

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI

DIANA JILL MILORO, as an individual  
and on behalf of all others similarly situated,

Plaintiff,

vs.

Case No. 15PH-CV00642

VAN'S INTERNATIONAL FOODS, INC.,  
an Arizona corporation,

Defendant.

---

**STIPULATION OF CLASS ACTION SETTLEMENT**

This Stipulation of Settlement is entered into by and among Plaintiffs Diana Jill Miloro and Jennifer Cunningham,<sup>1</sup> on behalf of themselves and the Settlement Class Members and Defendant Van's International Foods ("Van's"). Capitalized terms used herein are defined in Section II of this Stipulation or indicated in parentheses elsewhere in this Stipulation. Subject to the Court's approval, the Parties hereby stipulate and agree that, in consideration for the promises and covenants set forth in the Stipulation and upon the entry by the Court of a Final Approval Order and the occurrence of the Effective Date, the Action shall be settled and compromised upon the terms and conditions contained herein.

**I. RECITALS**

A. On April 29, 2015, Plaintiff Diana Jill Miloro filed this Action against Van's on behalf of herself and all Persons who purchased certain Van's Products during the Class Period. Plaintiff alleges in the complaint that, among other things, the Product packaging was false and

---

<sup>1</sup> Plaintiff Cunningham is currently the plaintiff in *Cunningham v. Van's International Foods*, No. 1422-CC10278 in the Circuit Court of the City of St. Louis, Missouri. The parties have agreed to consent to transfer and consolidate the *Cunningham* case with the Action for purposes of settlement.

deceptive in that it led purchasers to believe that the Product was “All Natural,” when in fact it included one or more synthetic ingredients. Plaintiff contends that Van’s representations give rise to claims for breach of express and implied warranties and unjust enrichment, among others.

B. Van’s, to avoid the costs, disruption and distraction of further litigation, and without admitting the truth of any allegations made in the Action, or any liability with respect thereto, has concluded that it is desirable that the claims against it be settled and dismissed on the terms reflected in this Stipulation.

## II. DEFINITIONS

A. As used in this Stipulation and the attached exhibits (which are an integral part of the Stipulation and are incorporated in their entirety by reference) the following terms shall have the meanings set forth below, unless this Stipulation specifically provides otherwise:

1. “Action” means *Diana Jill Miloro v. Van’s International Foods, Inc.*, Case No. 15PH-CV00642, Phelps County Circuit Court, Missouri.

2. “Administration Expenses” means reasonable fees and expenses incurred by the Settlement Administrator for all tasks the Settlement Administrator and any third parties perform in furtherance of the notice and administration of the Settlement and to secure performance as forth in this Stipulation, in an amount not to exceed five hundred thousand and No/100 Dollars (\$500,000).

3. “Application” means the application to be filed by Class Counsel in this Action by which they will seek an award of attorneys’ fees, a Class Representative Service Award, and reimbursement of costs they incurred prosecuting this Action.

4. “Attorneys’ Fees and Expenses” means such funds as may be awarded by the Court based on the Settlement described herein to compensate Class Counsel as determined

by the Court, as described more particularly in Section VI of this Stipulation.

5. “Claim” means a request for relief pursuant to this Stipulation submitted by or on behalf of a Settlement Class Member on a Claim Form filed with the Settlement Administrator in accordance with the terms of this Stipulation.

6. “Claims Deadline” means the date by which a Claim Form must be postmarked to be considered timely and shall be a date no later than 90 days after entry of the Final Approval Order. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Settlement Notice and the Claim Form.

7. “Claim Form” means the proposed Claim Form in substantially the form attached as **Exhibit 4** to the Proposed Preliminary Approval Order to be used by Settlement Class Members to make a Claim under the Settlement in Tier 1, Tier 2 or Tier 3 (described below) which form is to be approved by the Court and to be posted online in accordance with Section VII of this Stipulation.

8. “Claim Period” means the period of time during which a Settlement Class Member must submit a Claim Form to be eligible to receive monetary relief as part of the Settlement. The Claim Period shall commence upon entry of the Final Approval Order and will continue for 90 consecutive days thereafter.

9. “Class Counsel” means David L. Steelman of Steelman, Gaunt & Horsefield, Scott A. Kamber and Stuart L. Cochran of KamberLaw LLC, , and Matthew H. Armstrong of Armstrong Law Firm LLC.

10. “Class Notice” means the Publication Notice and Media Plan in substantially the forms discussed in this Stipulation.

11. “Class Period” means January 1, 2009 through, and including the date of entry of the Preliminary Approval Order.

12. “Class Representative” means Plaintiffs Diana Jill Miloro, Michelle Blair, and Jennifer Cunningham, as well as Jennifer Doughrty, Dan Murphy, and Sarah Rodhouse. Additional Class Representatives may be added by application of the Parties and consent of the Court.

13. “Court” means the Phelps County Missouri Circuit Court.

14. “Defendant” or “Van’s” means Van’s International Foods.

15. “Effective Date” means the fifth business day after the last of the following dates:

- a. All Parties and their counsel, Van’s Counsel and Class Counsel have executed this Stipulation;
- b. The Court has entered the Final Approval Order; and
- c. The Final Approval Order has become a final, non-appealable judgment approving the Settlement in all respects and is no longer subject to review, rehearing, appeal, petition for allowance of appeal, petition for certiorari, or other review of any kind.

16. “Fairness Hearing” and/or “Final Approval Hearing” means the final hearing to be conducted by the Court on such date as the Court may order to determine the fairness, adequacy, and reasonableness of the Settlement in accordance with applicable jurisprudence, to be held after notice has been provided to the Settlement Class in accordance with this Stipulation, and where the Court will: determine whether to grant final approval to the certification of the Settlement Class; determine whether to designate Plaintiff as the

representatives of the Settlement Class; determine whether to designate Class Counsel as counsel for the Settlement Class; (d) determine whether to grant final approval to the Settlement; (e) rule on Class Counsel's Application for a Fee Award and reimbursement of costs; and (f) consider whether to enter the Final Approval Order.

17. "Fee Award" means the amount of attorneys' fees, Service Award, and reimbursement of costs, to be paid separate and apart from the Settlement Amount, awarded by the Court to Class Counsel for all of the past, present, and future attorneys' fees, costs (including court costs), expenses, and disbursements incurred by them and their experts, staff, and consultants in connection with the Action, up to a maximum of One Million, Nine Hundred Thousand and No/100 Dollars (\$1,900,000.00).

18. "Final Approval Order" means an order, to be entered by the Court granting, among other things, final approval of the Stipulation and entry of final judgment with respect thereto.

19. "Household" means all Persons residing at the same physical address.

20. "Labeling" means the display of written, printed, or graphic matter upon the packaging of the Product, as well as written, printed, or graphic matter designed for use in the distribution or sale of the Product, including information found on Van's or its customers' or affiliates' websites supplementing, describing, explaining, and/or promoting the Product.

21. "Media Plan" means a proper notice plan, in substantially the form attached to the Proposed Preliminary Approval Order as **Exhibit 3**, developed by the Settlement Administrator to expose a majority percentage of the Settlement Class to the Notice and to command the Settlement Class Members' attention when the Publication Notice appears on the internet or in printed media.

22. “Motion for Preliminary Approval of Settlement” means the motion, to be filed by Plaintiff, seeking entry by the Court of the Preliminary Approval Order, and includes all supporting papers.

23. “Notice Date” means the date on which the Settlement Administrator disseminates the Settlement Notice consistent with the Preliminary Approval Order. The Notice Date shall be no later than thirty (30) days after the Court’s entry of the Preliminary Approval Order.

24. “Parties” means Plaintiffs and Defendant.

25. “Person” means any natural person, corporation, partnership, business organization or association, or other type of legal entity.

26. “Plaintiffs” means Diana Jill Miloro, Michelle Blair and Jennifer Cunningham.

27. “Preliminary Approval Order” means an order, in substantially the form the Proposed Preliminary Approval Order, to be entered by the Court granting, among other things, preliminary approval of the Settlement.

28. “Product” and or “Products” means Van’s frozen waffles, frozen pancakes, frozen french toast sticks, frozen waffle sticks, frozen english muffins or frozen muffin crowns which contained “Van’s Natural Foods,” “Totally Natural,” “Naturally Delicious,” “All Natural” and/or any term substantially similar thereto indicating that the Product is natural on the Labeling. A complete list of Products with corresponding UPC codes is attached hereto as **Exhibit B**.

29. “Proof of Purchase” means a receipt, UPC code, picture of opened Product showing UPC code, or other documentation from a third-party commercial source

reasonably establishing the fact and date of purchase of the Product during the Class Period in the United States.

30. “Proposed Preliminary Approval Order” means the order attached hereto as Exhibit A.

31. “Publication Notice” means the proposed short form notice, in substantially the form attached as **Exhibit 2** to the Proposed Preliminary Approval Order, to be approved by the Court and to be published in accordance with Section VII of this Stipulation.

32. “Releases” means all of the releases contained in Section XI of this Stipulation.

33. “Released Claims” are defined in Paragraph XI.

34. “Released Parties” means Van’s and all of its parent companies, related companies, direct and indirect subsidiaries, affiliates, franchisees, distributors, wholesalers, retailers, advertising and production agencies, licensors, and agents, including all officers, directors, employees, shareholders, consultants, insurers, agents, and assigns of any of the foregoing. For the avoidance of doubt, Released Parties shall include all sellers and re-sellers of Products.

35. “Releasing Parties” means Plaintiffs, all Settlement Class Members, Class Counsel, and any Person claiming by or through him/her/it, including any Person claiming to be his/her/its spouse, parent, child, heir, guardian, associate, co-owner, attorney, agent, administrator, devisee, predecessor, successor, assignee, representative of any kind, shareholder, partner, director, employee or affiliate.

36. “Service Award” means any award sought by application to and approved by the Court that is payable to Class Representative(s) up to a maximum total amount of One

Thousand Five Hundred and No/100 Dollars per Class Representative and Fifteen Thousand and No/100 Dollars (\$15,000.00) in the aggregate, and to be paid from the Fee Award, to compensate the Class Representatives for their efforts in bringing the Action and achieving the benefits of this Stipulation on behalf of the Settlement Class.

37. “Settlement” means the settlement into which the Parties have entered to resolve the Action. The terms of the Settlement are as set forth in this Stipulation and attached exhibits.

38. “Settlement Administrator” means Heffler Claims Administration, the independent entity selected by the Parties to administer the Settlement and approved by the Court.

39. “Settlement Class” means: all Persons who purchased Products in the United States during the Class Period. Excluded from the Settlement Class are: (a) all Persons who purchased or acquired the Product for resale; (b) Van’s and its employees, principals, affiliated entities, legal representatives, successors and assigns; (c) any Person who files a valid, timely Request for Exclusion; (d) federal, state, and local governments (including all agencies and subdivisions thereof, but excluding employees thereof) and (e) the judges to whom this Action is assigned and any members of their immediate families.

40. “Settlement Class Members” means all Persons who are members of the Settlement Class and who do not exclude themselves from the Settlement Class in the manner and time prescribed by the Court in the Preliminary Approval Order.

41. “Settlement Amount” means the monetary relief available to Settlement Class Members for payment of all Valid Claims in an aggregate amount not to exceed Nine Million and No/100 Dollars (\$9,000,000.00) to implement the terms of the Settlement. The



Settlement Amount represents the limit and extent of Defendant's monetary obligations under this Stipulation for the payment of Valid Claims.

