinity; any natural person or entity that entered into a release with Defendant prior to the Effective Date concerning any Covered Products.
- W. “Settlement Class Member” means any member of the Settlement Class.

X. “Valid Claim” means a claim for reimbursement timely submitted by a Settlement Class Member that satisfies all the criteria to qualify for reimbursement established by the Parties’ Counsel and the Settlement Administrator.

## **II. LITIGATION BACKGROUND**

A. Plaintiffs have alleged that Defendant made false and misleading statements in its labeling and advertising of the Covered Products, including that the product was defective, and that they suffered injury as a result of those alleged statements. Plaintiffs have asserted claims on behalf of themselves and for others similarly situated in the United States based on violation of Cal. Bus. & Prof. Code §§ 17200 et seq. and 17500 et seq. and other consumer protection statutes.

B. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, and further contends that, for any purpose other than settlement, the claims alleged in the Action are not appropriate for class treatment.

C. The Parties have, in advance of settlement, engaged in extensive arms-length negotiations and an informal exchange of documents and other information pertaining to Plaintiff’s claims. The Parties have had a full and fair opportunity to evaluate the strengths and weaknesses of their respective positions.

D. Based on the current state of the law, the expense, burden, and time necessary to prosecute the Action through trial and possible appeals, the risks and uncertainty of further prosecution of the Action considering the defenses at issue, the sharply contested legal and factual issues involved, and the relative benefits to be conferred upon Plaintiffs and Settlement Class Members pursuant to this Agreement, Class Counsel has concluded that a settlement with Defendant on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement Class in light of all known facts and circumstances.

E. Defendant and Defendant’s counsel recognize the expense and length of continued proceedings necessary to continue the Action through trial and through possible appeals. Defendant also recognizes that the expense and time spent pursuing the Action has

detracted and will further detract from resources that may be used to run Defendant's business. Defendant denies any wrongdoing or liability arising out of any of the facts or conduct alleged in the Action and believes that it has valid defenses to Plaintiff's claims.

F. Based on the foregoing, which the Parties expressly incorporate as material terms of the Agreement, it is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Products and the Action which exist between Plaintiffs and the Settlement Class on the one hand, and Defendant on the other hand. Therefore, it is the intention of the Parties that this Agreement shall constitute a full, final and complete settlement and release, which release includes in its effect all of Defendant's present and former parent companies, subsidiaries and affiliates, as well as the shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns of such persons or entities with respect to any and all claims which were alleged, or could have been alleged, by Plaintiffs on their own behalf or on behalf of the Settlement Class in the Action.

### **III. TERMS OF SETTLEMENT**

In consideration of the mutual covenants and promises set forth herein, and subject to Court approval, the Parties agree as follows:

A. Certification of Class: For settlement purposes only, and without any finding or admission of any wrongdoing or fault by Defendant, and solely pursuant to the terms of this Agreement, the Parties consent to and agree to the establishment and conditional certification of the Settlement Class.

B. Certification is Conditional: This certification is conditional on the Court's preliminary and final approval of this Agreement. In the event the Court does not approve all terms of the Agreement, then the certification shall be void and this Agreement and all orders entered in connection therewith, including but not limited to any order conditionally certifying the Class, shall become null and void and shall be of no further force and effect and shall not be used or referred to for any purposes whatsoever in the Action or in any other case or controversy.

And, in such an event, this Agreement and all negotiations and proceedings related thereto shall be deemed to be without prejudice to the rights of any and all parties hereto, who shall be restored to their respective positions as of the date of this Agreement, and Defendant shall not be deemed to have waived any opposition or defenses it has to any aspect of the claims asserted herein or to whether those claims are amenable to class-based treatment.

C. Releases:

1. Upon the Effective Date, and except as to such rights or claims as may be created by this Agreement, Plaintiff and the Settlement Class (together, the “Releasing Parties”) shall fully release and discharge Defendant and its present and former parent companies, subsidiaries and affiliates, as well as the shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors, personal representatives, heirs, and assigns of such persons or entities, including the retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels of the products of such persons or entities (together, the “Discharged Parties”) from any and all claims, demands, actions, and causes of action of any kind or nature whatsoever, whether at law or equity, known or unknown, direct, indirect, or consequential, liquidated or unliquidated, foreseen or unforeseen, developed or undeveloped, arising under common law, regulatory law, statutory law, or otherwise, including but not limited to unjust enrichment, theft by deception, fraud, breach of warranty express or implied, violation of California Civil Code 1750 et seq., violation of California Business and Professions Code Sections 17200 et seq. and 17500 et seq., and any related or similar state consumer protection statutes, claims for restitution, disgorgement of profits, injunctive and declaratory relief, arising out of or relating to the advertising, packaging, labeling, marketing, promotion, sale or distribution of the Covered Products, including all claims which were alleged or which could have been alleged by Plaintiff, Class Counsel, the Settlement Class and/or any Settlement Class Member against the Discharged Parties in the Action, or any other legal action, whether those

claims are asserted individually or on a class-wide basis (the “Released Claims”). However, this definition expressly excludes claims for personal injury.

2. The Parties, and each of them, have read, understood, and consulted with their attorneys and have been fully advised by them as to the contents and meaning of Section 1542 of the Civil Code of California, which provides as follows:

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 or her settlement with the debtor.

The Releasing Parties shall be deemed to have knowingly and voluntarily waived and relinquished all rights and benefits afforded by California Civil Code Section 1542, and by any comparable statutory provision or common law rule that provides, in sum or substance, that a general release does not extend to claims which the party does not know or suspect to exist in its favor at the time of executing the release, which if known by it. The Parties hereby agree and acknowledge that this waiver is an essential term of this Agreement without which the consideration given herein by Defendant on behalf of all Discharged Parties would not have been given.

D. Compensation to the Settlement Class: Settlement Class members who submit a valid and timely Claim Form with sufficient proof will be eligible to receive compensation in the form of refunds as follows:

- i. For those Settlement class members who return the Covered Products to the Settlement Administrator and provide a copy of the receipt memorializing the purchase of the Covered Products, a total of \$20.00 per unit of Covered Products purchased during the Class Period, up to the total amount of units purchased that are returned with a valid receipt.
- ii. For those Settlement class members who provide a copy of the receipt memorializing the purchase of the Covered Products, but who do not return the

Covered Products to the Settlement Administrator, a total of \$12.00 per unit of Covered Products purchased during the Class Period, up to the total amount of units for which the Settlement Class Member has a valid receipt.

iii. For those Settlement class members who neither return the Covered Products nor provide a valid receipt, but who substantiate their claims through a submission of an Affidavit attesting to their purchase of the Covered Products under penalty of perjury, together with additional information requested by the Settlement Administrator on the Claim Form, a total of \$6.00.

All claims must be submitted using the Claim Form, which may be submitted by mail or online.

E. Incentive Awards for Class Representatives: Class Counsel agrees that it will apply to the Court for an incentive award to the Class Representative in an amount not to exceed \$2,500, for his participation as the Class Representative, for taking on the risks of litigation, and for settlement of their individual claims as Class Members in this Action. Defendant agrees not to oppose Class Representative's motion for an incentive award, provided the requested incentive award does not exceed the amount set forth herein. Class Representative and Class Counsel agree not to move for an incentive award exceeding the amount set forth herein. Defendant shall pay the lesser of \$2,500 or the incentive award authorized by the Court within ten (10) calendar days of the Effective Date.

F. Attorneys' Fees and Costs:

1. Class Counsel agrees that it will apply to the Court, no later than 21 days before the Final Approval Hearing, for an award of attorneys' fees plus costs and expenses in a total amount not to exceed \$200,000.00. Defendant agrees not to oppose Class Counsel's motion for attorneys' fees and costs, provided the requested attorneys' fees and costs do not exceed \$200,000 in total. Plaintiffs and Class Counsel agree not to move for attorneys' fees and costs exceeding \$200,000.00.



2. Defendant shall pay the lesser of \$200,000.00 or the amount of fees, costs and expenses awarded by the Court to Class Counsel within five (5) calendar days of the entry of a Final Approval Order, provided that Class Counsel agree to repay such amount in the event the Final Approval Order and Judgment is not entered.

