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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

REBEKAH BAHARESTAN and JENA  
MCINTYRE, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

VENUS LABORATORIES, INC., dba EARTH  
FRIENDLY PRODUCTS, INC.,

Defendant.

Case No. 3:15-cv-03578-EDL

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT AGREEMENT**

Date: November 3, 2015

Time: 10:00 a.m.

Location: Courtroom E

Judge: Hon. Elizabeth D. Laporte

## TABLE OF CONTENTS

	<u>Page</u>
NOTICE OF MOTION AND MOTION .....	vi
MEMORANDUM OF POINTS AND AUTHORITIES .....	1
INTRODUCTION .....	1
STATEMENT OF FACTS .....	2
I. PROCEDURAL AND FACTUAL BACKGROUND.....	2
II. THE PROPOSED SETTLEMENT .....	5
A. Venus Must Change the Labeling and Marketing of the Earth Friendly Products .....	5
B. Venus Must Remove MIT from the Dishmate Products and Strive to Remove MIT from All the Products.....	6
C. Venus must Contribute a Substantial Sum to a Settlement Fund to Compensate Those Persons Allegedly Harmed by Its Allegedly Deceptive Labeling, Advertising, And Marketing Practices .....	7
D. The Parties Stipulate To Class Certification For Settlement Purposes.....	8
E. Plaintiffs will Submit an Application to the Court For Payment of Plaintiffs' Reasonable Attorneys' Fees and Litigation Costs, and Service Incentive Awards to the Plaintiffs From the Claim Fund .....	8
ARGUMENT .....	9
I. THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE SETTLEMENT .....	9
A. The Applicable Legal Standard .....	9
B. The Settlement is the Product of Serious, Informed, and Arm's-Length Negotiations.....	10
C. The Settlement has No "Obvious Deficiencies," and Treats No Members of the Class Preferentially.....	11
D. The Settlement Is Reasonable and Falls Within The Range Of Possible Approval.....	12
II. PROVISIONAL CERTIFICATION OF THE SETTLEMENT CLASS IS APPROPRIATE.....	13

1	A.	The Criteria For Class Certification Under Rule 23(a) Are Satisfied.....	14
2	1.	Joinder Of All Members Is Impracticable .....	14
3	2.	Common Issues Of Law And Fact Exist.....	14
4	3.	The Named Plaintiffs' Claims are Typical of the Settlement Class Claims .....	15
5	4.	The Named Plaintiffs And Their Counsel Will Adequately Represent The Proposed Class.....	16
6	B.	The Proposed Settlement Class Meets The Requirements Of Rule 23(b)(2) and 23(b)(3).....	17
7			
8	III.	THE PROPOSED CLASS NOTICE SATISFIES THE REQUIREMENTS OF DUE PROCESS.....	19
9			
10	A.	The Proposed Method of Notice is Appropriate .....	19
11	B.	The Contents of the Proposed Notice are Adequate .....	20
12	IV.	SCHEDULING A FINAL APPROVAL HEARING IS APPROPRIATE.....	21
13		CONCLUSION.....	21
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

**TABLE OF AUTHORITIES**

**CASES**

<i>Alberto v. GMRI, Inc.</i> , 252 F.R.D. 652 (E.D. Cal. 2008).	10, 11, 12
<i>Alvarado Partners, L.P. v. Mehta</i> , 723 F. Supp. 540 (D.C. Colo. 1989).	13
<i>Amchem Products, Inc. v. Windsor</i> , 521 U.S. 591 (1997).	18
<i>Beck-Ellman v. Kaz USA, Inc.</i> , No. 3:10-CV-02134-H-DHB, 2013 WL 1748729 (S.D. Cal. January 7, 2013)	20
<i>Bjstrom v. Trust One Mgmt. Corp.</i> , 199 F.R.D. 346 (W.D. Wash. 2001)	15
<i>Blackie v. Barrack</i> , 524 F.2d 891 (9th Cir. 1975)	18
<i>Bruno v. Quten Research Inst., LLC</i> , 280 F.R.D. 524 (C.D. Cal. 2011)	18
<i>Chavez v. Blue Sky Natural Beverage Co.</i> , 268 F.R.D. 365 (N.D. Cal. 2010)	15, 16
<i>Churchill Village, L.L.C. v. General Elec.</i> , 361 F.3d 566 (9th Cir. 2004)	9, 20
<i>Cicero v. DirecTV, Inc.</i> , No. EDCV 07-1182, 2010 WL 2991486 (C.D. Cal. July 27, 2010)	10
<i>Delarosa v. Boiron, Inc.</i> , 275 F.R.D. 582 (C.D. Cal. 2011)	<i>passim</i>
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998)	<i>passim</i>
<i>Immigrant Assistance Project of Los Angeles County Fed'n of Labor v. I.N.S.</i> , 306 F.3d 842 (9th Cir. 2002)	14
<i>In re Mego Fin. Corp. Sec. Litig.</i> , 213 F.3d 454 (9th Cir. 2000)	9, 11
<i>In re Wells Fargo Home Mortg. Overtime Pay Litig.</i> , 527 F. Supp. 2d 1053 (N.D. Cal. 2007)	18
<i>In re Wells Fargo Loan Processor Overtime Pay Litig.</i> , No. C-07-1841, 2011 WL 3352460 (N.D. Cal. Aug. 2, 2011)	21

1	<i>In re Wireless Facilities, Inc. Securities Litig. II</i> ,	
2	253 F.R.D. 607 (S.D. Cal. 2008) .....	13
3	<i>Jordan v. County of Los Angeles</i> ,	
4	669 F.2d 1311 (9th Cir. 1982) .....	14, 16
5	<i>Lozano v. AT &amp; T Wireless Servs., Inc.</i> ,	
6	504 F.3d 718 (9th Cir. 2007) .....	16
7	<i>Miller v. Ghirardelli Chocolate Co.</i> ,	
8	C 12-04936 LB, 2014 WL 4978433 (N.D. Cal. Oct. 2, 2014) .....	14
9	<i>Nigh v. Humphreys Pharmacal, Inc.</i> ,	
10	No. 12-CV-2714-MMA DHB, 2013 WL 399179 (S.D. Cal. January 29, 2013).....	20
11	<i>O'Donovan v. CashCall, Inc.</i> ,	
12	278 F.R.D. 479 (N.D. Cal. 2011).....	16, 17, 18
13	<i>Rodriguez v. West Publ'g Corp.</i> ,	
14	563 F.3d 948 (9th Cir. 2009) .....	20, 21
15	<i>Van Bronkhorst v. Safeco Corp.</i> ,	
16	529 F.2d 943 (9th Cir. 1976) .....	9
17	<i>Villanueva v. Morpho Detection, Inc.</i> ,	
18	No. 13-CV-05390-HSG, 2015 WL 4760464 (N.D. Cal. Aug. 12, 2015) .....	10
19	<i>Wal-Mart Stores, Inc. v. Dukes</i> ,	
20	131 S.Ct. 2541 (2011).....	15, 19
21	<i>Williams v. Costco Wholesale Corp.</i> ,	
22	No. 02-cv-2003 IEG (AJB), 2010 WL 761122 (S.D. Cal. Mar. 4, 2010).....	9, 11
23	<i>Wright v. Lucas Enters.</i> ,	
24	259 F.R.D. 468 (E.D. Cal. 2009) .....	10
25	<i>Zeisel v. Diamond Foods, Inc.</i> ,	
26	2011 WL 2221113 (N.D. Cal. June 7, 2011) .....	15, 16
27	<b>RULES</b>	
28	Fed. R. Civ. P. 23(a) .....	14
	Fed. R. Civ. P. 23(a)(3).....	15
	Fed. R. Civ. P. 23(c)(2)(B) .....	19
	Fed. R. Civ. P. 23(h) .....	13
	Cal. Bus. & Prof. Code § 17200 .....	4
	Cal. Bus. & Prof. Code § 17580 .....	4