42. "Settlement Notice" means a long form notice substantially in the form attached as **Exhibit 1** to the Proposed Preliminary Approval Order, to be approved by the Court and to be disseminated in accordance with Section VII of this Stipulation.

43. "Settlement Website" means the website to be created for this Settlement that will include information about the Action, the Settlement, and relevant documents and electronic and printable forms relating to the Settlement, including the Claim Form which can be submitted online or printed and mailed, and which Settlement Class Members can visit to read or request additional information regarding the Settlement. The Settlement Website shall be [www.xxxxxxxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxxxxxxx.com).

44. "Stipulation" means this Stipulation of Settlement and the exhibits attached hereto.

45. "Valid Claim" means a Claim Form submitted by a Settlement Class Member that (a) is submitted in accordance with the directions accompanying the Claim Form and the provisions of the Settlement; (b) is, on the initial submission, accurately, fully and truthfully completed and executed, with all of the information requested in the Claim Form, by a Settlement Class Member; (c) is signed physically or by e-signature by a Settlement Class Member or Person with authority to sign for and bind a Settlement Class Member, subject to the penalty of perjury; (d) is returned via mail and post-marked by the Claims Deadline, or, if submitted online, is received by midnight of the Claims Deadline Eastern Standard Time and is determined to be valid by the Settlement Administrator.

B. Other capitalized terms in this Stipulation but not defined in Section II.A. shall

have the meanings ascribed to them elsewhere in this Stipulation.

### **III. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

This Stipulation is for settlement purposes only, and neither the fact of, nor any provision contained in this Stipulation, nor any action taken hereunder, shall constitute or be construed as an admission of: (a) the validity of any claim or allegation by Plaintiff or of any defense asserted by Van's in the Action; or (b) any wrongdoing, fault, violation of law, or liability on the part of any Party, Released Party, Settlement Class Member, or their respective counsel.

For the purpose of implementing this Stipulation, and for no other purpose, Defendant stipulates to the conditional certification of the nationwide Settlement Class in this Action as set forth in the Proposed Preliminary Approval Order. If for any reason this Stipulation should fail to become effective, Defendant's stipulation to certification of the Settlement Class provided for in this Section III, or to any other class or subclass, shall be null and void, and the Parties shall return to their respective positions in this Action before this Stipulation was executed.

### **IV. REQUIRED EVENTS**

A. As soon as practicable after the execution of this Stipulation, Plaintiff shall file in the Action this Stipulation and a motion seeking entry of the Preliminary Approval Order, which order by its terms shall accomplish all of the following:

1. Preliminarily approve the Settlement and this Stipulation as fair and reasonable to the Settlement Class;
2. Conditionally certify the Settlement Class for the purpose of effecting the Settlement;
3. Designate Plaintiff as the representative of the Settlement Class;
4. Designate Class Counsel as counsel for the Settlement Class;

5. Designate Heffler Claims Administration as the Settlement Administrator and instruct the Settlement Administrator to perform the following functions in accordance with the terms of this Stipulation, the Preliminary Approval Order, and the Final Approval Order:
  - a. Process requests for exclusion from the Settlement in accordance with Section VIII of this Stipulation;
  - b. Process objections to the Settlement in accordance with Section VIII of this Stipulation;
  - c. Process Claim Forms in accordance with Section V of this Stipulation;
  - d. Before disseminating the Settlement Notice, establish the Settlement Website, which Settlement Class Members can visit to read and obtain additional information regarding the Settlement, including submission of Claim Forms; and
  - e. Set up and operate a toll-free automated interactive voice response system through which Settlement Class Members can access Settlement information.
6. Approve the form, contents, and method of notice to be given to the Settlement Class as set forth in Section VII of this Stipulation, and direct Van's to provide, and cause to be provided, such notice and to file with the Court a declaration of compliance with those notice requirements, as set forth in Section VII of this Stipulation;
7. Establish procedures and schedule deadlines for Persons in the Settlement Class to object to the Settlement or certification of the Settlement Class, and to exclude themselves from the Settlement, all consistent with the terms of this Stipulation;
8. Schedule the Fairness Hearing; and

9. Schedule deadlines for the filing of: papers in support of final approval of the certification of the Settlement Class, the designation of Plaintiff as the representatives of the Settlement Class, the appointment of Class Counsel as counsel for the Settlement Class, and the Settlement; Class Counsel's Application for attorneys' fees and expenses; and objections to certification of the Settlement Class, to the designation of Plaintiff as the representatives of the Settlement Class, to the appointment of Class Counsel as counsel for the Settlement Class, or to the Settlement.

At the Fairness Hearing, the Parties will jointly request the Court to enter the Final Approval Order, which: grants final approval of the certification of the Settlement Class, designates Plaintiff as the representatives of the Settlement Class, and designates Class Counsel as counsel for the Settlement Class, all as conditionally approved in the Preliminary Approval Order; grants final approval of the Settlement and this Stipulation as fair, reasonable, and adequate to the Settlement Class; provides for the release of all Released Claims and enjoins Settlement Class Members from asserting, filing, maintaining, or prosecuting any of the Released Claims; orders the dismissal with prejudice of all claims, causes of action, and counts alleged in the Action, and incorporates the releases and covenant not to sue stated in this Stipulation, with each of the Parties to bear its or his/her own costs and attorney's fees, except as provided in Section VI below; and preserves the Court's continuing jurisdiction over the administration of the Settlement and enforcement of this Stipulation.

Plaintiff, Class Counsel, and Defendant will cooperate and take all reasonable actions to

accomplish the above. If the Court fails or refuses to enter either the Preliminary Approval Order and/or the Final Approval Order in substantially the forms attached as Exhibits hereto, Plaintiff, Class Counsel, and Defendant will use all reasonable efforts that are consistent with this Stipulation to cure any defect identified by the Court. If, despite such efforts, the Court does not enter the Preliminary Approval Order and/or the Final Approval Order upon terms acceptable to either or both of the Parties, the Parties will return to their prior positions in the Action, in accordance with Section III of this Stipulation.

**V. SETTLEMENT CONSIDERATION AND PROCEDURES FOR PROVIDING BENEFITS TO SETTLEMENT CLASS MEMBERS**

**A. Injunctive Relief**

Within sixty (60) calendar days after entry of the Final Approval Order, Van's shall ensure that its Products are no longer being represented to the public as being "All Natural," "Totally Natural," or "Naturally Delicious" as alleged by Plaintiff. Specifically, Defendant must cease using the "All Natural" statement in connection with the sale of the Products upon execution of this Stipulation. This injunction shall last only (a) so long as the Products contain SAPP or (b) until Van's determines based on court decisions or changes in regulatory guidance or applicable law after the date hereof that the use of the term "all natural," or any term substantially similar thereto, in products containing SAPP is not impermissible.

**B. Monetary Benefits to Settlement Class Members**

Van's will provide cash benefits up to the Settlement Amount to Settlement Class Members who file Valid Claims by the Claims Deadline and who provide all required Proof of Purchase to the Settlement Administrator and comply with all other conditions and requirements of the applicable Claim Form and this Stipulation, with such cash benefits to be determined

based on which of the following 3 Tiers the Settlement Class Member elects and for which the Settlement Class Member qualifies:

1. Tier 1. Settlement Class Members who fill out the Claim Form and who do not have valid Proof of Purchase may recover up to a maximum of \$4.99 per Household, which approximates the retail cost of 1.5 units of Products; or
2. Tier 2. Settlement Class Members who fill out the Claim Form and who do not have valid Proof of Purchase may recover \$3.33 per unit up to a maximum of \$9.99 per Household, which approximates the retail cost of 3 units of Products; or
3. Tier 3. Settlement Class Members who fill out the Claim Form and who provide valid Proof of Purchase may recover the amount for which a valid Proof of Purchase has been provided up to a maximum of \$18 per Household.

For the avoidance of doubt, a Settlement Class Member may file a claim for one Tier and are eligible for one benefit per Household.

**C. Guarantee and Cap.**

Van's guarantees to satisfy all Valid Claims made up to an aggregate amount of Nine Million and No/100 Dollars (\$9,000,000.00). The actual amount paid to Settlement Class Members will depend upon the number of Valid Claims. If the total amount of Valid Claims exceeds the Settlement Amount, then each claim's award shall be proportionately reduced, such that Van's maximum liability under this Agreement for Valid Claims shall not exceed \$9,000,000 in the aggregate.

**D. Procedures for Providing Benefits to Settlement Class Members**

The Parties shall jointly ask the Court to approve Heffler Claims Administration as the Settlement Administrator. The Settlement Administrator shall, subject to the supervision of the Court, administer the relief provided by this Stipulation by processing Claim Forms in a rational, responsive, cost effective and timely manner. The Settlement Administrator shall maintain

reasonably detailed records of its activities under this Stipulation. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel, Van's Counsel, the Parties and their representatives promptly upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall promptly provide Class Counsel and Van's Counsel with information concerning notice, administration and implementation of the Stipulation. Should the Court request or should it be reasonably advisable to do so, the Parties, in conjunction with the Settlement Administrator, shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator. Without limiting the foregoing, the Settlement Administrator shall:

1. promptly forward upon request to Van's Counsel and Class Counsel, copies of all documents and other materials relating to the administration of the Settlement;
2. receive requests from Class Members to exclude themselves from the Settlement Class and promptly provide to Class Counsel and Van's Counsel a copy thereof upon receipt. If the Settlement Administrator receives any requests for exclusion from Class Members after the Opt-Out Deadline, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Van's Counsel;
3. provide reports and summaries, as requested, to Class Counsel and Van's Counsel, including without limitation, reports regarding the number of Claim Forms received and the identity of the Settlement Class Members;
4. employ reasonable procedures to screen Claims Forms for waste, fraud, and abuse and shall reject a Claim Form, or any part of a claim for a payment reflected therein, where the Settlement Administrator determines that there is evidence of fraud. The Settlement Administrator will review each Claim Form based upon the initial submission by Settlement Class Member and ensure that each is complete, properly substantiated and, based on the substantiation, determine the appropriate benefit to be paid, if any, in accordance with the terms of this Agreement. The Settlement Administrator is empowered to pay legitimate and valid claims only.

5. prepare a declaration attesting to compliance with the Class Notice requirements set forth below and identifying all opt-outs and/or objectors. Such declaration shall be provided to Van's Counsel and Class Counsel for filing with the Court no later than fourteen (14) days prior to the Final Approval Hearing.
6. issue checks for payment of Valid Claims ("Benefit Checks"). Van's is obligated to pay Valid Claims only. The limited cash benefit does not create a property right or interest in the settlement benefits made available pursuant to this Stipulation. All Benefit Checks issued pursuant to the Settlement shall bear in the legend that they expire if not negotiated within sixty (60) days of their date of issue. To the extent that a Benefit Check issued to a Settlement Class Member is not cashed within sixty (60) days after the date of issue, the check will be void.

All Claims must be submitted with a Claim Form and received by the Settlement Administrator and postmarked by the Claims Deadline if submitted by mail or, if submitted online, received by midnight of the Claims Deadline and is determined to be valid by the Settlement Administrator. The Claims Deadline shall be clearly set forth in the Class Notice, the Settlement Website, and on the Claim Form. Settlement Class Members who fail to submit a Claim Form by the Claims Deadline shall not be eligible for any benefits under the Settlement. Claim Forms submitted prior to the opening of the Claim Period shall be eligible for a benefit and shall be paid as if submitted after the commencement of the Claim Period.