3. If the Final Approval Order and Judgment is reversed, vacated, modified and/or remanded for further proceedings or otherwise disposed of in any manner other than one resulting in an affirmance of the Final Approval Order (other than on the issue of attorneys' fees and expenses), or if this Agreement is terminated according to its terms, then Class Counsel shall, within five (5) calendar days of such events, repay to Defendant the full amount of any award of attorney's fees and costs paid by Defendant to Class Counsel pursuant to Section III.F.2 of this Agreement.

4. If the award of attorneys' fees or costs to counsel is reduced after entry of the Final Approval Order and Judgment, Class Counsel shall repay to Defendant the difference between the amount paid by Defendant to Class Counsel and the amount of the final reduced award no later than five (5) days following entry of the order or opinion reducing the award.

G. Termination:

1. Defendant shall have the right to terminate this Settlement Agreement if, prior to the date of the Final Approval Order and Judgment, the total number of Persons that have submitted timely and valid Requests for Exclusion from the Settlement Class exceeds one thousand (1,000). If Defendant elects to terminate this Settlement Agreement under this paragraph, Defendant must provide written notice to the other Parties' counsel on or before the date of the Final Approval Order and Judgment. Such written notice shall be provided by hand delivery or mail to the Parties' counsel.

2. If this Settlement Agreement is terminated pursuant to its terms, then: (i) this Settlement Agreement shall be rendered null and void; (ii) this Settlement Agreement and all negotiations and proceedings relating hereto shall be of no force or effect, and without prejudice to the rights of the Parties; and (iii) all Parties shall be deemed to have reverted to their

respective status in the Action as of the date and time immediately preceding the execution of this Settlement Agreement and, except as otherwise expressly provided, the Parties shall stand in the same position and shall proceed in all respects as if this Settlement Agreement and any related orders had never been executed, entered into, or filed, except that the Parties shall not seek to recover from one another any costs incurred in connection with this Settlement.

#### **IV. ADMINISTRATION OF SETTLEMENT**

A. The Settlement Administrator's duties to administer the settlement include: (1) preparing and publishing class notice; (2) establishing and maintaining a website for notification and Claim Form distribution; (3) establishing a telephone number and responding to inquiries and requests for Claim Forms and assistance from Settlement Class Members; (4) distributing Claim Forms; (5) receiving and independently reviewing the Claim Forms submitted by Settlement Class Members for the purpose of verifying any amounts due to Authorized Claimants; (6) receiving and serving upon Class Counsel and Defendant's counsel any written objections or opt-out statements; (7) reporting, in summary or narrative form, to Class Counsel, Defendant's Counsel, and the Court, regarding the completion of its tasks identified within this Agreement; and (8) carrying out other related tasks in accordance with the terms of this Agreement, including printing and sending the settlement checks to Settlement Class Members.

B. Defendant shall pay the Settlement Administrator's reasonable costs and fees associated with administering this Agreement, and all costs associated with publication of the notice to Settlement Class Members. Defendant shall pay the Settlement Administrator's costs and fees as they come due upon submission of an appropriate invoice at the end of each month.

C. All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until all payments and obligations contemplated by the Agreement have been fully carried out.

**V. NOTICE TO THE SETTLEMENT CLASS**

A. Class Notice: Subject to Court approval, the Parties agree that after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Class with notice of the settlement by the following methods:

1. Internet Notice:

a. Settlement Website: No later than twenty (20) calendar days following entry of the Preliminary Approval Order, the Settlement Administrator shall create a website dedicated to this settlement displaying the Long Form Notice and downloadable Claim Forms, until the Claims Deadline. Defendant shall post a link to the settlement website on Covered Products' website (www.pockethose.com) no later than thirty (30) days following entry of the Preliminary Approval Order, which it shall maintain until the Claims Deadline.

b. Internet Ads: The Settlement Administrator or Defendant will cause to be published internet advertisements, in sufficient quantity and frequency, as Plaintiff and Defendant will agree to prior to the Preliminary Approval Hearing. The Settlement Administrator shall provide the Parties with the specifics of Internet ads prior to the Preliminary Approval Hearing and the Parties will, if necessary, provide the specific information to the Court at or before the Preliminary Approval Hearing.

2. Publication: The Settlement Administrator or Defendant will cause to be published the Publication Notice once in the following publications, not later than sixty (60) calendar days after entry of the Preliminary Approval Order: USA Weekend and People Magazine. The Publication Notice shall be sized for a one-quarter page ad in each publication.

3. Toll-Free Telephone Support: The Settlement Administrator shall establish a toll-free support system to provide Class Members with (a) general information about the litigation; (b) frequently asked questions and answers; and (c) the ability to request a Long Form Notice or Claim Form.

B. Declaration of Compliance: Within fourteen (14) calendar days of the Claims Deadline, the Settlement Administrator shall provide the Parties with a declaration attesting to completion of the notice process set forth in this section.

**VI. CLAIMS PROCESS/CLAIMS ADMINISTRATION**

A. Claim Form: Settlement Class Members may obtain a Claim Form from the Settlement Administrator by calling the toll free number or by visiting the website identified in the Long Form Notice and Publication Notice. Each Claim Form will include instructions and the date the form must be returned in order for the claim to be considered eligible under the settlement.

B. Submission of Claim Form: All Claim Forms shall be signed under penalty of perjury and sent directly to the Settlement Administrator at the address indicated on the Claim Form. All claim forms seeking refunds shall be accompanied by a return of the Covered Products, original retail receipts, and/or a Claim Form signed under penalty of perjury. The Settlement Administrator shall review the Claim Forms and make any calculations of payments to be distributed to the Settlement Class Member.

C. Validity of Submitted Claims: No Claim Form will be deemed valid if it is not signed by the Settlement Class Member under penalty of perjury, is not postmarked or submitted electronically on or before the Claims Deadline, or does not contain the requested information. Notwithstanding the above, Class Counsel and Defendant may, but need not, seek permission from the Court to consider late-filed Claim Forms that are received prior to the distribution of settlement funds to the Settlement Class. Any Settlement Class Members who fail to submit valid and timely Claim Forms shall be bound by all terms of the settlement and any judgment entered in this Action, and will be barred from receiving any monetary relief under this Agreement.

D. Distribution of Refund Checks to Authorized Claimants: Upon completion of its calculation of payments, and within fourteen (14) calendar days following the Claims

Deadline, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a report listing the amount of all refunds to be made to each Settlement Class Member.

E. Issuance of Settlement Proceeds: The Settlement Administrator is responsible for issuing the refunds to Authorized Claimants. Refunds will be mailed by the Settlement Administrator within twenty-one (21) calendar days of the Effective Date. A declaration of payment will be filed by the Settlement Administrator with the Court and provided to the Parties within ten (10) calendar days of mailing the settlement proceeds.

**VII. PROCEDURES FOR OBJECTING TO OR REQUESTING EXCLUSION FROM SETTLEMENT**

A. Objections: Only Settlement Class Members, on their own behalf and not on behalf of any class, may object to the Settlement. Those who wish to object to the Settlement must do so in writing. Written objections must (1) state the basis of the objection and all required information from the Long Form Notice, (2) be mailed to the Settlement Administrator, Class Counsel, and Defendant's counsel, and (3) be filed with the Court by the Objection/Exclusion Deadline. No Settlement Class Member shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) or to object to the settlement, and no written objections or briefs submitted by any Settlement Class Member shall be received or considered by the Court, unless written notice of the Settlement Class Member's intention to appear at the Final Approval Hearing, and copies of any written objections or briefs, have been timely filed with the Court and served on counsel for the Parties and the Settlement Administrator on or before the Objection/Exclusion Deadline.

1. Timeliness of Objections: The date of filing as stamped by the Court shall be the exclusive means used to determine whether an objection and/or notice of intention to appear has been timely submitted. In the event that the postmark is illegible, the objection and/or notice to appear shall be deemed untimely unless it is received by the Settlement Administrator within two (2) calendar days of the Objection/Exclusion Deadline. Settlement Class Members who fail to timely file and serve a written objection in the manner specified above shall be

deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

2. Response to Objections: Class Counsel and/or Defendant may, at least two (2) business days (or such other number of days as the Court shall specify) before the Final Approval Hearing, file any responses to any written objections submitted to the Court by Settlement Class Members in accordance with this Agreement.