1	Cal. Bus. & Prof. Code § 17581 .....	4
2	Cal. Health & Safety Code § 110810.....	5
3	Cal. Civil Code § 1750.....	4
4	Wash. Rev. Code § 19.86.....	4
5	<b>OTHER AUTHORITIES</b>	
6	Federal Judicial Center,	
7	Manual for Complex Litigation (4th ed. 2004).....	13, 19
8	The Rutter Group,	
9	CAL. PRAC. GUIDE: FED. CIV. PRO. BEFORE TRIAL (2012).....	13
10	William B. Rubenstein, et al.,	
11	NEWBERG ON CLASS ACTIONS (4th ed. 2002) .....	9

**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE THAT** on November 3, 2015 at 10:00 a.m., or as soon thereafter as this matter may be heard in the Courtroom of the Honorable Elizabeth D. Laporte, located at the United States District Court for the Northern District of California, San Francisco Courthouse, Courtroom 3, 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, Plaintiffs Rebekah Baharestan and Jena McIntyre (“Plaintiffs”), on behalf of the proposed Class as defined herein, will respectfully apply to this Court for entry of an order: (i) granting preliminary approval of the proposed settlement set forth in the Class Settlement Agreement (attached as Exhibit 1 to the accompanying Declaration of Mark N. Todzo (“Todzo Decl.”)); (ii) conditionally certifying the Class for purposes of such settlement by way of the accompanying [Proposed] Order Granting Preliminary Approval; (iii) approving Plaintiffs’ selection of Class Counsel; (iv) approving the proposed notice plan; and (v) setting a hearing date for final approval of the Settlement.

This motion is based on this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the Declaration of Mark N. Todzo and accompanying exhibits, the other papers on file in this action, and such other submissions or arguments that may be presented before or at the hearing on this Motion.

# MEMORANDUM OF POINTS AND AUTHORITIES

## INTRODUCTION

Plaintiffs Rebekah Baharestan and Jena McIntyre (“Plaintiffs”) on behalf of the proposed Class as defined herein, respectfully apply to this Court for entry of an order (i) granting preliminary approval of the proposed settlement set forth in the Class Settlement Agreement<sup>1</sup> (the “Settlement”) (Todzo Decl. Ex. 1); (ii) conditionally certifying the Class for purposes of such settlement by way of the accompanying [Proposed] Order Granting Preliminary Approval (the “Preliminary Approval Order”); (iii) approving Plaintiffs’ selection of Class Counsel; (iv) approving the proposed notice plan; and (v) setting a hearing date for the final approval of the Settlement (the “Fairness Hearing”).

The Settlement resolves the claims in Plaintiffs’ Class Action Complaint, which concern Venus Laboratories, Inc., d/b/a Earth Friendly Products, Inc.’s, (“Venus”) allegedly false and misleading marketing, advertising, and labeling of its Earth Friendly brand household cleaning products (“Earth Friendly Products” or “Products”) as “natural.” Specifically, Plaintiffs allege that Venus misleadingly and deceptively used the word “natural” on the labeling, marketing, and advertising of the Earth Friendly Products. Plaintiffs allege that despite Venus’ representations, all of the Earth Friendly Products are in fact composed of certain ingredients that are highly processed, synthetic, and not natural. For example, many of the Earth Friendly Products include Methylisothiazolinone (“MIT”) – a chemical that Plaintiffs allege is both synthetic and a severe allergen for between 2 and 10 percent of the population, with more people becoming sensitized every day. The Settlement remedies Plaintiffs’ concerns on behalf of purchasers of the Earth Friendly Products nationwide, who allegedly paid a premium for these Products over comparable products that did not purport to be natural.

The Settlement is fair, reasonable, and adequate; falling well within the range of class

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<sup>1</sup> Herein after, all capitalized terms have the same meaning as used in the Settlement Agreement. (Todzo Decl. Ex. 1.)



1 action settlements that merit preliminary approval. First, the Settlement will prevent future  
 2 alleged violations of state consumer protection and false advertising laws by prohibiting Venus  
 3 from using the word “natural” on the labels of its Earth Friendly Products unless the statement is  
 4 clearly and accurately explained on the Product. To promote further transparency, the Settlement  
 5 requires Venus to list all ingredients on its Earth Friendly Products with explanatory  
 6 parentheticals after each ingredient, and further describe the ingredients on its website. Second,  
 7 the Settlement requires Venus to reformulate certain products to remove MIT as an ingredient.  
 8 Finally, the Settlement will compensate Settlement Class Members who purchased the Earth  
 9 Friendly Products under the belief that the products are natural. Venus will be required to pay at  
 10 least \$850,000, and up to \$925,000, into a settlement fund (“Settlement Fund”) for the benefit of  
 11 Settlement Class Members. The Settlement Fund will primarily be used to compensate  
 12 Settlement Class Members who submit valid claims, but will also be used to fund the notice and  
 13 administration costs and Plaintiffs’ attorneys’ fees and costs. In turn, Venus will receive a release  
 14 of all claims relating to the challenged marketing, advertising, and labeling practices.

15 The Settlement was reached after substantial discovery, and rigorous and informed  
 16 negotiations between Plaintiffs and Venus (collectively, the “Parties”); while overseen by a  
 17 seasoned, neutral mediator. Because the Settlement is fair to all Parties and adequately addresses  
 18 the grievances of Plaintiffs and the Class, it should be preliminarily approved.