The Claim Form will be available on the Settlement Website. The Claim Form will be mailed to Settlement Class Members upon request by calling or writing to the Settlement Administrator. Settlement Class Members may submit their completed and signed Claim Forms to the Settlement Administrator by mail or online, postmarked or submitted online, on or before the Claims Deadline.

Class Counsel and Van's Counsel shall be entitled to inspect all Claims deemed deficient or denied by the Settlement Administrator, and Class Counsel shall be entitled to confer with the prospective Class Member whose claim was denied. If additional information or documentation



is provided by the prospective Class Member that substantiates the previously denied claim, Class Counsel may provide the information to the Settlement Administrator for a second review. The Settlement Administrator's second determination shall be final and binding.

After all Claims have been processed, the Settlement Administrator will provide Van's and Class Counsel with the approved claimants list, including the distribution calculations for each claim, and details regarding any deficient Claim Forms and all claims marked for denial. The Settlement Administrator will maintain a database of filed claims, which will include all relevant information captured from the Claim Form. During the Claim Period, the Settlement Administrator will prepare and issue to Van's and Class Counsel case statistics on a weekly basis. These statistics will include, but not be limited to call count, claims filed by different type, total claims filed, website statistics, and other information that the Parties request.

**VI. CLASS COUNSEL'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS, AND SERVICE AWARD**

A. Class Counsel will submit to the Court an application seeking a Fee Award of not more than \$1,900,000 in attorneys' fees, expenses, and costs. From which, Class Counsel will also submit to the Court an application seeking leave to pay a Service Award to each Class Representative, as compensation for their efforts in bringing the Action and achieving the benefits of the Settlement on behalf of the Settlement Class. The Fee Award shall be paid separate and apart from the Settlement Amount, and shall not take away from or otherwise reduce the monetary relief available to the Settlement Class. Court approval of Class Counsel's Fee Award will not be a condition of the Settlement. If the Court denies, in whole or part, Class Counsel's application for a Fee Award, the remainder of the terms of this Stipulation and of the Settlement shall remain in effect. In addition, no interest will accrue on such amounts at any time. Neither Class Counsel nor Plaintiff will request nor will they accept any award

inconsistent with these terms.

B. Van's agrees that it will not object to the amount of Class Counsel's Application for Fee Award up to the amounts set forth in the preceding paragraph, and agrees that it will, contingent on entry of the Final Approval Order, pay the amounts approved by the Court up to the amounts set forth in the preceding paragraph. Attorneys' fees and expenses awarded by the Court shall be payable within fifteen (15) days of after entry of the Final Approval Order, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the settlement or any part thereof, subject to Class Counsel providing adequate security for the recovery of all fees and expenses paid thereto in the event that the final judgment or fee award is reversed or reduced. Any dispute between Class Counsel and Defendant regarding reasonable security shall be determined by the Court. Van's shall make the payment to Class Counsel by providing a check to Class Counsel in the amount of the total sum awarded and approved by the Court. Class Counsel shall provide to Van's in a timely manner all information necessary to enable Van's to make the payment within the time required.

C. Class Counsel shall provide Van's with all necessary accounting and tax information, including W-9 forms, with reasonable advance notice to allow Van's to make the Attorneys' Fees and Expenses award payment as set forth above.

**VII. NOTICE AND DISSEMINATION TO THE SETTLEMENT CLASS, AND CLAIMS DEADLINES.**

Subject to Court approval, the Parties agree that Van's shall cause notice of the proposed Settlement to be provided to the Settlement Class by the following methods:

**A. Settlement Notice**

The Parties agree that the Settlement Notice shall otherwise be in the manner and form agreed upon by the Parties and approved by the Court. Collectively, the Settlement Notice shall

in general terms set forth and sufficiently inform the Settlement Class Members of: (1) a short, plain statement of the background of the Action, the Class certification, and the essential terms of the Settlement; (2) appropriate means for obtaining additional information regarding the Settlement and the Action; (3) appropriate information concerning the procedure for challenging or excluding themselves from the Settlement, if they should wish to do so; and (4) that any relief to Settlement Class Members is contingent on the Court's final approval of the Settlement. The Parties will request the Court to approve the Settlement Notice in the Preliminary Approval Order.

**B. Publication Notice**

Similarly, the Settlement Administrator will cause the Publication Notice to be published in accordance with the Media Plan. The Parties agree that the Publication Notice provides to the Settlement Class and Settlement Class Members information sufficient to inform them of: the essential terms of the Settlement; appropriate means for obtaining additional information regarding the Settlement and the Action; and, appropriate information about the procedure for challenging or excluding themselves from the Settlement, if they should wish to do so. Since the Media Plan is determined to be the best notice practicable under the circumstances and satisfies due process, the Parties will request the Court to approve the Media Plan in the Preliminary Approval Order.

**C. Settlement Website**

The Settlement Administrator will establish a Settlement Website that will contain the Complaint in the Action, the Motion for Preliminary Approval, the Preliminary Approval Order, the Settlement and Publication Notices, and Claim Forms. The Settlement Website will also identify key deadlines (e.g., the Claims Deadline, the Opt-Out Deadline, Objection Deadline, the

date of Final Approval Hearing), and direct Settlement Class Members on how to submit Claim Forms and include a “Frequently Asked Questions” section.

**D. Toll-Free Telephone Support Line**

The Settlement Administrator will establish a toll-free telephone support line that will provide Settlement Class Members with general information about the Action and will respond to frequently asked questions about the Action and claim procedure available exclusively through an interactive voice response (IVR).

**E. Methods for Dissemination of Notice**

As soon as practicable, but no later than thirty (30) days after the Court’s entry of the Preliminary Approval Order, the Settlement Administrator shall disseminate the Settlement Notice consistent with the Preliminary Approval Order by setting up the Settlement Website on the Internet and posting both the Settlement Notice and Publication Notice.

Within thirty (30) days after the entry of the Preliminary Approval Order, Van’s shall publish, cause to be published, or ensure that the Settlement Administrator has caused to be published, the Publication Notice pursuant to the Media Plan.

**F. Declaration of Compliance**

The Settlement Administrator shall prepare a declaration attesting to compliance with the Settlement Notice requirements set forth above and a statement of the number of Persons the Media Plan reached. Such declaration shall be provided to Defendant’s Counsel and Class Counsel and filed with the Court no later than fourteen (14) days prior to the Final Approval Hearing.

**G. Report on Requests for Exclusion and Objections**

Not later than fourteen (14) days before the Final Approval Hearing, the Settlement

Administrator shall prepare and deliver to Class Counsel, who shall file with the Court, and Defendant's Counsel, a report stating the total number of Persons who have submitted timely and valid Requests for Exclusion from the Settlement Class and Objections to the Settlement, and the names of such Persons.

## **VIII. OBJECTIONS AND REQUESTS FOR EXCLUSION**

### **A. Objections**

Any Settlement Class Member who intends to object to the Settlement must do so no later than forty-five (45) calendar days after the Notice Date (the "Objection Deadline"). In order to object, the Settlement Class Member must file with the Court, and provide a copy to Class Counsel and Defendant's Counsel, a document that includes:

1. The name, address, telephone number, and, if available, the email address of the Person objecting, and if represented by counsel, of his/her counsel;
2. Specifically and in writing, all objections;
3. Whether he/she intends to appear at the Final Approval Hearing, either with or without counsel;
4. A statement of his/her membership in the Settlement Class, including all information required by the Claim Form; and
5. A detailed list of any other objections submitted by the Settlement Class Member, or his/her counsel, to any class actions submitted in any court, whether state or otherwise, in the United States in the previous five (5) years. If the Settlement Class Member or his/her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the Objection to this Settlement.

### **B. Compliance With Objection Requirements**

Any Settlement Class Member who fails to file and serve timely a written objection containing all of the information listed in the items (1) through (5) of the previous paragraph, including notice of his/her intent to appear at the Final Approval Hearing, shall not be permitted to object to the Settlement and shall be foreclosed from seeking any review of the Settlement or

the terms of the Stipulation by any means, including but not limited to an appeal.

Any Settlement Class Member who submits a timely written objection shall consent to deposition by Class Counsel prior to the Final Approval Hearing.

**C. Requests for Exclusion**

Any Settlement Class Member may request to be excluded (or “opt out”) from the Settlement Class (“Requests for Exclusion”). A Settlement Class Member who wishes to opt out of the Settlement Class must do so no later than forty-five (45) calendar days after the Notice Date (the “Opt-Out Deadline”). In order to opt out, a Settlement Class Member must complete and mail to the Settlement Administrator a Request for Exclusion that is postmarked no later than the Opt-Out Deadline.

Requests for Exclusion that are postmarked after the Opt-Out Deadline will be considered invalid and of no effect, and the Person who untimely submits a Request for Exclusion will remain a Settlement Class Member and will be bound by any Orders entered by the Court, including the Final Approval Order. Except for those Persons who have properly and timely submitted Requests for Exclusion, all Settlement Class Members will be bound by this Stipulation and the Final Approval Order, including the Releases contained herein, regardless of whether they file a Claim or receive any monetary relief.

Any Person who timely and properly submits a Request for Exclusion shall not (a) be bound by any orders or the Final Approval Order nor by the Releases contained herein; (b) be entitled to any relief under the Settlement; (c) gain any rights by virtue of this Stipulation; or (d) be entitled to object to any aspect of this Stipulation.

Each Person requesting exclusion from the Settlement Class must personally sign his or

her own individual Request for Exclusion. No Person may opt-out of the Settlement Class any other Person, or be opted-out by any other Person, and no Person shall be deemed opted-out of the Settlement Class through any purported “mass” or “class” opt-outs.

The Settlement Administrator shall provide Class Counsel and Defendant’s Counsel with a final list of any timely Requests for Exclusion received by the Settlement Administrator within five (5) business days after the Opt-Out Deadline.

**IX. COSTS OF NOTICE AND ADMINISTRATION**

In addition to providing to Settlement Class Members the benefits described in Section V above, Van’s will pay actual fees and expenses up to but not to exceed \$500,000 for: (A) the costs of preparing and disseminating the notices provided for in Section VII above; and (B) the other Administration Expenses, including payments made for the services of the Settlement Administrator and third-party expenses. Notwithstanding anything to the contrary herein, Van’s shall not be responsible for any cost that may be incurred by, on behalf of, or at the direction of Plaintiff or Class Counsel in: (A) responding to inquiries about the Stipulation, the Settlement, or the Action; (B) posting the Publication Notice on Class Counsel’s website, should that occur; (C) defending the Stipulation or the Settlement against any challenge to either or both of them; or (D) defending against any challenge to any order or judgment entered pursuant to the Stipulation.

**X. PROCEDURES FOR SETTLEMENT APPROVAL**

**A. Preliminary Approval**

Within seven (7) days following the date of the execution of this Stipulation by the Parties, the Plaintiff shall move the Court for entry of the Preliminary Approval Order, subject to changes agreed to by the Parties for accuracy, formatting, or clarity.