B. Procedure for Requesting Exclusion: Settlement Class Members who wish to opt out of this Settlement must submit a written statement within the Objection/Exclusion Deadline. The Long Form Notice shall provide mandatory language to be included in any request for exclusion. Requests for Exclusion that do not include all required information and/or that are not submitted on a timely basis, will be deemed null, void, and ineffective. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a Settlement Class Member's Request for Exclusion has been timely submitted. In the event that the postmark is illegible, the Request for Exclusion shall be deemed untimely unless it is received by the Settlement Administrator within two (2) calendar days of the Objection/Exclusion Deadline. Any Settlement Class Member who properly opts out of the Settlement Class using this procedure will not be entitled to any relief, will not be bound by the Settlement, and will not have any right to object, appeal, or comment thereon. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the Objection/Exclusion Deadline shall be bound by all terms of the Settlement and any final judgment entered in this litigation if the Settlement is approved by the Court, regardless of whether they ineffectively or untimely requested exclusion from the Settlement.

C. Notice of Objections and/or Requests for Exclusion: The Settlement Administrator shall on a daily basis (1) date stamp all original Requests for Exclusion and objection statements it receives; and (2) serve copies of same on Class Counsel and Defendant's counsel no later than seven (7) calendar days after the deadline for submission of the documents.

The Settlement Administrator shall inform Class Counsel and Defendants' counsel of any such documents received that were untimely submitted.

D. No Solicitation of Settlement Objections or Exclusions: The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class Members to object to the Settlement or request exclusion from participating as a Settlement Class Member, or encourage any Settlement Class Member to appeal from the final judgment.

**VIII. DUTIES OF THE PARTIES PRIOR TO FINAL COURT APPROVAL**

The Parties shall promptly submit this Agreement to the Court in support of Plaintiffs' Motion for Preliminary Approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Agreement, Plaintiffs shall apply to the Court for the entry of a Preliminary Approval Order substantially in the following form, as more particularly set forth on Exhibit "D":

A. Scheduling a Final Approval Hearing, no earlier than thirty (30) days after the Claims Deadline, on the question of whether the proposed Settlement should be finally approved as fair, reasonable, and adequate as to the members of the class;

B. Approving as to form and content the Internet Notice, Publication Notice and the Long Form Notice;

C. Approving as to form and content the proposed Claim Form and instructions;

D. Directing publication of the Publication Notice, and the method and frequency of class notice;

E. Preliminarily approving the Settlement;

F. Preliminarily and conditionally certifying the Settlement Class for settlement purposes;

G. Preliminarily approving the Settlement Administrator and the administration of the settlement in accordance with the procedures set forth in this Agreement;

H. Staying all proceedings in the Action, and enjoining the prosecution of any other individual or class claims;

I. Providing that, in the event the Settlement set forth in this Agreement is not approved by the Court, or in the event that this Agreement becomes null and void pursuant to its terms, this Agreement and all orders entered in connection therewith, including but not limited to any order conditionally certifying the Class, shall become null and void and shall be of no further force and effect and shall not be used or referred to for any purposes whatsoever in the Action or in any other case or controversy; and that in such an event, this Agreement and all negotiations and proceedings related thereto shall be deemed to be without prejudice to the rights of any and all parties hereto, who shall be restored to the respective positions as of the date of this Agreement. In the event the Court does not enter the Preliminary Approval order described herein, or decides to do so only with material modifications, then this entire Agreement shall become null and void, unless the Parties hereto agree in writing to proceed with this Agreement as modified.

**IX. DUTIES OF THE PARTIES FOLLOWING PRELIMINARY COURT APPROVAL**

Class Counsel will submit a proposed Final Order and Judgment at the Final Approval Hearing in the form set forth as Exhibit “B,” which shall:

A. Approve the settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

B. Approve Class Counsel’s application for the requested award of attorneys’ fees and costs and the Class Representative’s application for incentive award; and

C. Dismiss the Action on the merits and with prejudice and permanently bar Plaintiffs and Settlement Class Members from prosecuting against Defendant, and its past, present and future parent companies, subsidiaries and affiliates, as well as the officers, attorneys, directors, shareholders, employees, agents, retailers, suppliers, distributors, endorsers, consultants, successors and assigns of such persons or entities, and any and all other entities or



persons upstream and downstream in the production/distribution channels in regard to the Covered Products, from any and all claims, but specifically excluding personal injury claims, asserted or that could have been asserted in this Action, and all claims, causes of action, damages, costs, expenses, losses of any nature, and demands arising from or having their origin in or relating to the facts and occurrences alleged in the Action, whether in law or equity, known or unknown, before any court or similar body.

**X. PARTIES' AUTHORITY**

The signatories represent that they are fully authorized to enter into this Agreement and bind the Parties to its terms and conditions.

**XI. MUTUAL FULL COOPERATION**

A. The Parties agree to cooperate fully with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and the taking of such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement. As soon as practicable after execution of this Agreement, Class Counsel, with the assistance and cooperation of Defendant and its counsel, shall take all necessary steps to secure the Court's final approval of this Agreement.

B. Defendant agrees that it will not attempt to discourage Settlement Class Members from filing claims.

**XII. NO ADMISSION**

This Agreement is not to be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies all liability for claims asserted in the Action. Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. This Agreement is a settlement document and shall, pursuant to Cal. Evid. Code §§ 1151 and 1152 be

inadmissible in evidence in any proceeding in order to establish liability. The preceding sentence shall not apply to an action or proceeding to approve or enforce this Agreement.

**XIII. ENFORCEMENT ACTIONS**

In the event that one or more of the Parties to this Agreement institutes any legal action, arbitration, or other proceeding against any other party or parties to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

**XIV. NOTICES**

Unless otherwise specifically provided, all notices, demands or other communications in connection with this Agreement shall be in writing and shall be deemed to have been given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

<b>For the Settlement Class</b>	<b>For Defendant</b>
<b>Gillian Wade, Esq. Milstein Adelman, LLP 2800 Donald Douglas Loop North Santa Monica, CA 90405</b>	<b>Jeffrey Richardson, Esq. Mitchell, Silverberg &amp; Knupp LLP 11377 West Olympic Boulevard Los Angeles, CA 90064</b>

**XV. CONSTRUCTION**

The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Agreement.

**XVI. MATERIAL TERMS; CAPTIONS**

Each term of this Agreement is a material term of the Agreement not merely a recital, and reflects not only the intent and objectives of the parties but also the consideration to be

exchanged by the Parties hereunder. Paragraph titles or captions are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any of its provisions.

**XVII. INTEGRATION CLAUSE**

This Agreement contains the entire agreement between the Parties relating to the settlement, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written, and whether by a party or such party's legal counsel, are extinguished.

**XVIII. PUBLIC STATEMENTS**

The Parties and their counsel shall issue no public statements with respect to the Action or the Settlement Agreement except as required by law, until the Court has given final approval of the settlement. Upon such final approval, public statements made by counsel about the settlement will be truthful, accurate, non-defamatory, and consistent with the content and tone of the papers publicly filed with the Court in this Action. The Parties agree that they will not make statements to the media or other third parties other than those which are consistent with the press release to be circulated by the Settlement Administrator. Counsel shall not make, publish or circulate or cause to be made, publish or circulate any statements that represent or suggest that this Settlement or any Order by the Court regarding this Settlement represents or implies an admission by Defendant of any liability or wrongdoing, or a finding by the Court of liability or wrongdoing.

**XIX. NON-EVIDENTIARY USE**

Neither this Agreement nor any of its terms shall be offered or received into evidence in the Action, or in any other action or proceeding; provided, however, that nothing contained in this section "non-evidentiary use" shall prevent this agreement from being used, offered, or received in any proceeding to enforce, construe, or finalize this Agreement.

**XX. NO COLLATERAL ATTACK**

This Agreement shall not be subject to collateral attack by any Settlement Class Member

or any recipient of the notices to the Settlement Class after the final judgment and dismissal is entered. Such prohibited collateral attacks shall include claims made before the Final Approval Hearing that a Settlement Class Member's settlement amount was improperly calculated or adjusted.