## 19 **STATEMENT OF FACTS**

### 20 **I. PROCEDURAL AND FACTUAL BACKGROUND**

21 Defendant Venus manufactures, sells, and distributes the Earth Friendly line of household  
 22 cleaning products, including dozens of laundry detergents, odor removers, dishwashing fluids,  
 23 and other home cleaning products. Todzo Decl. ¶ 3. These Products are sold through third party  
 24 retailers to consumers in all 50 states and the District of Columbia. *Id.* Plaintiffs allege they were  
 25 induced to purchase the Earth Friendly Products by Venus’ false and misleading representations  
 26 that the Products were natural, derived from plants, free from harmful chemicals, and/or gentle.  
 27 However, each Earth Friendly Product contains at least one chemical that is, in fact, highly

1 processed, synthetic, and/or not natural. These chemicals include: MIT, Alcohol Denat,  
2 Caprylyl/Myristyl Glucoside, Cocamidopropyl Betaine, Cocamidopropylamine Oxide, Lauryl  
3 Glucoside, Phenoxyethanol, Potassium Cocoate, Potassium Sorbate, or Sodium Coco-Sulfate. *Id.*

4 In particular, MIT, a biocide used for controlling microbial growth in water-containing  
5 solutions, is neither natural nor made from plants since it is produced by the controlled  
6 chlorination of dimethyldithiodipropionamide (DPAM) in solvent, followed by neutralization  
7 and extraction into water. *Id.* ¶ 4. MIT has been linked to what is called an “epidemic” of painful  
8 skin allergies, including rashes, blistering, swelling, redness, and hives. *Id.* The rapidly  
9 increasing rates of allergic reactions to MIT resulted in the American Contact Dermatitis Society  
10 naming MIT as the contact allergen of the year in 2013. *Id.* Numerous studies from countries all  
11 over the world quantify the epidemic of allergic reactions to MIT as being so serious as to occur  
12 in 2 to 10 percent of individuals exposed to the chemical. *Id.*

13 Plaintiffs further allege that some of the Earth Friendly Products are labeled as “organic,”  
14 yet are predominantly comprised of non-organic ingredients. Plaintiffs contend that such labeling  
15 violates the standards for organic labeling and is false and misleading.

16 Plaintiffs seek to represent a class of persons throughout the United States who, like  
17 themselves, purchased the Products under the erroneous belief that the Products were natural or  
18 organic based on Venus’ representations. The primary goals of Plaintiffs’ case is to: (i) halt  
19 Venus’ allegedly deceptive marketing, advertising, and labeling of the Products as natural or  
20 organic, thereby protecting future consumers; and (2) disgorge any premiums Venus obtained as  
21 a result of its alleged misrepresentations, thereby compensating consumers for past wrongdoings.  
22 The Settlement accomplishes both of these objectives.

23 Before commencing this action, Class Counsel conducted an examination and evaluation  
24 of the relevant laws and facts to assess the merits of the claims and to determine how to best  
25 serve the interests of the members of the Class. *Id.* ¶ 5.

26 On November 3, 2014, Plaintiff Jena McIntyre sent a letter notifying Venus of her intent  
27 to pursue consumer protection claims on behalf of herself and a nationwide class of purchasers  
28

1 of the Earth Friendly Products throughout the United States based on allegations that Venus  
 2 misrepresented the nature of the Products. *Id.* ¶ 6. After receiving this letter, Venus began  
 3 discussing a possible resolution of Plaintiff McIntyre's claims. *Id.*

4 On March 25, 2015, independently of Plaintiff McIntyre, Plaintiff Rebekah Baharestan  
 5 sent a letter to Venus alleging that Venus' marketing, advertising, and labeling of the Products  
 6 false and misleading. *Id.* ¶ 7. This letter informed Venus of Plaintiff Baharestan's intent to  
 7 represent a nationwide class of purchasers of the Earth Friendly Products in a class action  
 8 lawsuit. *Id.*

9 The Parties engaged in lengthy and comprehensive settlement discussions. *Id.* ¶ 8. These  
 10 discussions culminated in an all-day, in person, mediation before the Honorable Morton Denlow  
 11 (Ret.) in Chicago, Illinois on June 1, 2015. *Id.* ¶ 9. Through the settlement discussions, Venus  
 12 provided Plaintiffs with information about the facts at issue. *Id.* ¶ 8. Based upon Plaintiffs'  
 13 investigation and evaluation of the facts and law relating to the matters alleged in this case, the  
 14 Parties agreed to settle this action pursuant to the provisions of the Settlement. *Id.* ¶ 9. Such  
 15 agreement was reached after considering, among other things: (1) the substantial benefits  
 16 available to the Class under the terms of the Settlement; (2) the attendant risks and uncertainty of  
 17 litigation—especially in complex actions such as this—as well as the difficulties and delays  
 18 inherent in such litigation; and (3) the desirability of promptly completing the Settlement to  
 19 provide effective relief to Plaintiffs and the Class. *Id.*

20 On August 4, 2015, Plaintiffs Rebekah Baharestan and Jena McIntyre, on behalf of  
 21 themselves and all other similarly situated persons, filed their Class Action Complaint in the  
 22 Northern District of the United States District Court, *Baharestan v. Venus Laboratories, Inc.*,  
 23 Case No. 3:15-cv-03578-EDL. (ECF No. 1). Plaintiffs' Complaint seeks relief on behalf of a  
 24 proposed nationwide Class of purchasers of the Products pursuant to the express warranty laws  
 25 of all states and the District of Columbia. The Complaint also seeks relief on behalf of two  
 26 proposed Sub-Classes: one of California purchasers, and one of Washington purchasers, pursuant  
 27 to the consumer protection and false advertising laws of those states. *See* Cal. Civil Code § 1750,  
 28

1 *et seq.*; Cal. Bus. & Prof. Code § 17200, *et seq.*; Cal. Bus. & Prof. Code §§ 17580-17581; and  
 2 Wash. Rev. Code § 19.86, *et seq.* Finally, the Complaint seeks relief on behalf of the California  
 3 Sub-Class for Venus’ alleged violations of the California Organic Products Act (“COPA’s”) restrictions on selling, labeling, or representing cosmetic products as organic or made with  
 4 organic ingredients unless the products contain a minimum of 70 percent organically produced  
 5 ingredients. Cal. Health & Safety Code § 110810, *et seq.*<sup>2</sup>

7 Venus has denied and continues to deny each and all of the claims and contentions  
 8 alleged by Plaintiffs in the Complaint. Venus contends that its advertising, marketing, and  
 9 labeling of the Earth Friendly Products is not false, deceptive, or misleading, and Settlement  
 10 Class Members did not suffer any damages as a result of the conduct at issue.

## 11 **II. THE PROPOSED SETTLEMENT**

12 The Settlement remedies Venus’ alleged misconduct and compensates the Class for a  
 13 significant portion of their alleged damages. In exchange for a release of Plaintiffs’ and the  
 14 Class’ claims, Venus has agreed to undertake several important remedial measures, including  
 15 modifying its labels, ingredients, and website. Venus will also provide monetary compensation  
 16 to the Class pursuant to the Settlement’s terms.