**B. Final Approval**

No less than seven (7) days prior to the date set by the Court for the Fairness Hearing, the Plaintiff shall apply to the Court for entry of the Final Approval Order, subject to changes agreed to by the Parties for accuracy, formatting, or clarity.

At the Fairness Hearing, the Parties will jointly request the Court to enter the Final Approval Order, which: grants final approval of the certification of the Settlement Class, designates the Class Representative(s), and designates Class Counsel conditionally approved in the Preliminary Approval Order; grants final approval to the Settlement and establishes this Stipulation as fair, reasonable, and adequate to the Settlement Class; provides for the release of all Released Claims and enjoins Settlement Class Members from asserting, filing, maintaining, or prosecuting any of the Released Claims; orders the entry of judgment for Defendant on all claims, causes of action, and counts alleged in the Action, and incorporates the Releases stated in this Stipulation, with each of the Parties to bear its or his own costs and attorneys' fees, except as provided in Section VI above; authorizes the payment by Van's of Class Counsel's Fee Award in accordance with Section VI above and the terms of the Stipulation; and preserves the Court's continuing jurisdiction over the administration of the Settlement and enforcement of the Stipulation.

**XI. RELEASES**

A. By executing this Stipulation, the Parties acknowledge that, upon both the entry of the Final Approval Order by the Court, and the passing of the Effective Date, the Action shall be dismissed with prejudice, an order of dismissal with prejudice shall be entered, and all Released Claims shall thereby be conclusively settled, compromised, satisfied, and released as to



the Released Parties. The Final Approval Order shall provide for and effect the full and final release, by the Releasing Parties of all Released Claims, in the following form:

The Releasing Parties hereby fully release and forever discharge the Released Parties from any and all claims, demands, rights, damages, obligations, suits, debts, liens, contracts, agreements, judgments, expenses, costs, liabilities, and causes of action of every nature and description, including claims for attorneys' fees, expenses and costs, whether known or unknown, suspected or unsuspected, existing now or arising in the future that (a) is or are based on any act, omission, inadequacy, misstatement, representation, harm, matter, cause or event whatsoever that has occurred at any time from the beginning of time up to and including the entry of the Preliminary Approval Order and (b) arise from or are related in any way to the Action, the Products or the marketing, advertising, promoting or Labeling of the Products.

This release expressly excludes and does not release the Released Parties from any claims, if any, the Releasing Parties may have against the Released Parties for personal injury damages relating to the Products.

B. Without limiting the foregoing, the release specifically extends to claims that the Releasing Parties do not know or suspect to exist in their favor at the time that the Settlement, and the release contained herein, becomes effective. This Paragraph constitutes a waiver of, without limitation as to any other applicable law, 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 OR HER SETTLEMENT WITH THE DEBTOR.

The Releasing Parties understand and acknowledge the significance of these waivers of California Civil Code section 1542 and any other applicable federal or state statute, case law, rule or regulation relating to limitations on releases. In connection with such waivers and relinquishment, the Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be

true with respect to the subject matter of the Settlement, but that it is their intention to release fully, finally and forever all Released Claims with respect to the Released Parties, and in furtherance of such intention, the release of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

C. The Final Approval Order shall further provide for and effect the release of all actions, causes of action, claims, administrative claims, demands, debts, damages, costs, attorney's fees, obligations, judgments, expenses, compensation, or liabilities, in law or in equity, whether now known or unknown, contingent or absolute, that Van's now has against Plaintiff, Settlement Class Members or Class Counsel by reason of any act, omission, harm, matter, cause, or event whatsoever arising out of the initiation, prosecution, or settlement of the Action or the claims and defenses asserted in the Action.

Notwithstanding the above, the Court shall retain jurisdiction over the Parties and the Stipulation with respect to the future performance of the terms of the Stipulation, and to assure that all payments and other actions required of any of the Parties by the Settlement are properly made or taken.

## **XII. FINAL JUDGMENT AND SETTLEMENT APPROVAL**

This Stipulation is subject to and conditioned upon the issuance by the Court of the Final Approval Order that finally certifies the Settlement Class for the purposes of this settlement, grants final approval of the Stipulation, and provides the relief specified herein, which relief shall be subject to the terms and conditions of the Stipulation and the Parties' performance of their continuing rights and obligations hereunder.

### **XIII. REPRESENTATIONS AND WARRANTIES**

Each Party represents and warrants to, and agrees with, the other Party as follows:

A. Each Party has had the opportunity to receive, and has received, independent legal advice from his or its attorneys regarding the advisability of making the Settlement, the advisability of executing this Stipulation, and the legal and income tax consequences of this Stipulation, and fully understands and accepts the terms of this Stipulation.

B. Van's represents and warrants: (1) that it has the requisite corporate power and authority to execute, deliver and perform the Stipulation and to consummate the transactions contemplated hereby; (2) that the execution, delivery and performance of the Stipulation and the consummation by it of the actions contemplated herein have been duly authorized by necessary corporate action on the part of Van's; and (3) that the Stipulation has been duly and validly executed and delivered by Van's and constitutes its legal, valid and binding obligation.

C. Each Class Representative represents and warrants that he/she is entering into the Stipulation on behalf of himself/herself individually and as a proposed representative of the Settlement Class Members, of his/her own free will and without the receipt of any consideration other than what is provided in the Stipulation or disclosed to, and authorized by, the Court. Each Class Representative represents and warrants that he/she has reviewed the terms of the Stipulation in consultation with Class Counsel and believes them to be fair and reasonable, and covenants that he/she will not file a Request for Exclusion from the Settlement Class or object to the Stipulation.

D. Plaintiff represents and warrants that no portion of any claim, right, demand, action, or cause of action against any of the Released Parties that Plaintiff has or may have arising out of the Action or pertaining to his/her purchase and/or use of the Product and/or the

design, manufacture, testing, marketing, labeling, packaging or sale of the Product otherwise referred to in this Stipulation, and no portion of any recovery or settlement to which Plaintiff may be entitled, has been assigned, transferred, or conveyed by or for Plaintiff in any manner; and no Person other than Plaintiff has any legal or equitable interest in the claims, demands, actions, or causes of action referred to in this Stipulation as those of Plaintiff herself.

E. Neither Party relies or has relied on any statement, representation, omission, inducement, or promise of the other party (or any officer, agent, employee, representative, or attorney for any other party) in executing this Stipulation, or entering the Settlement provided for herein, except as expressly stated in this Stipulation.

#### **XIV. NO ADMISSIONS OF FAULT**

The Stipulation and every stipulation and term contained in it is conditioned upon final approval of the Court and is made for settlement purposes only. Whether or not consummated, this Stipulation shall not be 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, Van's, any Settlement Class Member or 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.

#### **XV. MISCELLANEOUS PROVISIONS**

##### **A. Conditional Nature of Settlement and Termination**

Defendant and Plaintiff shall each have the right to terminate the Settlement by providing written notice of their election to do so to the other within thirty (30) days of: (a) the Court's

declining to enter the Preliminary Approval Order in substantially the form attached hereto; (b) the Court's refusal to approve this Stipulation or any part of it; (c) the Court's declining to enter the Final Approval Order in substantially the form attached hereto; (d) the date upon which the Final Approval Order is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; (e) in the event that the Court enters an order and final judgment in a form other than that provided above ("Alternative Judgment") and neither of the parties hereto elect to terminate this Settlement, the date that such Alternative Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; or (f) more than 1,000 Class Members opt out of the Settlement pursuant to Section VIII(D) above.

**B. Evidentiary Preclusion**

The Parties agree that, to the fullest extent permitted by law, neither this Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Stipulation or the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any claim or of any wrongdoing or liability of the Released Parties; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any Released Party or the appropriateness of class certification in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. In addition, any failure of the Court to approve the Settlement and/or any objections or interventions may not be used as evidence in the Action or any other proceeding for any purpose whatsoever. However, the Released Parties may file the Stipulation and/or the Final Approval Order in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith

settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

**C. Effect of Nonapproval**

In the event that this Stipulation is not approved by the Court in substantially its present form, any objection to the Settlement is sustained by the Court, or the Settlement does not become final for any reason, the terms and provisions of this Stipulation shall have no further force and effect with respect to the Parties or the Settlement Class Members, and shall not be used in this Action or in any other action or proceeding for any purpose, and any order or judgment entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*. In such event, this Stipulation and all negotiations, proceedings, documents prepared and statements made in connection with this Stipulation shall be without prejudice to any Party or Settlement Class Member and shall not be admissible or offered into evidence in any action or proceeding, and shall not be deemed, asserted or construed to be an admission or confession by any Party or any other Person or entity of any fact, matter or proposition of law, and shall not be used or asserted in any other manner or for any purpose, and all Parties and Settlement Class Members shall stand in the same position as if this Stipulation and Settlement had not been negotiated, made or submitted to the Court.

**D. Effectiveness, Amendments, and Binding Nature**

This Stipulation may be amended only in writing signed by the Parties. Except as otherwise stated above, each Party, including Plaintiff on behalf of himself/herself and the Settlement Class, expressly accepts and assumes the risk that, if facts or laws pertinent to matters covered by this Stipulation are hereafter found to be other than as now believed or

assumed by that party to be true or applicable, this Stipulation shall nevertheless remain effective.

This Stipulation is binding on, and shall inure to the benefit of, the Parties and their respective agents, employees, representatives, officers, directors, parents, subsidiaries, assigns, executors, administrators, insurers, and successors in interest. All Released Parties other than Defendant, which is a Party, are intended to be third-party beneficiaries of this Stipulation.

**E. Cooperation in Implementation**

Defendant, Plaintiff, and their respective counsel agree to prepare and execute any additional documents that may reasonably be necessary to effectuate the terms of this Stipulation.

**F. Governing Law**

This Stipulation shall be construed and governed in accordance with the laws of the State of Missouri, without regard to Missouri's conflict-of-laws principles.

**G. Stay Pending Court Approval**

Class Counsel and Van's Counsel agree to stay all proceedings, other than those proceedings necessary to carry out or enforce the terms and conditions of the Settlement, until the Effective Date of the Settlement has occurred. If, despite the Parties' best efforts, this Stipulation should fail to become effective, the Parties will return to their prior positions in the Action, in accordance with Section III of this Stipulation.

The Parties also agree to use their best efforts to seek the stay and dismissal of, and to oppose entry of any interim or final relief in favor of any Settlement Class Member in, any other proceedings against any of the Released Parties which challenges the Settlement or otherwise asserts or involves, directly or indirectly, a Released Claim.

## **H. Signatures**

This Stipulation may be executed in counterparts, and, when so executed, shall constitute a binding original. 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 email shall be deemed original signatures and shall be binding.

## **I. Notices**

Whenever this Stipulation requires or contemplates that one Party shall or may give notice to the other, notice shall be provided in writing by first class US Mail and email to:

1. If to Plaintiff or Class Counsel:

David Steelman  
Steelman, Gaunt & Horsefield  
901 Pine, #110  
P.O. Box 1257  
Rolla, MO 65401-1257  
dsteelman@steelmanandgaunt.com

2. If to Van's or Van's counsel ("Van's Counsel"):

Dale J. Giali  
Mayer Brown LLP  
350 South Grand Avenue  
25th Floor  
Los Angeles, CA 90071-1503  
DGiali@mayerbrown.com

## **J. Good Faith**

The Parties agree that they will act in good faith and will not engage in any conduct that will or may frustrate the purpose of this Stipulation. The Parties further agree, subject to Court approval as needed, to reasonable extensions of time to carry out any of the provisions of the Stipulation.