**XXI. AMENDMENTS**

The terms and provisions of this Agreement may be amended only by a written agreement, which is both (1) signed by the Parties who have executed this Agreement and (2) approved by the Court.

**XXII. GOVERNING LAW**

This Agreement shall be governed by, construed under, and interpreted and the rights of the Parties determined in accordance with, the laws of the State of California, irrespective of the State of California's choice of law principles.

**XXIII. BINDING ON ASSIGNS**

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

**XXIV. CLASS COUNSEL SIGNATORIES**

It is agreed that because the Settlement Class appears to be so numerous, it is impossible or impractical to have each member of the class execute this Agreement. The notice plan set forth herein will advise Settlement Class Members of all material terms of this Agreement, including the binding nature of the releases and such shall have the same force and effect as if this Agreement were executed by each Settlement Class Member.

**XXV. COUNTERPARTS**

This Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties and the Settlement Class.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the dates indicated below:

**CLASS REPRESENTATIVES AND CLASS COUNSEL:**

DATED: January , 2014

Alex Arreguin, Jr.

\_\_\_\_\_  
Individually and on behalf of the  
Settlement Class

DATED: January , 2014

MILSTEIN ADELMAN, LLP

\_\_\_\_\_  
By: Attorneys for the Plaintiffs and the  
Settlement Class

**COUNSEL FOR DEFENDANT:**

DATED: January , 2014

TELEBRANDS, INC.

\_\_\_\_\_  
By: \_\_\_\_\_

DATED: January , 2014

MITCHELL, SILVERBERG & KNUPP LLP

\_\_\_\_\_  
By: Attorneys for Defendant Telebrands,  
Inc.

EXHIBITA  
CLAIM FORM

# POCKET HOSE SETTLEMENT CLAIM FORM

If you wish to make a claim to receive monetary compensation as described in the Settlement Agreement, you must submit this Claim Form to the Settlement Administrator. The Claim Form must be completed, signed, and postmarked on or before **[DATE]** for it to be valid. To qualify for monetary compensation, you must have purchased for personal consumption, and not for re-sale, one or more units of Pocket Hose (the "Covered Products") for personal use and not for resale, in the United States, its territories, or at any United States military facility or exchange between November 6, 2009 and **[Preliminary Approval Date]** ("Qualifying Purchase"). Officers, directors, and employees of Defendant, and any individual who received remuneration from Defendant to act as an endorser of the Covered Products are not eligible to receive monetary compensation. A complete definition of the class qualifications is provided in the Settlement Agreement and Release ("Settlement Agreement"), which is available at **[settlement website]**. There is a limit of one Claim Form per person, and, if you do not return any alleged defective product and/or a receipt evidencing purchase, there is a limit of one (1) six dollar (\$6.00) refund per household. Claim Forms must be submitted to: Pocket Hose Settlement Administrator, Epiq Systems, Inc.

**Please provide the following required information:**

**Claimant Information**

_____	( ) _____
Your Name (First, MI, Last)	Daytime Phone
_____	_____
Current Street Address	Apartment/Unit
_____	_____
City	State ZIP

**Qualification Information** – Please return any alleged defective products and provide proof of purchase if you have it (in the form of a store receipt) and respond to the following questions. You must sign the bottom of this form for your claim to be Valid. **Incomplete or unsigned Claim Forms will not be considered.**

1. I purchased for personal consumption, and not for re-sale, one or more units of Pocket Hose, in the United States between November 6, 2009 and **[the date of preliminary approval]**, and I am not an officer, director, or employee of Telebrands Corporation, nor have I received remuneration from Telebrands Corporation to act as an endorser of Pocket Hose.  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. If you do not have proof of purchase, you must provide the following information regarding your purchase of the Covered Products:

Date of Purchase	Name of Product Purchased	Name and Location (City and State) of Place of Purchase

If you have questions about this Claim Form visit **[settlement website]** or call the claims administrator at \_\_\_\_\_

**CERTIFICATION AND DECLARATION UNDER PENALTY OF PERJURY**

**Please read, date, and sign the statement below [required for all claims].**

By signing and dating this form below, I acknowledge that I have read the Release attached to this Claim Form, and understand that the Settlement Agreement and Release and the Final Judgment entered in this action will be binding on me, my agents and heirs, and any other person or entity with authority to act on my behalf.

I declare under penalty of perjury that I purchased the type and number of Covered Products products set forth above for personal consumption at the location listed

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_(mm/dd/yyyy):

**REMINDER**

**If you don't postmark this Claim Form on or before [DATE] your claim for payment will be rejected.**





1 WHEREAS, on \_\_\_\_\_, an Order Granting Preliminary Approval of Proposed  
2 Settlement (“Preliminary Approval Order”) was entered by this Court, preliminarily approving  
3 the proposed settlement of the Action pursuant to the terms of the Settlement Agreement and  
4 Release (the “Settlement Agreement”) and directing that notice be given to the members of the  
5 Settlement Class.

6 WHEREAS, pursuant to the Parties’ plan for providing notice to the Settlement Class (the  
7 “Notice Plan”), the Settlement Class were notified by publication of the terms of the proposed  
8 Settlement and of a Final Approval Hearing to determine, *inter alia*: (1) whether the terms and  
9 conditions of the Settlement Agreement are fair, reasonable and adequate for the release of the  
10 Released Claims against the Discharged Parties; and (2) whether judgment should be entered.

11 WHEREAS, a Final Approval Hearing was held on \_\_\_\_\_. Prior to the Final  
12 Approval Hearing, proof of completion of the Notice Plan was filed with the Court, along with  
13 declarations of compliance as prescribed in the Preliminary Approval Order. Settlement Class  
14 Members were therefore notified of their right to appear at the hearing in support of or in  
15 opposition to the proposed Settlement, the award of attorneys’ fees and expenses to Class  
16 Counsel, and the payment of incentive awards.

17 NOW, THEREFORE, the Court, having, heard the presentations of counsel, having  
18 reviewed all of the submissions presented with respect to the proposed Settlement, having  
19 carefully considered the requirements for class certification, having determined that the  
20 Settlement is fair, adequate, and reasonable, having considered the application of Class Counsel  
21 for awards of attorneys’ fees and expense reimbursements, and having reviewed the materials in  
22 support thereof, it is hereby ORDERED, ADJUDGED and DECREED THAT:

- 23 1. The capitalized terms used in this Final Approval Order and Judgment all have the  
24 same meaning as defined in the Settlement Agreement except as may otherwise be ordered.
- 25 2. The Court has jurisdiction over the subject matter of this Action and over all  
26 claims raised therein and all Parties thereto, including the Settlement Class.

1           3.       The Court has carefully considered the elements required for class certification,  
2 and finds, solely for purposes of considering this Settlement, that the requirements of Cal. Code  
3 Civ. Proc. § 382 are satisfied, including requirements for the existence of an ascertainable class, a  
4 community of interest, and manageability of a settlement class, that common issues of law and  
5 fact predominate, and that a settlement class is superior to alternative means of resolving the  
6 claims and disputes at issue in this action.

7           4.       The Settlement Class, which will be bound by this Final Approval Order and  
8 Judgment, shall include all members of the Settlement Class who did not submit a timely and  
9 valid Request for Exclusion.

10          5.       For purposes of the Settlement and this Final Approval Order and Judgment, the  
11 Settlement Class shall consist of:

12                   All persons who purchased Pocket Hose Products in the United States, its territories,  
13                   or at any United States military facility or exchange during the Class Period.

14 Excluded from the Settlement Class are all persons who validly exclude themselves from the  
15 Settlement Class in a timely manner, counsel of record (and their respective law firms) for the  
16 Parties, Defendant and any of its parents, affiliates, subsidiaries, independent service providers  
17 and all of their respective employees, officers and directors, the presiding judge in the Action, and  
18 all of his or her relatives within the third degree on consanguinity, any persons who received  
19 remuneration from Defendant to act as an endorser of the Pocket Hose Products, and any natural  
20 person or entity that entered into a release with Defendant prior to the Effective Date concerning  
21 any Covered Products.