### 17 **A. Venus Must Change the Labeling and Marketing of the Earth** 18 **Friendly Products.**

19 In consideration for settlement of Plaintiffs’ and the Class’s claims, Venus has agreed to  
 20 make the following changes to the labels for the Earth Friendly Products, as well as the manner  
 21 in which it describes the Product’s ingredients.

22 First, Venus must refrain from using the term “natural” to refer to the Earth Friendly  
 23 Products, unless the word is accompanied by an accurate description of the particular  
 24 characteristic of the Product it describes (*e.g.* “natural detergent” or “natural cleaning agent”).

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25  
 26 <sup>2</sup> California is the only state that regulates organic labeling of cosmetic products, which includes  
 27 the Products at issue in this case.

Todzo Decl. Ex. 1, ¶ 4.6(b). Venus is also prohibited from placing the phrases “100% Natural” or “All-Natural” on the labels of the Products, unless such claims are certified by a reputable third-party, in the natural products industry. *Id.* ¶ 4.6(a).

Second, the Settlement requires Venus to remove the term “organic” from the Earth Friendly Products’ labels, unless the Product meets the United States Department of Agriculture’s standard for “organic,” the California Organic Product Act’s standard for “organic,” or another states’ equivalent standard for “organic.” *Id.* ¶ 4.6(c).

Third, Venus must continue to list all ingredients on the Products, while including explanatory parentheticals after each ingredient (*e.g.* “derived from coconut oil” or “.0095% preservative”). *Id.* ¶ 4.6(d)-(e).

Fourth, the Earth Friendly Product labels must include the statement “See [www.ECOS.com/ingredients](http://www.ECOS.com/ingredients) for more information on our ingredients,” or a substantially similar statement, on the back panel of the Products. *Id.* ¶ 4.6(f). This website shall include a glossary that generally describes the manufacturing process for each ingredient used in the Products. *Id.* ¶ 4.6(g).

**B. Venus Must Remove MIT from the Dishmate Products and Strive to Remove MIT from All the Products.**

In addition to the changes described above, the Settlement requires Venus to stop using MIT as an ingredient in all the Dishmate Products, which are products come into direct contact with skin. *Id.* ¶ 4.7(a). The Settlement also requires Venus to make good faith efforts to study alternatives to MIT, and provide reports to Class Counsel regarding these efforts. *Id.* ¶ 4.7(b)-(c). If Venus continues to use MIT in any of the Products, Venus must disclosure on its website that “hypoallergenic” does not mean that a Product or ingredient will not cause any allergic reactions in any person and that a small percentage of individuals may have some form of allergic reaction to MIT. *Id.* ¶ 4.7(d).

**C. Venus must Contribute a Substantial Sum to a Settlement Fund to Compensate Those Persons Allegedly Harmed by Its Allegedly Deceptive Labeling, Advertising, And Marketing Practices.**

Venus will contribute no less than \$850,000, and no more than \$925,000, into an independently-administered Settlement Fund, which will mainly be used to compensate Settlement Class Members. *Id.* ¶ 4.1(d). Settlement Class Members who submit valid claims are eligible to recover \$1.50 for each ECOS® Laundry Detergent Product they purchased, or \$1 for each other Earth Friendly Product purchased; up to \$25 per Settlement Class Member. *Id.* ¶ 4.3(c). In addition, up to \$230,000 of the Settlement Fund will be used to administer the Settlement and to disseminate notice to the Class, such that affected persons may avail themselves of this remedial monetary payment. *Id.* ¶ 4.1(a)(iii). Finally, the Settlement Fund will pay for attorneys' fees and costs of up to \$277,500, and to pay modest service awards to the class representatives for their time and efforts on behalf of the Class. *Id.* ¶¶ 8.1, 8.5.

If the total of the Class claims, notice and administrative costs and attorneys' fees and costs exceeds \$850,000, Venus is required to contribute an additional \$75,000 to the Settlement Fund to cover the claims. *Id.* ¶ 4.5(b). Following the additional cash contribution, if the total amount of claims submitted by Settlement Class Members exceeds the available relief, each eligible Claim shall be proportionately reduced on a *pro rata* basis so the aggregate value of the cash payments do not exceed the Settlement Fund balance. *Id.*

In the event that there are excess Settlement Funds, the Settlement allows no possibility of any Settlement Fund to revert back to Venus. If the amounts ultimately paid for claims, notice and administration expenses, class representative incentive awards, and attorneys' fees and costs do not equal or exceed the Settlement Fund, the remainder of the Settlement Fund shall be distributed to eligible Settlement Class Members on a *pro rata* basis, up to 100% of the Settlement Class Member's Initial Claim Amount. *Id.* ¶ 4.5(a). If there are additional Settlement Funds following the *pro rata* adjustment, these Residual Funds shall be distributed to a non-profit organization that serve the interest and needs of the Class. *Id.* ¶ 4.5(c).

1 The Settlement Fund will be administered by Dahl Administration, an independent and  
 2 highly qualified company selected by the Parties (the “Settlement Administrator”). *Id.* ¶ 5.1. The  
 3 Settlement Administrator shall approve claims submitted by affected Settlement Class Members  
 4 in accordance with a specified procedure and subject to verification. *Id.* ¶ 4.2.

5 Notice to the Class will be provided—shortly after the Court’s preliminary approval of  
 6 the Settlement—through the most effective means of reaching the proposed Settlement Class  
 7 Members. *Id.*, Ex.1-C. Specifically, notice will be provided through publication and via the  
 8 internet, including website banners, social media campaigns, and a Settlement website. *Id.*

9 **D. The Parties Stipulate To Class Certification For Settlement Purposes.**

10 Plaintiffs seek class certification pursuant to Federal Rule of Civil Procedure 23(a),  
 11 (b)(2), and (b)(3), and Venus has agreed to stipulate to class certification solely for purposes of  
 12 achieving settlement. *Id.* ¶ 3.1. The putative Settlement Class will comprise all individuals in the  
 13 United States who purchased at least one of the Earth Friendly Products from January 23, 2011  
 14 through the date the Settlement is preliminarily approved by the Court. *Id.*, Ex. 1-B.

15 Settlement Class Members will have until thirty days prior to the Fairness Hearing to file  
 16 any objections to the Settlement. *Id.*, Ex. 1 ¶ 6.2(b). The Parties have the right to obtain  
 17 reasonable discovery from any objecting Settlement Class Member and to respond to any  
 18 objection no later than seven days prior to the Fairness Hearing. *Id.* ¶ 6.2(e).