**K. Protective Orders**

All orders, settlement agreements and designations regarding the confidentiality of documents and information (“Protective Orders”) remain in effect, and all Parties and counsel remain bound to comply with the Protective Orders, including the provisions to certify the destruction of “Confidential” documents.

**L. Binding on Successors**

The Stipulation shall be binding upon, and inure to the benefit of, the heirs, and Released Parties.

**M. Arms-Length Negotiations**

The determination of the terms and conditions contained herein and the drafting of the provisions of this Stipulation has been by mutual understanding after negotiation, with consideration by, and participation of, the Parties hereto and their counsel. This Stipulation shall not be construed against any Party on the basis that the Party was the drafter or participated in the drafting. Any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the implementation of this Stipulation and the Parties agree that the drafting of this Stipulation has been a mutual undertaking.

**N. Waiver**

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

**O. Variance**

In the event of any variance between the terms of this Stipulation and any of the Exhibits hereto, the terms of this Stipulation shall control and supersede the Exhibit(s).

**P. Exhibits**

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

**Q. Taxes**

No opinion concerning the tax consequences of the Stipulation to any Settlement Class Member is given or will be given by Van's, Van's counsel, or Class Counsel; nor is any Party or their counsel providing any representation or guarantee respecting the tax consequences of the Stipulation as to any Settlement Class Member. Each Settlement Class Member is responsible for his/her tax reporting and other obligations respecting the Stipulation, if any.

**R. Retain Jurisdiction**

The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Stipulation, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the agreements embodied in this Stipulation.

**S. Attorneys' Fees**

Notwithstanding any of the provisions herein, if any party finds it necessary to institute legal proceedings to enforce another party's obligation under this Stipulation, the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees and costs.


**T. Support From The Parties**

After a full investigation, discovery and arms-length negotiations, the Parties and their counsel agree that they: (i) have independently determined that this Settlement is in the best interest of the Class; (ii) shall support motions for entry of the Preliminary Approval Order and Final Approval Order; and (iii) will not encourage any Persons to opt out or object to the Settlement or this Stipulation.

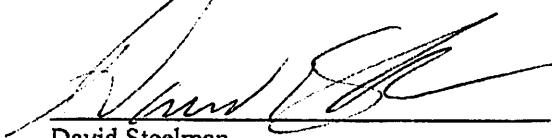
IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed by their duly authorized representatives.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Respectfully Submitted,

  
\_\_\_\_\_  
Scott A. Kamber  
KamberLaw, LLC

\_\_\_\_\_  
Dale J. Giali  
Mayer Brown LLP

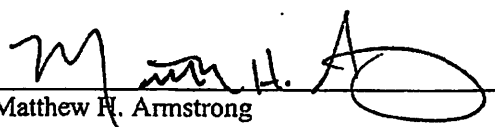
  
\_\_\_\_\_  
David Steelman  
Steelman, Gaunt & Horsefield

\_\_\_\_\_  
Van's International Foods

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

Title: \_\_\_\_\_

*On Behalf of Defendant, Van's International Foods*

  
\_\_\_\_\_  
Matthew R. Armstrong  
Armstrong Law Firm, LLC

\_\_\_\_\_  
Diana Jill Miloro

\_\_\_\_\_  
Michelle Blair

  
\_\_\_\_\_  
Jennifer Cunningham

*On Behalf of Plaintiff and the Proposed Settlement Class*

IN WITNESS WHEREOF, the Parties have caused their signatures to be hereunto  
to this duly authorized representatives

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012

Respectfully Submitted,

\_\_\_\_\_  
Scott A. Brantley  
Lambertson, LLC

\_\_\_\_\_  
John J. Grant  
Lambertson, LLC

\_\_\_\_\_  
David S. Brantley  
Lambertson, James & Harshfield

\_\_\_\_\_  
Lambertson, LLC

By \_\_\_\_\_

Title \_\_\_\_\_

In Witness Whereof, I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Matthew B. Brantley  
Lambertson, LLC

\_\_\_\_\_  
David J. Brantley

\_\_\_\_\_  
Matthew B.

\_\_\_\_\_  
Lambertson, LLC

\_\_\_\_\_  
David J. Brantley and the Proposed  
Lambertson, LLC

David A. K...  
K... LLC

Page 1 of 2  
[Illegible]

David S...  
S... LLC

Page 1 of 2  
[Illegible]

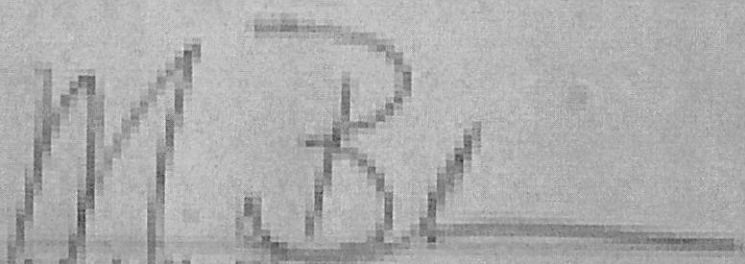
[Illegible]

[Illegible]

Page 1 of 2  
[Illegible]

Matthew H. Armstrong  
Armstrong Law Firm, LLC

Diana J...  
[Illegible]

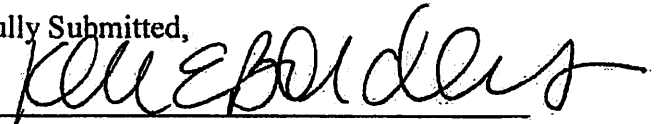
  
Michelle Ryan

Jennifer Cunningham

IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed by their duly authorized representatives.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Respectfully Submitted,



\_\_\_\_\_  
Scott A. Kamber  
KamberLaw, LLC

\_\_\_\_\_  
Keri E. Borders  
Mayer Brown LLP

\_\_\_\_\_  
Van's International Foods

\_\_\_\_\_  
David Steelman  
Steelman, Gaunt & Horsefield

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

Title: \_\_\_\_\_

*On Behalf of Defendant, Van's International Foods*

\_\_\_\_\_  
Matthew H. Armstrong  
Armstrong Law Firm, LLC

\_\_\_\_\_  
Diana Jill Miloro

\_\_\_\_\_  
Michelle Blair

\_\_\_\_\_  
Jennifer Cunningham

*On Behalf of Plaintiff and the Proposed Settlement Class*

IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed by their duly authorized representatives.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Respectfully Submitted,

\_\_\_\_\_  
Scott A. Kamber  
KamberLaw, LLC

\_\_\_\_\_  
Keri E. Borders  
Mayer Brown LLP

\_\_\_\_\_  
David Steelman  
Steelman, Gaunt & Horsefield

\_\_\_\_\_  
Van's International Foods  
By: David R Van Belle  
Title: EVP

*On Behalf of Defendant, Van's International Foods*

\_\_\_\_\_  
Matthew H. Armstrong  
Armstrong Law Firm, LLC

\_\_\_\_\_  
Diana Jill Miloro

\_\_\_\_\_  
Michelle Blair

\_\_\_\_\_  
Jennifer Cunningham

*On Behalf of Plaintiff and the Proposed Settlement Class*

# **EXHIBIT A**



**IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI**

DIANA JILL MILORO, as an individual  
and on behalf of all others similarly situated,

Plaintiff,

vs.

**Case No. 15PH-CV00642**

VAN'S INTERNATIONAL FOODS, INC.,  
an Arizona corporation,

Defendant.

**ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT, APPROVING  
CLASS NOTICE, AND SCHEDULING FAIRNESS HEARING**

The Court has considered Plaintiff's Motion for Preliminary Approval of Class Settlement pursuant to Mo. R. Civ. P. 52.08. Upon review of the motion and the Settlement Agreement and its attachments, and after consideration of the parties' submissions and the arguments at the hearing on this matter, if any, for good cause shown, the Court preliminarily finds that the terms of the settlement are fair, adequate, and reasonable. The Court further finds that the notice provisions provided for by the Settlement Agreement are adequate and appropriate to inform members of the class of the terms of the settlement.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Court does hereby preliminarily approve the Settlement Agreement<sup>1</sup> and the settlement set forth therein (the "Settlement"), subject to further consideration at the Final Approval Hearing described below.
2. A hearing (the "Final Approval Hearing") shall be held before this Court on \_\_\_\_\_,

---

<sup>1</sup> The Court, for purposes of this Order, adopts the definitions of capitalized terms set forth in the Settlement Agreement.

2015, at \_\_\_\_\_ .m. to determine whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, adequate, and reasonable to the Class and should be approved by the Court, and whether a Final Approval Order and Judgment should be entered herein.

3. Plaintiff Diana Jill Miloro is preliminarily appointed as representative of the Settlement Class (“Class Representative”), and the following attorneys for Plaintiff are preliminarily appointed as counsel for the Settlement Class (“Class Counsel”): David L. Steelman of Steelman, Gaunt & Horsefield, Matthew H. Armstrong of Armstrong Law Firm LLC, and Scott A. Kamber and Stuart L. Cochran of KamberLaw LLC. This Court is familiar with Class Counsel and has found them to be experienced, thoughtful, and effective advocates in class actions who adequately, faithfully, and zealously represent the classes they represent.

4. For purposes of determining whether the terms of the Settlement should be finally approved as fair, adequate, and reasonable, the following Settlement Class is conditionally certified for settlement purposes only:

All Persons who purchased Products in the United States during the Class Period. Excluded from the Settlement Class are: (a) all Persons who purchased or acquired the Product for resale; (b) Van’s and its employees, principals, affiliated entities, legal representatives, successors and assigns; (c) any Person who files a valid, timely Request for Exclusion; (d) federal, state, and local governments (including all agencies and subdivisions thereof, but excluding employees thereof) and (e) the judges to whom this Action is assigned and any members of their immediate families.

5. Should the Settlement not become final, Van’s may still oppose class certification and the fact that the Court ordered class certification as part of the Settlement, or that Van’s was willing to stipulate to class certification as part of the Settlement, shall have no bearing on, and shall not be admissible in connection with, the issue of whether a class should be certified in this Action or in any other proceeding.

6. The Court designates Heffler Claims Administration (“Heffler”) as the Settlement Administrator and instructs Heffler to perform the following functions, as set forth in the Settlement Agreement:

- a. Process requests for exclusion from the Settlement in accordance with Section VIII of the Settlement Agreement;
- b. Process objections to the Settlement in accordance with Section VIII of the Settlement Agreement;
- c. Process Claim Forms in accordance with Section V of the Settlement Agreement;
- d. Before disseminating the Settlement Notice, establish the Settlement Website, which Settlement Class Members can visit to read and obtain additional information regarding the Settlement, including submission of claims; and
- e. Set up and operate a toll-free automated interactive voice response system through which Settlement Class Members can access Settlement information.