22          6.       The Court finds that the Notice Plan set forth in Section V of the Settlement  
23 Agreement and effectuated pursuant to the Preliminary Approval Order constitutes the best notice  
24 practicable under the circumstances and shall constitute due and sufficient notice to the  
25 Settlement Class of the pendency of the Action, certification of the Settlement Class for  
26 settlement purposes only, the terms of the Settlement Agreement, and the Final Approval  
27  
28

1 Hearing, and satisfies the requirements of California law, federal law, and Constitutional due  
2 process requirements.

3 7. The Settlement, as set forth in the Settlement Agreement, is in all respects fair,  
4 reasonable, adequate and in the best interests of the Settlement Class, and it is approved. The  
5 Parties shall effectuate the Settlement Agreement according to its terms. The Settlement  
6 Agreement and every term and provision thereof shall be deemed incorporated herein as if  
7 explicitly set forth and shall have the full force of an Order of this Court.

8 8. Unless otherwise directed by the Court and except for other disbursements  
9 authorized by this Judgment, funds shall be distributed to the Settlement Class pursuant to the  
10 terms of the Settlement Agreement.

11 9. Upon the Effective Date, the Class Representative and all Settlement Class  
12 Members shall have, by operation of this Final Approval Order and Judgment, fully, finally and  
13 forever released, relinquished, and discharged Defendant and the other Discharged Parties from  
14 all Released Claims pursuant to Section III.C of the Settlement Agreement.

15 10. Settlement Class Members, including the Class Representatives, and the respective  
16 heirs, dependents, successors, assigns, parents, subsidiaries, affiliates or agents of any of them,  
17 are hereby permanently barred and enjoined from instituting, commencing or prosecuting, either  
18 directly or in any other capacity, any Released Claim against any of the Discharged Parties.

19 11. This Final Approval Order and Judgment, the Settlement Agreement, the  
20 Settlement which it reflects, and any and all acts, statements, documents or proceedings relating  
21 to the Settlement are not, and shall not be construed as, or used as an admission by or against  
22 Defendant or any of the other Discharged Parties of any fault, wrongdoing, or liability on their  
23 part, or of the validity of any Released Claim or of the existence or amount of damages.

24 12. The payments ordered herein shall be made in the manner and at the times set forth  
25 in the Settlement Agreement.

26 13. This Action (and all individual claims and class claims presented thereby) is  
27 dismissed on the merits and with prejudice. Except as otherwise provided in the Settlement  
28

1 Agreement, the parties shall bear their own costs and attorneys' fees. Without affecting the  
2 finality of the Judgment hereby entered, the Court reserves jurisdiction over the implementation  
3 of the Settlement, including enforcement and administration of the Settlement Agreement,  
4 including any releases in connection therewith, and any other matters related or ancillary to the  
5 foregoing.

6  
7 **IT IS SO ORDERED.**

8  
9 Dated: \_\_\_\_\_  
10 Honorable Keith D. Davis

**EXHIBIT C**  
**LONG FORM CLASS NOTICE**

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

**If you purchased the Pocket Hose, you could receive compensation  
from a Class Action Settlement.**

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

- This is a notice that you may be a member of the class (the “Class”) in a lawsuit that may affect you and that there is a Settlement Agreement in that lawsuit. A Settlement has been reached between TeleBrands Corporation (“Defendant”) and Plaintiffs (“Class Representatives” or “Plaintiffs”), individually and on behalf of the Settlement Class.
- The Settlement resolves a Class Action lawsuit relating to Defendant’s product the Pocket Hose (the “Covered Products”). The lawsuit alleges that some of the advertising and product labels for the Covered Products contain unsubstantiated or misleading statements and that the Covered Products were defective. Defendant denies all allegations of wrongdoing and liability asserted in the Lawsuit. The Court has made no determination that any of the allegations are true, and has made no finding of liability or wrongdoing. The lawsuit does not claim that the Covered Products are unsafe.
- The Settlement provides cash payments to class members.

<b>WHAT CAN I DO AS A CLASS MEMBER?</b>	
<b>SUBMIT A CLAIM</b>	The only way to receive monetary compensation.
<b>EXCLUDE YOURSELF</b>	This is the only option that allows you to be part of any other lawsuit against Defendant about the Covered Products.
<b>OBJECT</b>	Tell the Court about why you don’t like the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the Settlement.
<b>DO NOTHING</b>	Get no monetary compensation. Give up rights to be part of any other lawsuit about the Covered Products, other than claims for personal injury arising from the use of the Covered Products.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Compensation will be issued only if the Court approves the Settlement and after the time for appeals has ended and any appeals are resolved. Please be patient.

**QUESTIONS? CALL \_ OR VISIT WWW.[INSERT]**

**Basic Information ..... PAGE 3**

1. Why was this Notice issued?
2. What is the lawsuit about?
3. Why is this a Class Action?
4. Why is there a Settlement?

**WHO IS IN THE SETTLEMENT ..... PAGE 4**

5. How do I know if I am part of the Settlement?
6. Are there exceptions to being included?
7. I'm still not sure if I'm included in the Settlement.

**THE SETTLEMENT BENEFITS—WHAT YOU GET ..... PAGE 4**

8. What does the Settlement provide?
9. What am I giving up in exchange for the Settlement benefits?

**HOW TO GET COMPENSATION—SUBMITTING A CLAIM FORM ..... PAGE 5**

10. How can I receive compensation?
11. When will I get my check or replacement product?

**EXCLUDING YOURSELF FROM THE SETTLEMENT ..... PAGE 5**

12. If I exclude myself, can I get anything from the Settlement?
13. If I don't exclude myself, can I sue later?
14. How do I get out of the Settlement?

**THE LAWYERS REPRESENTING YOU ..... PAGE 6**

15. Do I have a lawyer in the case?
16. How will the costs of the lawsuit and Settlement be paid?

**OBJECTING TO THE SETTLEMENT..... PAGE 6**

17. How do I tell the Court if I don't like the Settlement?
18. What's the difference between objecting and excluding?

**THE COURT'S FINAL APPROVAL HEARING ..... PAGE 7**

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

**IF YOU DO NOTHING ..... PAGE 8**

22. What happens if I do nothing at all?

**GETTING MORE INFORMATION ..... PAGE 8**

23. How do I get more information?

## BASIC INFORMATION

### Why was this Notice issued?

A Court authorized this Notice because you have a right to know about this Class Action lawsuit and the proposed Settlement, and to know about all of your options, before the Court decides whether to give “final approval” to the Settlement. Because you may be a member of the Class you will be bound by the Settlement and release any claims you have against Defendant relating to the Covered Products, including that the Covered Products were defective. You will also be affected by any order or judgment entered by the Court in the Action. This Notice explains the Action, the Settlement, and your legal rights.

The case is known as *Alex Arreguin, Jr. on behalf and all others similarly situated, v. Telebrands*, Rancho Cucamonga Superior Court, Case No. CIVRS1307798 (“the Action”). The persons who sued are the Plaintiffs. The company they are suing, Telebrands is the Defendant. The proposed Settlement resolves all claims related to the Covered Products, including claims that the Covered Products were defective, other than claims for personal injury arising from the use of the Covered Products.

### What is the lawsuit about?

Alex Arreguin, Jr. has filed a lawsuit (the “Action”) on behalf of himself and all others similarly situated alleging that some of the advertising and product labels for Pocket Hose were false and misleading, and that the Pocket Hose was defective. The Action sought damages, disgorgement of profits, injunctive relief, and attorneys’ fees and costs. Plaintiffs have not claimed that the Covered Products were unsafe or caused any physical injury.

Defendant denies the allegations of the Action, denies all allegations of wrongdoing and of liability, and denies any causation of harm or damage to the Settlement Class. Both Plaintiffs and Defendant believe that the Settlement is fair, adequate, and reasonable and that it is in the best interests of the Settlement Class.

Although the Court will decide whether to approve the Settlement, it has not made and will not make any finding that Defendant has done anything wrong or violated any law, or that any of the allegations of the lawsuit are true or false.

### Why is this a Class Action?

In a Class Action one or more people called “Class Representatives” (in this case, Alex Arreguin, Jr. sues on behalf of people who have similar claims. All of these people or entities are a “Class” or “Class Members.” One court resolves the issues for all Class members, except for those who exclude themselves from the Class.