19 **E. Plaintiffs will Submit an Application to the Court For Payment of**  
 20 **Plaintiffs’ Reasonable Attorneys’ Fees and Litigation Costs, and**  
**Service Incentive Awards to the Plaintiffs From the Claim Fund.**

21 Pursuant to the Settlement Agreement and following the Court’s preliminary approval of  
 22 the Settlement, Class Counsel will submit an application to the Court for an award of attorneys’  
 23 fees and expenses not to exceed \$277,500. *Id.* ¶ 8.2. Additionally, Plaintiffs will also seek  
 24 modest incentive awards to compensate the named Plaintiffs for their service as Class  
 25 representatives. *Id.* ¶ 8.5. The amount of these awards is not to exceed \$2,000 each for Plaintiff.  
 26 *Id.*



## ARGUMENT

### **I. THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THE SETTLEMENT.**

The Settlement is fair, adequate, and reasonable, as it requires changes in Venus' labeling and marketing practices, and secures just compensation the Settlement Class Members. The Settlement accomplishes this while avoiding both the uncertainty and the delay that would be associated with further litigation. It represents a fair compromise of the Parties' respective positions in the litigation, and enables each Party to end to the litigation, thus avoiding its costs and risks. Finally, the Settlement was reached through arm's-length negotiations as part of a supervised mediation process. Class Counsel, whom have significant experience in litigating class actions, support the Settlement as fair and providing reasonable relief to the Settlement Class Members.

#### **A. The Applicable Legal Standard.**

A proposed settlement may be approved by the trial court if it is determined to be "fundamentally fair, adequate, and reasonable." *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000) (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)). There is "an overriding public interest in settling and quieting litigation . . . particularly . . . in class action suits which are now an ever increasing burden to so many federal courts and which frequently present serious problems of management and expense." *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976); *see also Churchill Village, L.L.C. v. General Elec.*, 361 F.3d 566, 576 (9th Cir. 2004).

The full fairness and adequacy of a class settlement can only be assessed at the fairness hearing, therefore at the preliminary approval stage the Court "need only review the parties' proposed settlement to determine whether it is within the permissible 'range of possible judicial approval' and thus, whether the notice to the class and the scheduling of the formal fairness hearing is appropriate." *Williams v. Costco Wholesale Corp.*, No. 02-cv-2003, 2010 WL 761122, at \*5 (S.D. Cal. Mar. 4, 2010) (citing William B. Rubenstein, et al., NEWBERG ON CLASS



ACTIONS § 11:25 (4th ed. 2002)); *see also Wright v. Lucas Enters.*, 259 F.R.D. 468, 472 (E.D. Cal. 2009); *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. 2008).

Specifically, preliminary approval is appropriate if “(1) the proposed settlement appears to be the product of serious, informed, noncollusive negotiations, (2) has no obvious deficiencies, (3) does not improperly grant preferential treatment to class representatives or segments of the class, and (4) falls within the range of possible approval.” *Villanueva v. Morpho Detection, Inc.*, No. 13-CV-05390-HSG, 2015 WL 4760464, at \*5 (N.D. Cal. Aug. 12, 2015). The Court’s role is to consider “the settlement as a whole, rather than its components, and lacks the authority to ‘delete, modify or substitute certain provision[s].’” *Id.* For the reasons set forth below, the Settlement meets all of these criteria.

**B. The Settlement is the Product of Serious, Informed, and Arm’s-Length Negotiations.**

Arm’s-length negotiations conducted by competent counsel, after meaningful discovery, constitute prima facie evidence of a settlement’s fairness. *See Cicero v. DirecTV, Inc.*, No. EDCV 07-1182, 2010 WL 2991486, at \*3 (C.D. Cal. July 27, 2010) (“where a class settlement has been reached after meaningful discovery, after arm’s length negotiation, conducted by capable counsel, it is presumptively fair.”) (internal quotations omitted).

Here, the Parties’ negotiations were conducted at arm’s length over several months; including a mediation with the Honorable Morton Denlow, a well-respected mediator in Illinois. *See id.* *See* Todzo Decl. ¶¶ 8-9. Counsel for Plaintiffs have considerable experience in class action litigation in general, and with the legal and factual issues of this case in particular. *See id.* ¶¶ 14-16. Through the Parties’ lengthy and comprehensive settlement discussions, and through substantial informal discovery, Venus provided Plaintiffs with vital information pertaining to the legitimacy and scope of Plaintiffs’ claims—including information regarding the Products’ labeling and ingredients. *See id.* ¶ 8. This exchange of information ensured sophisticated and meaningful settlement negotiations, conducted with the assistance of a well-respected neutral

mediator. *Id.* In short, the Parties were fully informed of all relevant facts at the time they reached the Settlement.

**C. The Settlement has No “Obvious Deficiencies,” and Treats No Members of the Class Preferentially.**

The Settlement is fair and treats all Settlement Class Members equally.<sup>3</sup> All potential future purchasers of the Products, including Settlement Class Members, will receive the benefit of the injunctive relief provided by the Settlement. In addition, all Settlement Class Members who purchased the Products during the Class Period will receive the benefit of the monetary relief provided by the Settlement Fund. The Settlement’s notice provisions, which are detailed and comprehensive, and which will be administered by a qualified third party, will help to ensure that such purchasers will actually recoup their monetary losses. *See Alberto*, 252 F.R.D. 652, 666-667 (satisfactory notice provisions weigh in favor of preliminary approval). Moreover, the substantial injunctive and monetary relief secured by the Settlement is fundamentally fair in light of the significant hurdles faced by Plaintiffs and the Settlement Class Members if they were to go forward with litigation. Although Plaintiffs believe that they could establish liability if the case went to trial, this is hardly an easy win. Also, Venus strongly disputes that the Class would be able to prove liability, be certified, or be entitled to injunctive relief or monetary damages.

By settling now, Settlement Class Members secure meaningful monetary compensation, plus the certainty of knowing Venus’ alleged deceptive labeling and marketing practices will cease on a nationwide basis after the Settlement is approved. These benefits will equally accrue to all Settlement Class Members. Given the vagaries of pressing forward with litigation, the Settlement has no “obvious deficiencies” and treats all Settlement Class Members fairly. *See*

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<sup>3</sup> The monetary amounts provided to the two Class Representatives are far less than incentive awards approved by other courts. *See, e.g., In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir.2000) (approving \$5,000 incentive awards to each of the two class representatives); *and Williams*, 2010 WL 761122, at \*\*2, 6 (\$5,000 incentive award to single named plaintiff “does not appear facially unreasonable”); *see also* Todzo Decl. ¶ 13 (detailing the services provided).

Todzo Decl. ¶ 11.