7. The Court approves, as to form and content, the Settlement Notice attached as Exhibit 1, the Publication Notice attached as Exhibit 2, and the Media Plan attached as Exhibit 3, and finds that the distribution of the Settlement Notice substantially in accordance with Paragraph VII of the Settlement Agreement meets the requirements of Mo. R. Civ. P. 52.08(b)(3) and due process, and is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

8. As soon as practicable, but no later than thirty (30) days after the entry of this Preliminary Approval Order, the Settlement Administrator shall disseminate the Settlement Notice by setting up the Settlement Website on the Internet and posting both the Settlement Notice and Publication Notice. Within thirty (30) days after the entry of this Preliminary Approval Order, Van’s shall publish, cause to be published, or ensure that the Settlement Administrator has published, the Publication Notice pursuant to the Media Plan. The Publication Notice shall also be

posted on the Settlement Website until the Effective Date, or such later date as may be agreed to by Class Counsel and Defendant's Counsel.

9. The Settlement Administrator shall prepare a declaration attesting to compliance with the Settlement Notice requirements and a statement of the number of Persons the Media Plan reached. Such declaration shall be provided to Defendant's Counsel and Class Counsel and filed with the Court no later than fourteen (14) days prior to the Final Approval Hearing.

10. The Court approves the Claim Form attached as Exhibit 4 to the Settlement Agreement.

11. As set forth in paragraph V(D) of the Settlement Agreement, the Claim Period shall commence upon entry of the Final Approval Order and will continue for 90 consecutive days thereafter (the "Claims Deadline"). To be timely, all Claims must be submitted by the Claims Deadline in accordance with paragraph V(D) of the Settlement Agreement.

12. Any Settlement Class Member who intends to object to the Settlement must do so no later than forty-five (45) calendar days after the Notice Date (the "Objection Deadline"). In order to object, the Settlement Class Member must file with the Court, and provide a copy to Class Counsel and Defendant's Counsel, a document that includes all of the following:

1. The name, address, telephone number, and, if available, the email address of the Person objecting, and if represented by counsel, of his/her counsel;
2. Specifically and in writing, all objections;
3. Whether he/she intends to appear at the Final Approval Hearing, either with or without counsel;
4. A statement of his/her membership in the Settlement Class, including all information required by the Claim Form; and
5. A detailed list of any other objections submitted by the Settlement Class Member, or his/her counsel, to any class actions submitted in any court, whether state or otherwise, in the United States in the previous five (5) years. If the Settlement Class Member or his/her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the Objection to this Settlement.

Any Settlement Class Member who fails to file and serve timely (a) a written objection containing all of the information listed in items (1) through (5) of the previous paragraph and (b) notice of his/her intent to appear at the Final Approval Hearing pursuant to this paragraph shall not be permitted to object to the Settlement and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by any means, including but not limited to an appeal. Any Settlement Class Member who submits a timely written objection shall consent to deposition by Class Counsel prior to the Final Approval Hearing.

13. Any Settlement Class Member may request to be excluded (or “opt out”) from the Settlement Class. A Settlement Class Member who wishes to opt out of the Settlement Class must do so no later than forty-five (45) calendar days after the date of the Notice Date (the “Opt-Out Deadline”). In order to opt out, a Settlement Class Member must complete and mail to the Settlement Administrator a Request for Exclusion that is postmarked no later than the Opt-Out Deadline. Requests for Exclusion that are postmarked after the Opt-Out Deadline will be considered invalid and of no effect, and the Person who untimely submits a Request for Exclusion will remain a Settlement Class Member and will be bound by any Orders entered by the Court, including the Final Approval Order and the Releases contemplated thereby.

14. Except for those Persons who have properly and timely submitted Requests for Exclusion, all Settlement Class Members will be bound by the Settlement Agreement and the Final Approval Order, including the Releases, regardless of whether they file a Claim or receive any monetary relief. Any Person who timely and properly submits a Request for Exclusion shall not (a) be bound by any orders or the Final Approval Order nor by the Releases contained therein; (b) be entitled to any relief under the Settlement Agreement; (c) gain any rights by virtue of the Settlement Agreement; or (d) be entitled to object to any aspect of the Settlement Agreement.

Each Person requesting exclusion from the Settlement Class must personally sign his or her own individual Request for Exclusion. No Person may opt-out of the Settlement Class any other Person, or be opted-out by any other Person, and no Person shall be deemed opted-out of the Settlement Class through any purported “mass” or “class” opt-outs.

15. The Settlement Administrator shall provide Class Counsel and Defendant’s Counsel with a final list of any timely Requests for Exclusion received by the Settlement Administrator within five (5) business days after the Opt-Out Deadline.

16. Not later than fourteen (14) days before the Final Approval Hearing, the Settlement Administrator shall prepare and deliver to Class Counsel, who shall file with the Court, and Defendant’s Counsel, a report stating the total number of Persons who have submitted timely and valid Requests for Exclusion from the Settlement Class and Objections to the Settlement, and the names of such Persons.

17. Class Counsel shall submit papers in support of final approval of the certification of the Settlement Class, the designation of Plaintiff as the representatives of the Settlement Class, the appointment of Class Counsel as counsel for the Settlement Class, and the Settlement; and Class Counsel’s Application for attorneys’ fees and expenses no later than 14 days before the Final Approval Hearing.

18. Neither the Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by the Class Representative or Van’s of any fact or allegation, or of any liability, fault, or wrongdoing of any kind.

19. The Court reserves the right to adjourn or continue the date of the Final Approval Hearing without further notice to the members of the Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modification as may be agreed to by the Parties, if appropriate without further notice to the Class.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE CIRCUIT COURT

# **EXHIBIT 1**



**If you purchased certain Van's Frozen Breakfast Products for personal use in the United States, you may be entitled to a cash refund from a class action settlement.**

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

This Notice advises you of a proposed class action settlement. The settlement resolves a lawsuit over whether Van's International Foods ("Van's") wrongfully advertised and sold products with "all natural" or similar labeling in the United States after January 1, 2009. You should read this entire Notice carefully because your legal rights are affected whether you act or not.

<b>Your Legal Rights and Options as a Settlement Class Member</b>	
<b>Submit a Claim Form by</b> [Month Day, Year]	This is the only way to receive a payment.
<b>Opt Out by</b> [Month Day, Year]	Get no payment. This is the only option that allows you to ever be a part of any future lawsuit against Van's with respect to the legal claims in this case.
<b>Object by</b> [Month Day, Year]	Write to the Court if you don't like the settlement and tell the Court why you think it shouldn't be approved.
<b>Go to the Hearing on</b> [Month Day, Year]	Ask to speak in Court about the fairness of the settlement.
<b>Do Nothing</b>	Benefit from the prospective or injunctive relief but not receive a payment. Give up your legal rights to sue Van's about the claims in this case.

Your rights and options are explained in this notice.

**What is this Notice and why is it important?**

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

This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

A class action is a lawsuit in which one or more individuals sue an individual(s), company or other entity on behalf of all other people who are in a similar position. Collectively, these people are referred to as a "Class" or "Class Members." In a class action, the court resolves certain legal issues, legal claims and defenses for all Class Members in one lawsuit, except for those who ask to be excluded from the Class. (See below for more information about excluding yourself from the Class.)

**What is this Lawsuit about?**

The Lawsuit claimed that the packaging of certain Van's Frozen Breakfast Products was inaccurate in that it led purchasers to believe that the Frozen Breakfast Products were "All Natural", when in fact they included one or more synthetic ingredients. Van's stands by its advertising and denies it did anything wrong.

**Why is there a settlement?**

Questions? Visit [www.vansfoods.com](http://www.vansfoods.com)  
DO NOT CALL VAN'S OR THE COURT

The Court did not decide who was right. Instead, both sides agreed to a settlement. By agreeing to a settlement, the Parties avoid the costs and risk of a trial and the Class will get compensation. The Class Representative and her attorneys believe that the settlement is in the best interests of the Class Members.

### **How do I know if I am in the Settlement Class?**

To receive money from the settlement, you first have to determine if you are a Class Member. Class Members are those persons who are not excluded as provided below and purchased the Van's Frozen Breakfast Products covered by this settlement for consumption in the United States after January 1, 2009 up until Preliminary Approval. The Van's Frozen Breakfast Products covered by this settlement include: 8 Whole Grains Lite Waffles, 8 Whole Grains Multigrain Waffles, 8 Whole Grains Maple Waffles, 8 Whole Grains Berry Waffles, Love Your Heart Waffles, Power Grains Waffles, Organic Blueberry Waffles, Organic Totally Original Waffles, Organic Flax Waffles, Gluten Free Totally Original Waffles, Gluten Free Ancient Grains Waffles, Gluten Free Apple Cinnamon Waffles, Gluten Free Blueberry Waffles, Gluten Free Buckwheat Waffles, Gluten Free Flax Waffles, Minis Chocolate Chip Waffles, Minis Totally Original Waffles, Minis Gluten Free Waffles, Buttermilk Pancakes, Gluten Free Pancakes, Multigrain Pancakes, Belgian Homestyle Waffles, Belgian Multigrain Waffles, Multigrain English Muffins, Honey English Muffins, Wild Blueberry Muffin Crowns, Chocolate Muffin Crowns, Chocolate Waffle Sticks, Vanilla Waffle Sticks, Gluten Free Cinnamon French Toast Sticks and Totally Original French Toast Sticks. If you bought any of these Products during the Class Period and do not exclude yourself, you are a member of the Settlement Class and cannot sue again if the Court approves the Settlement. Those who are automatically excluded from the Class include (a) all persons who purchased or acquired the Products for resale (i.e., retailers, distributors, etc.), (b) Van's and its employees, principals, affiliated entities, legal representatives, successors and assigns, (c) federal, state, and local governments (including all agencies and subdivisions thereof, but excluding employees thereof) and (d) the judges to whom this Lawsuit is assigned and any members of their immediate families.

### **What cash payments does the settlement provide?**

Van's will provide cash benefits up to the Settlement Amount to Settlement Class Members who file Valid Claims by the Claims Deadline and who provide all required Proof of Purchase (where necessary according to the Claim Form) to the Settlement Administrator and comply with all other conditions and requirements of the applicable Claim Form and the Settlement Agreement, with such cash benefits to be determined based on which of the following 3 Tiers the Settlement Class Member elects and for which the Settlement Class Member qualifies:

1. **Tier 1.** Settlement Class Members who fill out the Claim Form and who do not have valid Proof of Purchase may recover up to a maximum of \$4.99 per Household, which approximates the retail cost of 1.5 units of Products; or
2. **Tier 2.** Settlement Class Members who fill out the Claim Form and who do not have valid Proof of Purchase may recover \$3.33 per unit up to a maximum of \$9.99 per Household, which approximates the retail cost of 3 units of Products; or
3. **Tier 3.** Settlement Class Members who fill out the Claim Form and who provide valid Proof of Purchase may recover the amount for which a valid Proof of Purchase has been provided up to a maximum of \$18 per Household.

Each Settlement Class Member may file a claim for only one Tier. In addition, only one Claim Form can be submitted per Household (i.e., physical address). To receive payment, a Claim Form MUST be completed and either be submitted online (www.\_\_\_\_\_) or postmarked by 11:59p ET on \_\_\_\_\_, 2015. You may request a Claim Form online or by calling xxx-xxx-xxxx.

### **The Aggregate Settlement Amount**

Questions? Visit [www.\\_\\_\\_\\_\\_](http://www._____)  
**DO NOT CALL VAN'S OR THE COURT**

Van's guarantees to satisfy all Valid Claims up to an aggregate amount of Nine Million and No/100 Dollars (\$9,000,000.00). The actual amount paid to Settlement Class Members will depend upon the number of Valid Claims and other factors. If the total amount of Valid Claims exceeds the Settlement Amount, then each claim's award shall be proportionately reduced, such that Van's maximum liability under this Agreement for Valid Claims shall not exceed \$9,000,000 in the aggregate.