### Why is there a Settlement?

Both sides agreed to the Settlement to avoid the cost and risk of further litigation. The Settlement does not mean that Defendant violated any laws or engaged in any wrongdoing, nor does it mean that Plaintiffs would not prevail if the case went to trial. However, after assessing all factors related to the case, both Defendant and the Plaintiffs believe that a class-wide settlement is in the best interests of all Parties.

## WHO IS IN THE SETTLEMENT?

To see if you are affected or if you can receive benefits, you first have to determine whether you are a Class Member.

How do I know if I am part of the Settlement?

All persons who purchased for personal consumption, and not for re-sale, the product the Pocket Hose (the “Covered Products”) for personal use and not for resale, in the United States, its territories, or at any U.S. Military facility or exchange, from November 6, 2009 until **[DATE OF PRELIMINARY APPROVAL ORDER]**.

Are there exceptions to being included?

Yes. The Class does not include persons who request exclusion from the Class and the Settlement in a timely and correct manner. The Class also does not include any of Defendant’s officers, directors, and employees, or any individuals who received remuneration from Defendant to act as an endorser of the Covered Products.

I’m still not sure if I’m included in the Settlement.

If you are not sure whether you are included in the Class, call [toll – free number] or go to [www.INSERT.com](http://www.INSERT.com).

## THE SETTLEMENT BENEFITS—WHAT YOU GET

What does the Settlement provide?

In the Settlement, Defendant agrees to pay for the following: all costs associated with providing notice of the Settlement, all attorneys’ fees, costs and expenses awarded to Class Counsel, the costs and expenses associated with administering the Settlement, and refunds to Class Members for units purchased of the Covered Products.

Each Settlement Class Member will be eligible for refunds as follows:

1. For those Settlement Class members who return the Covered Products to the Settlement Administrator and provide a copy of the receipt memorializing the purchase of the Covered Products, a total of \$20.00 per unit of Covered Products purchased during the Class Period, up to the total amount of units purchased that are returned with a valid receipt.
2. For those Settlement Class members who provide a copy of the receipt memorializing the purchase of the Covered Products, but who do not return the Covered Products to the Settlement Administrator, a total of \$12.00 per unit of Covered Products purchased during the Class Period, up to the total amount of units for which the Settlement Class Member has a valid receipt.
3. For those Settlement Class members who neither return the Covered Products nor provide a valid receipt, but who substantiate their claims through a submission of the Claim Form attesting to their purchase of the Covered Products under penalty of perjury, together with additional information requested by the Settlement Administrator on the Claim Form, a total of \$6.00.

**QUESTIONS? CALL \_ OR VISIT [www.INSERT.com](http://www.INSERT.com)**



More details are in a document called the Settlement Agreement and Release (or “Settlement Agreement”), which is available at [www.\[INSERT\].com](http://www.[INSERT].com).

### What am I giving up in exchange for the Settlement benefits?

If the Settlement becomes final, Class Members will be releasing any and all of their respective claims, actions, demands, obligations and liabilities related to the Covered Products, including that the Covered Products were defective, other than causes of action for physical injury arising from the use of the Covered Products. This release will be without limitation and will inure to the benefit of all persons or entities, including, but not limited to, the Discharged Parties as that term is defined in Section III.C.1 of the Settlement Agreement. This release will be effective whether the matters released are known or unknown, direct or indirect, contingent or absolute, existing or potential, or suspected or unsuspected. The Settlement Agreement is available at [www.INSERT.com](http://www.INSERT.com). The Settlement Agreement describes the released claims with specific descriptions, in necessarily precise legal terminology, so read it carefully. You can talk to one of the lawyers listed below for free or you can, of course, talk to your own lawyer if you have questions about the released claims or what they mean.

## How to Claim a Refund—Submitting a Claim Form

### How can I receive compensation?

To ask for compensation, you must complete and submit a Claim Form along with the required supporting documentation, if you have it. You can get a Claim Form at [www.INSERT.com](http://www.INSERT.com). The Claim Form describes what you must provide to prove your claim and receive compensation. Please read the instructions carefully, fill out the Claim Form, and either submit it online at [www.INSERT.com](http://www.INSERT.com) or mail it postmarked no later than [Claims Deadline] to:

Pocket Hose Settlement Administrator

[\[insert address\]](#)

### When will I get my check?

Checks will be mailed to Class Members who submit valid Claim Forms on time, after the Court grants “final approval” of the Settlement, and after the time for appeals has ended and any appeals have been resolved. If the judge approves the Settlement after a hearing on \_ (see the section “The Court’s Final Approval Hearing” below), there may be appeals. Resolving these appeals can take time.

## EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS

If you want to keep the right to sue or continue to sue Defendant over the Covered Products, you must take steps to get out of the Settlement. This is called asking to be excluded from—sometimes called “opting out” of—the Class.

### If I exclude myself, can I get anything from the Settlement?

No. If you exclude yourself now you will not get anything from the Settlement. If you ask to be excluded, you will not receive a cash payment, and you cannot object to the Settlement. But you may sue, continue to sue, or be part of a different lawsuit against Defendant in the future. You will not be bound by anything that happens in this Action.

**QUESTIONS? CALL \_ OR VISIT [www.\[INSERT\].com](http://www.[INSERT].com)**

If I don't exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue anyone for any claims concerning the Covered Products, other than claims for personal injury arising from the consumption of the Covered Products. You must exclude yourself from *this* Class to start or continue your own lawsuit.

How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from *Alex Arreguin, Jr. on behalf and all others similarly situated, v. Telebrands*, Rancho Cucamonga Superior Court, Case No. CIVRS1307798. Be sure to include your name, address, telephone number and your signature. You can't ask to be excluded at the website or on the phone. You must mail your Request for Exclusion, postmarked no later than [Objection/Exclusion Deadline], to:

Pocket Hose Settlement Exclusions  
Epiq Systems  
[insert address]

Requests for Exclusion that do not include all required information and/or that are not submitted on a timely basis, will be deemed null, void, and ineffective. Settlement Class Members who fail to submit a valid and timely Request for Exclusion on or before [Objection/Exclusion Deadline] shall be bound by all terms of the Settlement and any Final Judgment entered in this Action if the Settlement is approved by the Court, regardless of whether they ineffectively or untimely requested exclusion from the Settlement.

## THE LAWYERS REPRESENTING YOU

Do I have a lawyer in the case?

The Court has designated the law firm Milstein Adelman, LLP to represent you as "Class Counsel". You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

How will the costs of the lawsuit and Settlement be paid?

Class Counsel will make a Fee and Cost Application to be heard at the Final Approval Hearing seeking an award of attorneys' fees and litigation expenses in an amount not to exceed \$200,000. Class Counsel will also make an application to be heard at the Final Approval Hearing for an incentive award to be paid to the Class Representative in an amount not to exceed \$2,500. Attorneys' fees, costs and expenses that are approved by the Court and all costs to administer the Settlement, including providing Notice to the Class, shall be paid by Defendant.

## Objecting to the Settlement

You can tell the Court if you don't agree with the Settlement or some part of it.

How do I tell the Court if I don't like the Settlement?

You can object to the Settlement if you don't like some part of it. You must give reasons why you think the Court should not approve it. To object, you must provide a written objection to the Settlement, stating that you object to the settlement in the matter of *Alex Arreguin, Jr. on behalf of himself and all others similarly situated*,

v. *Telebrands*, Rancho Cucamonga Superior Court, Case No. CIVRS1307798, and provide the reasons why you object to it. The written objection must include your name, address, telephone number, the Covered Product you purchase and the date and location of your purchase, your signature, the reasons why you object to the Settlement and all documents you want the Court to consider. In order to assert a valid objection, you must also appear at the Final Approval Hearing. The objection, in order to be valid, **MUST BE** filed with the Court no later than **[Objection/Exclusion Deadline]**. You must also serve copies of your objection by mail on the following addresses:

<b>ADMINISTRATOR</b>	<b>COURT</b>
Pocket Hose Settlement Objections <b>[insert address]</b>	Rancho Cucamonga District 8303 Haven Avenue Rancho Cucamonga, CA 91730
<b>CLASS COUNSEL</b>	<b>DEFENSE COUNSEL</b>
Gillian L. Wade, Esq. Sara D. Avila, Esq. Milstein Adelman, LLP 2800 Donald Douglas Loop North Santa Monica, California 90405	Jeffrey Richardson, Esq. Mitchell, Silverberg & Knupp LLP 11377 West Olympic Boulevard Los Angeles, CA 90064

**What's the difference between objecting and excluding?**

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

### **THE COURT'S FINAL APPROVAL HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. If you have filed an objection on time you may attend and you may ask to speak, but you don't have to.