**D. The Settlement Is Reasonable and Falls Within The Range Of Possible Approval.**

The Settlement easily falls within the bounds of reasonableness. Plaintiffs secured a commitment from Venus to implement meaningful injunctive relief that fully cures the alleged misrepresentations at the heart of this case, including a commitment to fully qualify the use of the term “natural” on its Products. Additionally, the \$850,000 Settlement Fund represents a substantial portion of the damages Plaintiffs believe they could establish at trial. *Id.* ¶12. Plaintiffs contend that they could use a damages model to recover reasonable Class-wide damages at trial that would exceed the amount of the Settlement Fund. *Id.* However, Venus disputes that it charged any premium for its allegedly “natural” or “organic” Earth Friendly Products, and claims that its Products are actually sold at a discount price compared to other national brands. *Id.*

The reasonableness of the Settlement is further emphasized by the fact that it was reached only after participation in a formal mediation before a qualified, neutral mediator. *See Alberto*, 252 F.R.D. at 666 (brokering of settlement by qualified mediator weighs in favor of preliminary approval of settlement by court). Here, the Parties employed the Honorable Morton Denlow as a mediator, who is a former Magistrate Judge for the United States District Court, Northern District of Illinois, with decades of experience in the resolution of complex commercial litigation, including class actions and product liability cases. *See Todzo Decl.* ¶ 9 & Ex. 2.

Moreover, the fee award sought by Plaintiffs, which will be subject to further review by this Court at the Fairness Hearing, is well within the range of possible approval. *See Todzo Decl.* ¶ 14. Indeed, the fee award sought by Plaintiffs in the Settlement is less than the lodestar incurred by Class Counsel.<sup>4</sup> *Id.* Additionally, because the Settlement includes meaningful and

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<sup>4</sup> The fee award only slightly above the Ninth Circuit’s benchmark for attorneys’ fees, which is 25 percent of a common fund. *See Hanlon*, 150 F.3d at 1029.

expansive injunctive relief, the fee award is especially appropriate. *See generally* Comm. Notes, 2003 Amends. Fed. R. Civ. P. 23(h) (“[I]t is important to recognize that in some class actions the monetary relief obtained is not the sole determinant of an appropriate attorney fees award.”) For all of these reasons, preliminary approval of the Settlement should be granted.

## **II. PROVISIONAL CERTIFICATION OF THE SETTLEMENT CLASS IS APPROPRIATE.**

For settlement purposes only, Plaintiffs request that the Court provisionally certify the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure. Provisional class certification is appropriate, in part, because Venus consents to class certification for purposes of this Settlement. *See* Todzo Decl. Ex. 1 ¶ 3.1; *see also generally* The Rutter Group, CALIFORNIA PRACTICE GUIDE: FEDERAL CIVIL PROCEDURE BEFORE TRIAL (2012), Ch. 10-C § 10:787 (noting that courts generally permit parties to stipulate that a defined class be conditionally certified for settlement purposes because it facilitates settlement).

Since the Parties reached an agreement regarding class certification in the context of the Settlement, the Court may enter an order provisionally certifying the Class for settlement purposes. *See In re Wireless Facilities, Inc. Securities Litig. II*, 253 F.R.D. 607, 610 (S.D. Cal. 2008); *see also Alvarado Partners, L.P. v. Mehta*, 723 F. Supp. 540, 546 (D.C. Colo. 1989) (holding that conditional class certification for settlement purposes may be ordered in appropriate cases to foster such benefits as early settlement and reduced attorneys’ fees and costs). This will allow notice of the proposed Settlement to be issued to inform Settlement Class Members of: the existence and terms of the proposed Settlement; their right to be heard on its fairness; their right to opt out; and the date, time, and place of the Fairness Hearing. *See* Federal Judicial Center, *Manual for Complex Litigation* (4th ed. 2004) §§ 21.632, 21.633.

Plaintiffs seek certification of a settlement Class defined as follows: all persons who, during the Class Period, both resided in the United States and purchased in the United States any of the Earth Friendly Products for their household use or personal consumption and not for resale.

**A. The Criteria For Class Certification Under Rule 23(a) Are Satisfied.**

To justify class certification under Rule 23(a), Plaintiffs must show: (1) the class is so numerous that joinder is impracticable; (2) questions of law or fact are common to the class; (3) the claims of the representative plaintiffs are typical of the claims of the class; and (4) the class representatives will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a). Each of these criteria is met here.

**1. Joinder Of All Members Is Impracticable.**

A class must be “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). Often, a large number of class members by itself establishes the impracticability of joining them as plaintiffs. *See Jordan v. County of Los Angeles*, 669 F.2d 1311, 1319 (9th Cir. 1982), *vacated on other grounds*, 459 U.S. 810 (1982); *Miller v. Ghirardelli Chocolate Co.*, No. C 12-04936 LB, 2014 U.S. Dist. LEXIS 14111, at \*6-7 (N.D. Cal. Oct. 2, 2014) (where sales were in the millions, numerosity was satisfied to provisionally certify the class). Impracticability does not mean impossibility. *See, e.g., Immigrant Assistance Project of Los Angeles County Fed’n of Labor v. I.N.S.*, 306 F.3d 842, 869 (9th Cir. 2002) (noting that classes numbering 39, 64, and 71 met the numerosity criterion); *Delarosa v. Boiron, Inc.*, 275 F.R.D. 582, 587 (C.D. Cal. 2011) (“as a general rule, classes of forty or more are considered sufficiently numerous.”) (citation omitted).

Extrapolating from sales information provided by Venus in settlement discussions, the number of persons who purchased the Products is in the thousands. *See Todzo Decl.* ¶ 11. As such, joinder of all of these individuals is impractical, if not entirely impossible, and thus the numerosity requirement is satisfied.

**2. Common Issues Of Law And Fact Exist.**

The Ninth Circuit construes Rule 23(a)(2)’s commonality requirement permissively. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998). The commonality requirement is less rigorous than the “companion requirements” of Rule 23(b)(3). *Id.* “All questions of fact and law need not be common to satisfy the [commonality] rule. The existence of shared legal issues

with divergent factual predicates is sufficient . . . .” *Id.* Indeed, “even a single common question will do,” so long as that question has the capacity to generate a common answer “apt to drive the resolution of the litigation.” *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551 (2011) (citations and internal quotations omitted).

Plaintiffs’ claims involve common questions applicable to every Settlement Class Member. Plaintiffs challenge the labeling, advertising, and marketing of the Earth Friendly Products, which uniformly claimed to be “natural” or “organic” yet contained at least one ingredient that was highly processed, synthetic, non-natural, and/or not organic. Todzo Decl. ¶ 3. Determining whether these material representations were violations of several state consumer protection laws is common to Plaintiffs and Settlement Class Members. Thus, the commonality requirement is satisfied. *See, e.g., Zeisel v. Diamond Foods, Inc.*, 2011 WL 2221113, at \*7 (N.D. Cal. June 7, 2011) (commonality requirement was met where “class was exposed to the same misleading and misbranded labels”); *Chavez v. Blue Sky Natural Beverage Co.*, 268 F.R.D. 365, 377 (N.D. Cal. 2010) (commonality requirement was met where common issue was “whether the [product] packaging and marketing materials are unlawful, unfair, deceptive or misleading to a reasonable consumer”); *Delarosa*, 275 F.R.D. at 589 (commonality requirement was met where “Plaintiff alleges a single misrepresentation [on a product’s packaging] that was made identically to all potential class members”); *Bjstrom v. Trust One Mgmt. Corp.*, 199 F.R.D. 346, 348 (W.D. Wash. 2001) (commonality requirement was met where the claims arose from “a standard course of conduct which adversely affects a group of individuals and gives rise to a claim for relief”).