**When will I get my cash payment?**

Cash payments will be made if the Court gives final approval to the proposed settlement and after the final approval is no longer subject to appeal.

A Final Approval Hearing is scheduled for \_\_\_\_\_, 2015. If the Court approves the settlement and there are no appeals, the cash will be distributed approximately 30 days after the claims period is completed and settlement is no longer subject to appeal or review. If the Court does not approve the settlement, or if the settlement is overturned or modified on appeal, it is possible no cash payments will be made.

**How will Van's revise the Products' marketing and labeling?**

Within sixty (60) calendar days after entry of the Final Approval Order, Van's shall ensure that the Frozen Breakfast Products covered by the settlement are no longer being represented to the public as being "All Natural," "Totally Natural" or "Naturally Delicious" as alleged by Plaintiff. Specifically, Van's must cease using the "All Natural" statement in connection with the sale of the Frozen Breakfast Products covered by the settlement upon execution of the Settlement Agreement. The injunction shall last only (a) so long as the Frozen Breakfast Products covered by the settlement contain sodium acid pyrophosphate ("SAPP") or (b) until Van's determines based on court decisions or changes in regulatory guidance or applicable law after the date of the settlement that the use of the term "all natural", or any term substantially similar thereto, in products containing SAPP is not impermissible. Details are described in the Settlement Agreement, which is available at [www.\\_\\_\\_\\_\\_](http://www._____). All capitalized terms used herein but defined herein shall have the meaning ascribed to such terms in the Settlement Agreement.

**Who represents my interests in the settlement?**

The Court has appointed the Plaintiff who brought the Lawsuit as the class representative. Class Counsel are the lawyers for the Class. The class representative and Class Counsel will act as your representatives for this settlement if you do not exclude yourself from the Class.

The Court has appointed David L. Steelman of Steelman, Gaunt & Horsefield,, Scott A. Kamber and Stuart L. Cochran of KamberLaw LLC,, and Matthew H. Armstrong of Armstrong Law Firm LLC.

**Do I have to pay money to participate in the Class?**

No. You will not be responsible for any cost or attorneys' fees incurred in this Lawsuit. If the Court approves the proposed settlement, Class Counsel will request that the Court award attorneys' fees, costs and expenses in an amount not to exceed \$1,900,000, which includes a \$1,500 Service Fee payable to each Class Representative in this case.

**Can I exclude myself from the settlement?**

You have the right not to be part of the Lawsuit by excluding yourself or "opting out" of the Class. If you wish to exclude yourself, you must send a letter or postcard, postmarked no later than Month 00, 2015 to Van's Class Action Settlement Administrator, [administrator address]. Your letter must request exclusion from the Class and must be signed by you. You must include your full name, address and telephone number.

Questions? Visit [www.\\_\\_\\_\\_\\_](http://www._____)  
**DO NOT CALL VAN'S OR THE COURT**

If you do not include the required information or submit your request for exclusion on time, you will remain a Class Member and be bound by the settlement and Final Approval Order. If you exclude yourself from the Class, you give up your right to receive any money from the settlement, and you will not be bound by the settle or Final Approval Order, and you will not be barred from pursuing any individual claim you may otherwise have relating to the subject matter of the Lawsuit.

**I wish to object to the settlement. What do I do?**

If there is something about the settlement that you do not like, you may file an objection with the Court. You will still be in the settlement, remain a Class Member, and will receive benefits if the settlement is approved and you timely submit your Claim Form. If you want to object, you must submit your objection in writing to the Court. Your objection must include all of the following:

- (1) Your name, address, telephone number, and, if available, email address;
- (2) Your signature;
- (3) A Statement that you are a Class Member that includes all of the information required on the Claim Form;
- (4) The reasons why you object;
- (5) The case name and number of this lawsuit, which is Diana Jill Miloro v. Van's International Foods, Phelps County Circuit Court, Missouri, Case No. 15PH-CV00642;
- (6) If you are represented by a lawyer, the name, address and telephone number of that lawyer;
- (7) Whether you or your lawyer intends to appear at the Final Approval Hearing; and.
- (8) Information on all objections filed by you and your counsel over the prior five (5) years.

By filing an objection, you are consenting to the jurisdiction of the Court, produce documents and provide testimony prior to the Final Fairness Hearing. **You must file your written objection with the Court no later than \_\_\_\_\_, 2015**, at the Clerk of Court, Phelps County Circuit Court, 200 N. Main Street, #102, Rolla, Missouri 65401. You **must** also send a copy of your objection to Class Counsel and Van's Counsel at:

Counsel for Plaintiff:

David L. Steelman  
Steelman, Gaunt & Horsefield  
901 Pine, #110  
P.O. Box 1257  
Rolla, MO 65401-1257  
sgaunt@steelmanandgaunt.com

Counsel for Defendant:

Dale J. Giali  
Mayer Brown  
350 South Grand Avenue  
25th Floor  
Los Angeles, CA 90071-1503  
DGiali@mayerbrown.com

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

The Court has scheduled a Settlement Hearing on \_\_\_\_\_, 2015 in the Phelps County, Missouri Circuit Court, 200 N. Main Street, #102, Rolla, Missouri 65401 in the Hon. Judge John D. Beger's Courtroom. 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 Court may also decide how much to pay the attorneys for the Class. After the hearing the Court will decide whether to grant final approval of the settlement. We do not know how long these decisions will take.

Questions? Visit [www.\\_\\_\\_\\_\\_](http://www._____)  
**DO NOT CALL VAN'S OR THE COURT**

**Where do I get more information?**

Complete copies of the pleadings and other documents filed in this Litigation may be examined and copied during regular office hours at the Clerk of the Court, Phelps County, Missouri Circuit Court, 200 N. Main Street, #102, Rolla, Missouri 65401.

The Settlement Agreement, Claim Form and other information are also available at [www.\\_\\_\\_\\_\\_](http://www._____).

**PLEASE DO NOT CALL OR WRITE VAN'S OR THE COURT  
FOR ADDITIONAL INFORMATION OR ADVICE**

DATED: \_\_\_\_\_, 2015 \_\_\_\_\_

THE HON. JOHN D. BEGER  
CIRCUIT COURT JUDGE

Questions? Visit [www.\\_\\_\\_\\_\\_](http://www._____)  
**DO NOT CALL VAN'S OR THE COURT**

# **EXHIBIT 2**

## If you have purchased certain **Van's Frozen Breakfast Products** you could get a cash refund from a class action settlement

### **What is this about?**

A proposed class action settlement has been reached concerning Van's International Foods ("Vans"). The lawsuit known as *Miloro v. Van's International Foods, Inc.*, Case No. 15PH-CV00642, filed in Phelps County Circuit Court, Missouri, , claims that certain Van's Frozen Breakfast Products sold after January 2009 were falsely advertised, with the labels of such products asserting that the products were "All Natural," when in fact the products included one or more synthetic ingredients. Van's stands by its advertising and denies it did anything wrong. The Court in this matter has not determined who is right or wrong. Nonetheless, the parties have agreed to settle this matter, and you may be a class member.

### **Who is a class member?**

You may be a class member if you purchased the Van's Frozen Breakfast Products covered by the settlement between January 1, 2009 and [Insert Prelim. Approval Date]. There are numerous Van's Frozen Breakfast Products covered by this settlement including various Van's frozen waffles, frozen pancakes, frozen french toast sticks, frozen waffle sticks, frozen english muffins and frozen muffin crowns which were labeled "Van's Natural Foods" and "Totally Natural," "Naturally Delicious," or "All Natural," so please visit [www.\\_\\_\\_\\_\\_](http://www._____) for a complete list of the affected products.

### **What will I receive?**

Van's has established a capped \$9,000,000 settlement fund to pay all valid claims made. To receive a cash refund, **you must file a claim form online or postmarked by Month 00, 2015**. The actual amount paid to settlement class members who do not have any proof of purchase and who submit a valid claim is estimated to be a minimum of \$4.99 per household. Class members who do have proof of purchase and who submit valid claims could recover up to \$18 per household. Since there are millions of potential class members, the actual benefit amount you receive may be reduced depending upon the total number of valid claims filed. For complete information about how to file a claim and what payments the settlement provides visit the website below.

### **What are my rights?**

If you don't want to be bound by the decisions of the Court concerning this settlement, you must request to be excluded in a writing postmarked by **Month 00, 2015**, or you won't be able to sue or continue to sue Van's about the legal claims in this case. If you

exclude yourself, **you can't get money from this settlement.** You may object to this settlement by sending an objection postmarked by **Month 00, 2015.** Detailed instructions for excluding yourself or objecting are found on the website identified below. If you do nothing you will not receive a payment and you will be bound by the decision of the court regarding these claims, including certain releases of Van's.

Before money is paid, the Court will hold a fairness hearing on **Month 00, 2015,** [ court, court room, city, state,] to determine of the fairness, adequacy, and reasonableness of the settlement, to consider whether to approve the settlement, and to consider a request by Class Counsel for payment of attorneys' fees and costs and a class representative incentive award. The motion for attorneys' fees and costs and plaintiff incentive awards will be posted on the website after they are filed. You may appear at the hearing, but you don't have to. If the Court does not approve the settlement, or if the settlement is overturned on appeal, no cash payments will be made.

**This is only a summary. For complete details, including a list of affected products, a claim form, and detailed court documents and other information,** call toll-free 1-(000) 000-0000, visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com), or write to \_\_\_\_\_, c/o Heffler Claims Group, P.O. Box \_\_\_\_\_, Philadelphia, PA 19102-8430.



# **EXHIBIT 3**

## **NOTICE PROGRAM**

1. The Notice Program described and detailed below has been designed to reach the class members through a paid media program, which incorporates traditional and new media outlets, along with the creation of a Settlement website where class members can obtain information about the proposed Settlement, find important Court documents including the Settlement class notice. A toll-free information line will be established where class members can obtain basic information about the Settlement, or seek other assistance.

2. The Notice Program in this case is consistent with (and, indeed, compares favorably to) similar Court-approved notice programs in other actions, and is well designed to give the best notice practicable under the circumstances. Further it is consistent with Federal Judicial Center Guidelines (“FJC”) for adequate notice, and importantly, is reasonably calculated to reach an estimated 71 percent of the target audience, that is, the affected members of the Settlement Class (the “Class Members”).

3. Specifically, the proposed Notice Program includes the following components:
- Publication of a short-form notice (“Summary Notice”) in the national editions of generally circulated consumer magazines.
  - Online banner advertising targeted to reach class members;
  - A Multimedia press release issued over PR Newswires US1 full national wire;
  - Social Media through Facebook and Twitter;
  - An informational website on which the notices and other important Court documents are posted; and
  - A toll-free information line where class members can call; 24/7 for more information about the Settlement, including but not limited to requesting copies of the claim form.

### **Publication – Magazine**

4. The magazines will be selected based on the highest coverage and index<sup>1</sup> against the target audience characteristics to achieve the best notice practicable and meet all due process

---

<sup>1</sup> Index is a media metric that describes a target audience’s inclination to use a given outlet. An index over 100 suggests a target population’s inclination to use a medium to a greater degree than the rest of the population. For

requirements. The summary notice will be published as a half-page, black and white ad based upon the desired reach combined with the other notice provided under the Media Plan.