**When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at **[ ]** a.m. (PDT) on **[ ]**, at **[ ]**. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.INSERT.com](http://www.INSERT.com). At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The judge will only listen to people who have asked to speak at the hearing. The Court will also decide how much to pay the lawyers representing Class Members. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

**Do I have to come to the hearing?**

No. Class Counsel will answer any questions the judge may have. But, you are welcome to come at your own expense. If you send an objection and you want the objection to be considered by the Court, you or your attorney must appear at the Final Approval Hearing to discuss the objection.

## May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must send a letter saying that it is your “Notice of Intent to Appear in the *Alex Arreguin, Jr. on behalf of himself and all others similarly situated, v. Telebrands*, Rancho Cucamonga Superior Court, Case No. CIVRS1307798 litigation.” Be sure to include your name, address, telephone number, and your signature. Your Notice of Intent to Appear must be postmarked no later than [date], and be sent to the same addresses listed for mailing objections. You cannot speak at the hearing if you excluded yourself from the Class.

## IF YOU DO NOTHING

### What happens if I do nothing at all?

If you are a Class Member and do nothing, you will not receive a payment from this Settlement. And, unless you exclude yourself, you will be bound by the Settlement Agreement, and you won’t be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant or the other Discharged Parties about the Covered Products, other than claims for personal injury arising from consumption of the Covered Products.

## GETTING MORE INFORMATION

### How do I get more information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement, download a Claim Form and review additional case information at [www.INSERT.com](http://www.INSERT.com). You may also call toll-free [\[insert phone number\]](tel:[insert phone number]).

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**EXHIBIT D**  
**[PROPOSED] PRELIMINARY APPROVAL ORDER**

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SAN BERNARDINO**

ALEX ARREGUIN, JR., individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

TELEBRANDS, a New Jersey Corporation,  
and DOES 1 through 10, inclusive,

Defendants.

CASE NO. CIVRS1307798

(Assigned for All Purposes to the Honorable  
Keith D. Davis, Dept. R12)

**CLASS ACTION**

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

*[Declaration of Gillian L. Wade, and [Proposed]  
Order filed concurrently herewith]*

Date: January 30, 2014

Time: 8:30 a.m.

Dept.: R12

Trial Date: None Set

1  
2 WHEREAS, Plaintiff in the above-captioned action, Alex Arreguin, Jr., ("Plaintiff"), and  
3 Defendant Telebrands ("Defendant") have reached a proposed settlement and compromise of  
4 the disputes between them in the above actions, which is embodied in the Settlement  
5 Agreement and Release (the "Settlement Agreement") filed with the Court with Plaintiffs'  
6 Motion for Preliminary Settlement Approval;

7  
8 WHEREAS, the Parties have applied to the Court for preliminary approval of the  
9 proposed Settlement of the Action, the terms and conditions of which are set forth in the  
10 "Settlement Agreement";

11 AND NOW, the Court, having read and considered the Settlement Agreement and  
12 accompanying documents and the Motion For Preliminary Settlement Approval and Supporting  
13 Papers, and the Parties to the Settlement Agreement having consented to the entry of this order,  
14 and all capitalized terms used herein having the meaning defined in the Settlement Agreement,  
15 IT IS HEREBY ORDERED AS FOLLOWS:

- 16
- 17 1. The Court, for purposes of this Order, adopts all defined terms as set forth in  
18 the Settlement Agreement.
  - 19 2. Subject to further consideration by the Court at the time of the Final Approval  
20 Hearing, the Court preliminarily approves the Settlement as fair, reasonable  
21 and adequate to the Settlement Class, as falling within the range of possible  
22 final approval, and as meriting submission to the Settlement Class for its  
23 consideration.
  - 24 3. For purposes of the Settlement only, the Court certifies the Settlement Class,  
25 which consists of:

26 All persons who purchased Covered Products (as defined in the  
27 Settlement Agreement) for personal use and not for resale, in the United  
28 States, its territories, or at any United States military facility or exchange  
November 6, 2009 through the date of this order.

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Excluded from the Settlement Class are all persons who validly exclude themselves from the Settlement Class in a timely manner, counsel of record (and their respective law firms) for the Parties, Defendant and any of its parents, affiliates, subsidiaries, independent service providers and all of their respective employees, officers and directors, the presiding judge in this Action and all of his or her relatives within the third degree of consanguinity, any persons who received remuneration from Defendant to act as an endorser of the Covered Products, and any natural person or entity that entered into a release with Defendant prior to the Effective Date concerning any Covered Products.

- 4. The Court preliminary finds, solely for purposes of considering this Settlement, that the requirements of Cal. Code Civ. Proc. § 382 appear to be satisfied, including requirements for the existence of an ascertainable class, a community interest, and manageability of the Settlement Class, that common issues of law and fact predominate, and that a settlement class is superior to alternative means of resolving the claims and disputes at issue in this action.
- 5. The Court appoints Mark Arreguin as the Class Representative.  
The Court also appoints Milstein Adelman, LLP as Class Counsel for purposes of this Settlement. The Court preliminarily finds that the Class Representative and Class Counsel fairly and adequately represent and protect the interests of the absent Settlement Class Members in accordance with Cal. Code Civ. Proc. § 382.
- 6. The Court appoints Epiq Systems, Inc., as Settlement Administrator.
- 7. A Final Approval Hearing shall be held before this Court at \_\_\_\_\_ a.m on \_\_\_\_\_ 2014 in Dept. R12 of the Rancho Cucamonga Superior Court, to address: (a) whether the Settlement should be finally approved as fair,

1 reasonable and adequate, and whether the Final Approval Order and  
2 Judgment should be entered; and (b) whether Class Counsel's application for  
3 attorneys' fees, costs, expenses and incentive awards should be approved.  
4 Consideration of any application for an award of attorneys' fees, costs,  
5 expenses and incentive awards shall be separate from consideration of whether  
6 or not the Settlement should be approved, and from each other, and shall be  
7 embodied in separate orders.

- 8
- 9 8. With the exception of such proceedings as are necessary to implement,  
10 effectuate and grant final approval to the terms of the Settlement Agreement,  
11 all proceedings are stayed in this Action and all Settlement Class Members  
12 are enjoined from commencing or continuing any action or proceeding in any  
13 court or tribunal asserting any claims encompassed by the Settlement  
14 Agreement, unless the Settlement Class Member timely files a valid Request  
15 for Exclusion as defined in the Settlement Agreement.
- 16 9. The Court approves, as to form and content, the Long Form Notice and the  
17 Publication Notice, substantially in the forms attached as Exhibits C and E to  
18 the Settlement Agreement.
- 19 a. The Long Form Notice will be published on the Internet at the  
20 settlement website set up by the Settlement Administrator.
- 21 b. The Publication Notice will be published once in the following  
22 publications, formatted as one-quarter page advertisements:
- 23 i. USA Weekend; and,  
24 ii. People Magazine.
- 25 c. Internet advertisements linking to the settlement website and Notice  
26 will be published in accordance with the internet notice plan created  
27 by the Settlement Administrator.  
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d. A link to the settlement website set up by the Settlement Administrator, which will contain the Long Form Notice and Claim form, will be published on Defendant's corporate website (www.pockethose.com). No later than 10 days prior to the Final Approval Hearing, the Settlement Administrator shall file with the Court declarations attesting to compliance with this Order.

10. The Court finds that the Parties' plan for providing notice to the Settlement Class (the "Notice Plan") described in Section V of the Settlement Agreement constitutes the best notice practicable under the circumstances and shall constitute due and sufficient notice to the Settlement Class, the terms of the Settlement Agreement, and the Final Approval Hearing, and complies fully with the requirements of the California Rules of Court, the California Code of Civil Procedure, the California Civil Code, the Constitution of the State of California, the United States Constitution, and any other applicable state or federal law.