### 3. The Named Plaintiffs’ Claims are Typical of the Settlement Class Claims.

Rule 23(a)(3) requires “the claims and defenses of the representative parties [to be] typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). Representative claims are typical if they are “reasonably coextensive with those of the absent class members; they need not be substantially identical.” *Hanlon*, 150 F.3d at 1020. Where the class representatives’ interests align with the interests of the class, then the pursuit of the class representatives’ individual

interests necessarily advances those interests of the class. “[A] named plaintiff’s claim is typical if it stems from the same event, practice or course of conduct . . . and is based upon the same legal or remedial theory.” *Jordan*, 669 F.2d at 1321; *see also Hanlon*, 150 F.3d at 1019-20 (“[t]he existence of shared legal issues with divergent factual predicates is sufficient, as is a common core of salient facts coupled with disparate legal remedies within the class”); *Lozano v. AT & T Wireless Servs., Inc.*, 504 F.3d 718, 734 (9th Cir. 2007) (“Under Rule 23(a)(3), it is not necessary that all class members suffer the same injury as the class representative.”).

The requirements for typicality are met in this case as Plaintiffs and the Settlement Class Members assert claims which arise from the same course of conduct—Venus’ alleged deceptive and misleading labeling, marketing, and advertising of the Products as “natural” or “organic.” Additionally, typical of all members of the proposed Settlement Class, Plaintiffs purchased one of more of the Earth Friendly Products. Further, for each putative class member to recover under the consumer protection and breach of warranty claims, each must prove the same elements as Plaintiffs. *See Chavez*, 268 F.R.D. at 378 (typicality met where defendant made “substantially the same misrepresentation” on several different beverage products, even where allegedly false statements were “worded in several variations.”). Thus, there is a “sufficient nexus” between Plaintiffs’ claims and those of the Settlement Class Members to satisfy the typicality requirement. *See O’Donovan v. CashCall, Inc.*, 278 F.R.D. 479, 491-92 (N.D. Cal. 2011); *Zeisel*, 2011 WL 2221113, at \*8 (typicality met where plaintiff’s claims relating to allegedly false health-related statements on product labels were “reasonably co-extensive with those of absent class members,” notwithstanding particularities of class representative’s “specific medical condition”).

#### **4. The Named Plaintiffs And Their Counsel Will Adequately Represent The Proposed Class.**

The adequacy requirement is satisfied if (1) the proposed representative plaintiffs do not have conflicts with the proposed class, and (2) the plaintiffs are represented by qualified and competent counsel who will vigorously prosecute the action on behalf of the class. *See Hanlon*,



1 150 F.3d at 1020.

2       There is no conflict between Plaintiffs and the members of the Class. All proposed  
3 Settlement Class Members purchased the Products, as did Plaintiffs. Since Plaintiffs and  
4 Settlement Class Members were allegedly injured in the same manner and seek relief for the  
5 same claims, their interests are coextensive. *See O'Donovan*, 278 F.R.D. at 492 (class  
6 representative fairly and adequately represents class where “their claims are reflective of those of  
7 the putative class members’ and the relief they seek is identical to that sought for the Classes.”).

8       Plaintiffs’ counsel are qualified and experienced in litigating, certifying, settling, and  
9 administering nationwide class actions like the one at bar. *See* Todzo Decl. ¶ 15, Ex. 3, and ¶ 16,  
10 Ex. 4. Class Counsel are committed to the vigorous prosecution of this action. To date, Class  
11 Counsel have demonstrated an understanding of the issues in this case and competence to  
12 conduct this litigation. In addition to Class Counsel’s experience, the Lexington Law Group and  
13 Halunen Law possess the resources to efficiently prosecute this class action lawsuit to its final  
14 conclusion. *See id.* For all of these reasons, Plaintiffs and their counsel readily satisfy the  
15 requirements of Rule 23(a)(4).

16                   **B.       The Proposed Settlement Class Meets The Requirements Of Rule**  
17                   **23(b)(2) and 23(b)(3).**

18       Class certification is appropriate under Rule 23(b)(2). Venus acted on grounds which  
19 apply generally to the Settlement Class, such that final injunctive relief is appropriate respecting  
20 the Class as a whole. Plaintiffs allege Venus utilized product packaging, marketing, and  
21 advertising campaigns to allegedly mislead Plaintiffs and Settlement Class Members to believe  
22 the Products were “natural” or “organic.” Plaintiffs seek to enjoin Venus’ alleged  
23 misrepresentations; injunctive relief which will benefit Plaintiffs, the Settlement Class Members,  
24 and future purchasers of the Products. *See Delarosa*, 275 F.R.D. at 592 (certification under Rule  
25 23(b)(2) is appropriate where “an injunction prohibiting Defendant from selling [product] with  
26 the misleading information would ‘provide relief to each member of the class.’”).

27       In addition, class certification is appropriate under Rule 23(b)(3) because common  
28



questions of law and fact predominate over any questions that may affect only individual Settlement Class Members. Predominance is often readily met in cases alleging consumer fraud. *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 625 (1997); *Bruno v. Quten Research Inst., LLC*, 280 F.R.D. 524, 537 (C.D. Cal. 2011). The common issues need not be identical, so long as there is an essential common factual link between all class members and the defendant for which the law provides a remedy. *In re Wells Fargo Home Mortg. Overtime Pay Litig.*, 527 F. Supp. 2d 1053, 1065 (N.D. Cal. 2007). Questions common to the class predominate over individual questions where a plaintiff alleges a common course of conduct of misrepresentations that affected all the class members in the same or similar manner. *See Blackie v. Barrack*, 524 F.2d 891, 905-908 (9th Cir. 1975).