### Internet


5. Banner ads will target class members in this matter, across a variety of web properties selected for their effectiveness and relevance reaching this target audience.

6. The notice program uses multiple data sources to identify users known to be natural or organic shoppers, or health conscious people. Through contextual<sup>2</sup> and audience<sup>3</sup> data targeting (offline purchase data and behavioral data), online ads will be served to reach people who have purchased natural or organic food. Ads will be served on online networks such as: *Yahoo! Xaxis and Burst Media*.

7. The banner ads will provide information for visitors to self-identify themselves as potential Class Members, where they may “click” on the banner and then link directly to the official website for more information and where they may register online, file a claim, or seek additional information including frequently asked questions and important court deadlines and documents.

### SOCIAL MEDIA

8. **facebook**. - Facebook banner ads will be targeting Facebook users with an interest in All Natural or Organic foods.

9. **twitter**  **Twitter promoted tweets** - Twitter is an online social networking service that enables users to send and read short 140-character messages called “tweets.” Twitter facilitates paid advertising in the form of promoted tweets. These tweets are promoted to our defined target audience.

---

example, an index of 157 would mean that the target is 57 percent more likely than the rest of the population to use a medium.

<sup>2</sup> Contextual targeting means that banner ads will be served to websites with surrounding content that is specific to the audience characteristics of the class such as liking all natural or organic products.

<sup>3</sup> Audience targeting and contextual targeting are now used by major brands such as AT&T, Proctor & Gamble and Toyota, among many others. Audience targeting means that online banners are served based on specific target audience criteria and browsing behaviors.

## **MEDIA OUTREACH**

10. A multimedia press release will be issued over PR Newswire's US1 full-national newswire along with a social post tweet to further boost visibility in social networks. A supplemental micro-list distribution will be disseminated to approximately 1,300 journalists within the general food and nutrition category. The results of the press release pick up will be monitored and reported to the court upon the completion of the notice program.

### **Official Settlement Website**

11. An official website will be established on the internet and optimized for mobile visitors so that information loads on their mobile device quickly. The website will serve as a landing page for the banner advertising, where Class Members may continue to obtain further information about the class action, their rights, and related information, including the Settlement Agreement, Court Orders, and Plaintiff's Motion for Approval of Fees, Expenses, and Incentive Awards. The website address will be prominently displayed in the publication notice and is accessible 24-hours a day, 7-days a week.

### **Toll Free Telephone Helpline**

12. A toll free telephone helpline will established and maintained by Heffler. It will be available 24-hours a day where callers may obtain information about the class action.

# **EXHIBIT 4**

## IMPORTANT LEGAL MATERIALS

### *Diana Jill Miloro v. Van's International Foods, Inc.* CLAIM FORM

#### GENERAL INSTRUCTIONS

This Claim Form relates to *Diana Jill Miloro, et al. v. Van's International Foods, Inc.*, 15PH-CV00642 in the Circuit Court of Phelps County, Missouri.

To be eligible to share in the Settlement Fund for the Settlement Class in the above-named class action, you must have (1) directly purchased Van's frozen waffles, frozen pancakes, frozen french toast sticks, frozen waffle sticks, frozen english muffins or frozen muffin crowns which contained "Van's Natural Foods" and "Totally Natural", "Naturally Delicious", or "All Natural" on the Labeling; (2) made such purchase during the time period of January 1, 2009 through \_\_\_\_\_, 2015; and (3) made such purchase in the U.S.

If you fit this description, you are a member of the Settlement Class and are entitled to submit a claim to share in the Settlement Fund. Excluded from the Settlement Class are (a) all Persons who purchased or acquired the Product for resale (i.e., retailers, distributors, etc.); (b) Van's and its employees, principals, affiliated entities, legal representatives, successors and assigns; (c) any Person who files a valid, timely Request for Exclusion; (d) federal, state, and local governments (including all agencies and subdivisions thereof, but excluding employees thereof) and (e) the judges to whom this Action is assigned and any members of their immediate families.

**Settlement Class Members who seek payment from the Settlement must complete and return this Claim Form.** Completed Claim Forms must be mailed to the Van's International Settlement Administrator at \_\_\_\_\_ or can be submitted via the Settlement website, xxx.xxxxxxxxxxxx.xxx. **Claim Forms must be POSTMARKED OR SUBMITTED ONLINE NO LATER THAN \_\_\_\_\_, 2015 at 11:59 pm, eastern time.**

If you do not have valid Proof of Purchase and elect not to provide additional information about your purchases, you may recover up to a maximum of \$4.99 per Household by completing Sections 1 and 4 below. If you do not have valid Proof of Purchase and elect to provide additional information about your purchases, you may recover \$3.33 per unit purchased for up to a maximum of 3 units (\$9.99) by completing Sections 2 and 4 below. If you have a Proof of Purchase, you may recover for up to \$18 in purchases by completing Sections 2, 3 and 4 below, and providing your Proof of Purchase. Proof of Purchase means a receipt, UPC code, picture of opened Product showing UPC code, or other documentation from a third-party commercial source reasonably establishing the fact and date of purchase of the Product during the Class Period in the United States. You can elect to file a Claim under either Tier 1, 2 or 3. You may not fill out a claim for under more than one Tier, and only one claim may be submitted per Household.

Before you complete and submit this Claim Form by mail or online, you should read and be familiar with the Notice of Proposed Class Action Settlement ("the Notice") available at xxx.xxxxxxxxxxxx.xxx. By submitting this Claim Form, you acknowledge that you have read and understand the Notice, and you agree to the Releases included as a material term of the Settlement Agreement, which is available at www.\_\_\_\_\_. All capitalized terms used herein but defined herein shall have the meaning ascribed to such terms in the Settlement Agreement.

If you fail to submit a timely Claim Form, your claim may be rejected and you may be precluded from any recovery from the Settlement Fund. If you are a member of the Settlement Class and you do not timely and validly seek exclusion from the Settlement Class, you will be bound by any judgment entered by the Court approving the Settlement regardless of whether you submit a Claim Form. To receive the most current information and regular updates, please submit your Claim Form on the settlement website at xxx.xxxxxxxxxxxx.xxx. On the settlement website, you will also be able to submit your web claim.

**Claimant Information**

Claimant Name: \_\_\_\_\_  
First Name MI Last Name

Street Address: \_\_\_\_\_

Street Address2: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Daytime Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

Evening Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Section 1**  
**(Tier 1)**

If you do not have valid Proof of Purchase and do not wish to complete the Tier 2 Claim Form, you may recover up to a maximum of \$4.99 per Household, which approximates the retail cost of 1.5 units of Products. In order to recover these amounts, you must fill out this Section 1 and Section 4 below.

**Purchase Information**

1. Please Identify the store(s) at which you purchased the Products:

Retailer A:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Retailer B:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Retailer C:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Retailer D:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Retailer E:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
All of the above:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
None of the above:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Other:	_____			

2. Please identify the Products purchased during the Class Period: \_\_\_\_\_

**Section 2**  
**(Tier 2)**

If you do not have valid Proof of Purchase, you may recover \$3.33 per unit up to a maximum of \$9.99 per Household, which approximates the retail cost of 3 units of Products, by filling out this Section 2 as well as Section 4 below. Please provide the following information about your purchases for which you seek recovery. If additional space is required, please attach additional pages.

**Purchase Information**

3. Please Identify the store(s) at which you purchased the product:

- |                    |     |                          |    |                          |
|--------------------|-----|--------------------------|----|--------------------------|
| Trader Joes:       | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| HEB:               | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Sprouts:           | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Publix:            | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Whole Foods:       | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| All of the above:  | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| None of the above: | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Other:             |     |                          |    |                          |

4. Please provide information regarding your purchase of the product (provide copies of receipts if seeking more than 3 units):

Approx. Date Purchased (Month & Year)	Approx. # of Units Purchased	Identify Products Purchased	Location of Purchase (City & State)

5. Please Identify the reason(s) you purchased the Product(s):

- |                    |     |                          |    |                          |
|--------------------|-----|--------------------------|----|--------------------------|
| Taste:             | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Price:             | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Quality:           | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Ingredients:       | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| All of the above:  | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| None of the above: | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| Other:             | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |



**Section 3**  
**(Tier 3)**

If you have a valid Proof of Purchase, you may recover the amount for which a valid Proof of Purchase has been provided, up to a maximum of \$18. In order to recover these amounts, please attach your Proofs of Purchase for the Products and complete Section 2 above and Section 4 below.

**Section 4**  
**(Certification)**

**Certification under Penalty of Perjury**

By signing below, you are submitting to the jurisdiction of the Circuit Court of Phelps County, Missouri.

I hereby certify under penalty of perjury that:

1. I have read the Settlement Agreement and agree to its terms, including the Releases;
2. The information provided in this Claim Form is accurate and complete to the best of my knowledge, information and belief;
3. The selection of the appropriate Tier and information for the benefit in the Tier is true and accurate;
4. The additional information provided to the Settlement Administrator to support my claim is an original or a complete and true copy of the original document;
5. I am a member of the Settlement Class and did not request to be excluded from the Settlement Class;
6. I have not previously entered into a settlement for any of the claims set forth in this Claim Form;
7. I am neither (a) Person who purchased or acquired the Product for resale; (b) Defendant and its employees, principals, affiliated entities, legal representatives, successors and assigns; (c) a government entity; or (d) A judge to whom this Action is assigned or any member of the judge's immediate family;
8. I have not submitted any other claim for the same purchases and have not authorized any other person or entity to do so, and know of no other person or entity having done so on my behalf; and
9. No other person in my Household has submitted a Claim under this Settlement.

Signature: \_\_\_\_\_ Dated: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

# **EXHIBIT B**

<b>UPC Code</b>	<b>Description</b>
89947302217	8 Whole Grains Lite Waffles
89947302033	8 Whole Grains Multigrain Waffles
89947302521	8 Whole Grains Maple Waffles
89947302514	8 Whole Grains Berry Waffles
89947302859	Love Your Heart Waffles
89947302828	Power Grains Waffles
89947302170	Organic Blueberry Waffles
89947302187	Organic Totally Original Waffles
89947302279	Organic Flax Waffles
89947302064	Gluten Free Totally Original Waffles
89947302842	Gluten Free Ancient Grains Waffles
89947302149	Gluten Free Apple Cinnamon Waffles
89947302200	Gluten Free Blueberry Waffles
89947302378	Gluten Free Buckwheat Waffles
89947302293	Gluten Free Flax Waffles
89947302262	Minis Chocolate Chip Waffles
89947302194	Minis Totally Original Waffles
89947302323	Minis Gluten Free Waffles
89947606032	Buttermilk Pancakes
89947606049	Gluten Free Pancakes
89947606056	Multigrain Pancakes
89947302019	Belgian Homestyle Waffles
89947302071	Belgian Multigrain Waffles
89947809019	Multigrain English Muffins
89947807026	Honey English Muffins
89947808016	Wild Blueberry Muffin Crowns
89947808023	Chocolate Muffin Crowns
89947707029	Chocolate Waffle Sticks
89947707012	Vanilla Waffle Sticks
89947606025	Gluten Free Cinnamon French Toast Sticks
89947606018	Totally Original French Toast Sticks