11. The Court further finds that the Notice Plan described in Section V of the Settlement Agreement will adequately inform members of the Settlement Class of their right to object to the proposed settlement or exclude themselves from the Settlement Class so as not to be bound by the terms of the Settlement Agreement.

12. Any member of the Settlement Class who desires to be excluded from the Settlement Class, and therefore not bound by the terms of the Settlement Agreement, must submit to the Settlement Administrator, pursuant to the instructions set forth in the Notice, a timely and valid written Request for Exclusion, postmarked at least twenty-one (21) days prior to the date set for the Final Approval Hearing in paragraph 7 above. Not later than ten (10) days before the Final Approval Hearing, the Settlement Administrator shall

1 prepare and deliver to Class Counsel, who shall file it with the Court, a  
2 report stating the total number of Persons who have submitted timely and  
3 valid Requests for Exclusion from the Settlement Class, and the names of  
4 such Persons.

5  
6 13. Any member of the Settlement Class who elects to be excluded shall not be  
7 entitled to receive any of the benefits of the Settlement Agreement, shall not  
8 be bound by the release of any claims pursuant to the Settlement Agreement,  
9 and shall not be entitled to object to the Settlement Agreement or appear at  
10 the Final Approval Hearing. The names of all Persons timely submitting  
11 valid Requests for Exclusion shall be provided to the Court.

12 14. Any member of the Settlement Class who desires to object to the Settlement  
13 must file with the Court, and serve on all counsel of record, a Notice of  
14 Objection and Intention to Appear, setting for the ground for objection, at  
15 least twenty-one (21) days prior to the Final Approval Hearing, and must  
16 appear at the Final Approval Hearing. Only Settlement Class Members who  
17 have filed and served valid and timely notices of objection together with  
18 supporting papers, and who appear at the Final Approval Hearing, shall be  
19 entitled to be heard at the Final Approval Hearing.

20 15. Any Settlement Class Member who does not make an objection in the time  
21 and manner provided shall be deemed to have waived such objection and  
22 forever shall be foreclosed from making any objection to the fairness or  
23 adequacy of the Settlement as incorporated in the Settlement Agreement, the  
24 payment of attorneys' fees and costs, or the Final Approval Order and  
25 Judgment.

26 16. Service of all papers on counsel for the Parties shall be made as follows: for  
27 Class Counsel, to Gillian L. Wade, Esq., Milstein Adelman, LLP, 2800  
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1 Donald Douglas Loop North, Santa Monica, California 90405; and for  
2 Defendant's Counsel, to Jeffrey Richardson, Esq., Mitchell, Silverberg &  
3 Knupp LLP, 11377 West Olympic Boulevard, Los Angeles, CA 90064. Only  
4 Settlement Class Members who have filed and served valid and timely  
5 notices of intention to appear, together with supporting papers, shall be  
6 entitled to be heard at the Final Approval Hearing.  
7

8 17. In the event that the Settlement is not approved by the Court, or in the event  
9 that the Settlement Agreement becomes null and void pursuant to its terms,  
10 this Order and all orders entered in connection therewith shall become null  
11 and void, shall be of no further force and effect, and shall not be used or  
12 referred to for any purposes whatsoever in this civil action or in any other  
13 case or controversy; in such event the Settlement Agreement and all  
14 negotiations and proceedings directly related thereto shall be deemed to be  
15 without prejudice to the rights of any and all of the Parties, who shall be  
16 restored to their respective positions as of the date and time immediately  
17 preceding the execution of the Settlement Agreement.

18 18. As set forth in the Settlement Agreement, the Court sets the following  
19 schedule of events:

<b>Event</b>	<b>Proposed Date</b>
Publication Notice Period Begins	20 calendar days after entry of the Preliminary Approval Order
Publication Notice Period Ends	60 days after Publication Period Begins
Objection/Opt-out deadline	60 days after notice period ends
Claims Deadline	60 days after notice period ends
Briefs in support of Final Approval, Award of Attorneys Fees & Costs Due	21 days following Claims Deadline
Responses to Any Objections Due	At least 2 business days before the Final Approval Hearing
Final Approval Hearing	30 days following Claims Deadline

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19. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Settlement Class Members. The Final Approval Hearing may, from time to time and without further notice to the Settlement Class, be continued by order of the Court.

**IT IS SO ORDERED.**

Dated:

\_\_\_\_\_  
Honorable Keith D. Davis

**EXHIBIT E**  
**PUBLICATION NOTICE**

## **If you purchased the Pocket Hose , you could receive compensation from a Class Action Settlement.**

This notice explains that the Court has certified a class action lawsuit that may affect you and that a Settlement has been proposed in the lawsuit. The lawsuit is titled Alex Arreguin, Jr. et al. v. Telebrands and involves the product the Pocket Hose products in various sizes (the “Covered Products”), sold in the United States between November 6, 2009 and [Prelim. Approval Date]

### **What Is the Lawsuit About?**

The lawsuit claims that some of the advertising and product labels for the Covered Products contain unsubstantiated or misleading statements regarding the Covered Products, including that the Covered Products are defective. Telebrands denies all allegations of wrongdoing and liability asserted in the Lawsuit. The Court has made no determination that any of the allegations are true, and has made no finding of liability or wrongdoing. The lawsuit does not claim that the Covered Products are unsafe.

### **Am I a Member of the Class?**

You are a member of the class if you purchased for personal consumption, and not for re-sale, one or more of the Covered Products, in the United States, its territories, or any U.S. Military facility or exchange between November 6, 2009 and [Prelim. Approval Date]. Defendant’s officers, directors, and employees, and any individual who received remuneration from Defendant to act as an endorser of the Covered Products are excluded from the class.

### **What Does the Settlement Provide?**

Purchasers of the Covered Products in the United States between November 6, 2009 and [Preliminary Approval Date] may receive partial monetary refunds for their purchases.

### **How Much Compensation Can I Get?**

Each Settlement Class Member who makes a valid claim will be entitled to reimbursement as follows:

- (a) For those Settlement class members who return the Covered Products to the Settlement Administrator and provide a copy of the receipt memorializing the purchase of the Covered Products, a total of \$20.00 per unit of Covered Products purchased during the Class Period, up to the total amount of units purchased that are returned with a valid receipt.
- (b) For those Settlement class members who provide a copy of the receipt memorializing the purchase of the Covered Products, but who do not return the Covered Products to the Settlement Administrator, a total of \$12.00 per unit of Covered Products purchased during the Class Period, up to the total amount of units for which the Settlement Class Member has a valid receipt.
- (c) For those Settlement class members who neither return the Covered Products nor provide a valid receipt, but who substantiate their claims through a submission attesting to their purchase of the Covered Products under penalty of perjury, together with additional information requested by the Settlement Administrator on the Claim Form, a total of \$6.00.

Settlement Class Members may submit a Claim by completing and submitting a Claim Form to the Settlement Administrator. Claim Forms may be obtained at [settlement website]. Claim Forms must be postmarked or electronically submitted no later than [claims deadline] to be valid.

### **What Are My Options?**

- File a Claim. You must remain in the Class to file a claim. You will be bound by the Court’s rulings, but you can object to the Settlement. By remaining in the Class, you will release claims against the

Defendant and other Discharged Parties as outlined in the Settlement Agreement, available as described below. Please read the Release carefully, as it affects your legal rights.

- Do nothing. If you do nothing, you will remain in the class and will be bound by the Court's rulings and the release of claims under the Settlement Agreement.
- Exclude yourself and keep your right to sue the Defendant. You may request to exclude yourself from the class. To request exclusion, you must mail your request, including your name, address and telephone number to the Settlement Administrator, no later than [deadline]
- Object to the Settlement and/or appear in Court, only if you remain in the Class. You may hire your own attorney for these purposes, but you do not have to. Your written request must be filed with the Court by [redacted].

Details on how to file a claim, exclude yourself, object or appear in the case are available at the Website, address or phone number listed below. The Court will decide whether to approve the Settlement at the Fairness Hearing on [redacted], 2014 at [redacted]:[redacted].m.

This Notice is a Summary only. To get additional information, including a copy of the Detailed Notice, Settlement Agreement and Claim Form, visit: [insert settlement website]; call: [redacted]; or write: Pocket Hose Settlement Administrator, [redacted].