For example, the overarching legal and factual questions in this case—which do not vary among Settlement Class Members and which may be determined without reference to the individual circumstances of any Settlement Class Member—include, but are not limited to:

- whether Venus labels, advertises, markets and sells the Products by representing the Products are natural;
- whether Plaintiffs and the other members of the Class are likely to be misled by Venus' use of the natural claims on the Products' labels;
- whether the Products are composed of natural ingredients;
- whether Venus' conduct of selling the Products as natural when such Products are not composed entirely of natural ingredients is likely to deceive the members of the Class;
- whether Venus' conduct in advertising and marketing the Products constitutes an unfair or deceptive act or practice in the conduct of trade or commerce;
- whether Plaintiffs and the other members of the Class are entitled to injunctive and other equitable relief based on Venus' violations of state and District of Columbia consumer protection laws;
- whether Venus' representations concerning the Products constitute express warranties with regard to the Products pursuant to the laws of almost every state and the District of Columbia;
- whether Venus breached the express warranties it has made with regard to the Products;
- whether Plaintiffs and the other members of the Class are entitled to damages

1 resulting from Venus' breach of the express warranties made regarding the  
2 Products in almost every state and the District of Columbia;

3 As this list demonstrates, each of Plaintiffs' contentions can be proven with "generalized  
4 evidence . . . on a class-wide basis." *O'Donovan*, 278 F.R.D. at 493. In other words, a  
5 determination that Venus misrepresented the Products as natural to Plaintiffs will necessarily  
6 determine whether Venus misrepresented the Products as natural to all Settlement Class  
7 Members. *See Delarosa*, 275 F.R.D. at 594. Indeed, each of these "common question[s]" has the  
8 capacity to generate a common answer "apt to drive the resolution of the litigation." *Dukes*, 131  
9 S.Ct. 2541, 2551 (2011) (citations and internal quotations omitted). Since "[a] common nucleus  
10 of facts and potential legal remedies dominates this litigation," Rule 23(b)(3) is satisfied here.  
11 *Hanlon*, 150 F.3d at 1022.

### 12 **III. THE PROPOSED CLASS NOTICE SATISFIES THE REQUIREMENTS 13 OF DUE PROCESS.**

14 "Rule 23(e)(1)(B) requires the court to 'direct notice in a reasonable manner to all class  
15 members who would be bound by a proposed settlement, voluntary dismissal, or compromise'  
16 regardless of whether the class was certified under Rule 23(b)(1), (b)(2), or (b)(3)." *Manual for  
17 Complex Litig.* § 21.312. The Settlement Agreement provides for notice that easily satisfies Rule  
18 23 and due process considerations.

#### 19 **A. The Proposed Method of Notice is Appropriate.**

20 Rule 23 requires that notice of a settlement be "the best notice practicable under the  
21 circumstances, including individual notice to all members who can be identified through  
22 reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). In this case, the Settlement Administrator will  
23 provide notice to the Class shortly after entry of the Preliminary Approval Order using at least  
24 six methods:

- 25 • mailing a long-form notice and a claim form or emailing a summary notice to  
26 potential Settlement Class Members;
- 27 • using a web-based notice campaign with banner-style notices on targeted websites  
28 with a link to a Settlement Website;
- employing social media to target Settlement Class Members, including placing

banner advertisements on Facebook pages that are likely to appeal to Settlement Class Members;

- creating a national press release for the Settlement via PR Newswire that will be distributed to 5,815 newspapers, television stations, radio stations, and magazines, as well as websites and online databases;
- establishing a toll-free Settlement helpline to assist potential Settlement Class Members and any other persons seeking information about the Settlement prior to launching the print and web-based media campaigns; and
- creating a Settlement website that will provide potential Settlement Class Members with general information about the Settlement, answers to frequently asked questions, a means to download or submit an electronic Claim Form, important dates and deadlines, a summary of Settlement benefits, a means for reviewing and printing copies of certain Settlement documents, and a link to contact the Settlement Administrator.

Todzo Decl. Ex. 1-C.

Courts routinely find that similarly comprehensive notice programs meet the requirements of due process and Rule 23. *See, e.g., Beck-Ellman v. Kaz USA, Inc.*, No. 3:10-CV-02134-H-DHB, 2013 WL 1748729, at \*3-4 (S.D. Cal. January 7, 2013) (approving notice plan involving publication in magazines targeting product users and internet advertisements directing class members to settlement website); *Nigh v. Humphreys Pharmacal, Inc.*, No. 12-CV-2714-MMA DHB, 2013 WL 399179 (S.D. Cal. January 29, 2013) (approving notice plan involving publication in magazines targeting product users and newspapers directing class members to settlement website). Therefore, the method proposed for providing notice to Settlement Class Members is reasonable and practicable under the circumstances, and should be approved.

#### **B. The Contents of the Proposed Notice are Adequate.**

The content of the notice to class members “is satisfactory if it ‘generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.’” *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 962 (9th Cir. 2009) (quoting *Churchill Vill., LLC v. General Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)). Here, the proposed notice forms provide this “sufficient detail.” *See* Todzo Decl. Exs. 1-B, 1-D.

Together, the proposed notices define the Settlement Class, explain all Settlement Class Member rights, releases, and applicable deadlines, and describe in detail the injunctive and

monetary terms of the settlement, including the procedures for allocating and distributing Settlement Funds. They plainly indicate the time and place of the hearing to consider approval of the Settlement, and the method for objecting to or opting out of the Settlement. The notices detail the provisions for payment of attorneys' fees and incentive awards to the class representatives, as well as provide contact information for Class Counsel.

This content comports with settlement notices upheld in other cases. *See, e.g., In re Wells Fargo Loan Processor Overtime Pay Litig.*, No. C-07-1841, 2011 WL 3352460, at \*4 (N.D. Cal. Aug. 2, 2011) (notice adequate where "[i]t disclosed all material elements of the settlement, including class members' release of claims, their ability to opt out or object to the settlement, the amount of incentive awards and attorneys' fees sought, and estimates of the award members could expect to receive."); *see also Rodriguez*, 563 F.3d at 962-963 (because "[s]ettlement notices are supposed to present information about a proposed settlement neutrally, simply, and understandably," they need not "detail the content of objections, or analyze the expected value" of fully litigating the case). As such, the Proposed Notice Plan is adequate.

#### **IV. SCHEDULING A FAIRNESS HEARING IS APPROPRIATE.**

The last step in the settlement approval process is a final fairness hearing at which the Court may hear all evidence and argument necessary to evaluate the Settlement. Proponents of the Settlement may explain the terms and conditions of the Settlement and offer argument in support of final approval. In addition, Settlement Class Members, or their counsel, may be heard in support of or in opposition to the Settlement. The Court will determine, after the Fairness Hearing, whether the Settlement should be approved, and whether to enter a final order and judgment under Rule 23(e). Plaintiffs request that the Court set a date for the final fairness hearing approximately one hundred (100) days after entry of the Preliminary Approval Order.

#### **CONCLUSION**

For all of the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement, provisionally certify the Settlement Class, appoint Lexington Law Group and Halunen Law as "Class Counsel," approve the proposed notice plan,

1 and schedule a formal fairness hearing on final settlement approval approximately one hundred  
2 and forty (140) days after entry of the Preliminary Approval Order.

3  
4 DATED: September 29, 2015

Respectfully submitted,

5 LEXINGTON LAW GROUP

6  
7 By: /s/ Mark N. Todzo  
8 Attorneys for Plaintiff REBEKAH  
9 BAHARESTAN on behalf of herself and all  
others similarly situated.

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16 behalf of herself and all others similarly situated.

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12  
13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**  
15 **SAN FRANCISCO DIVISION**

16 REBEKAH BAHARESTAN and JENA  
17 MCINTYRE, on behalf of themselves and all  
others similarly situated,

18 Plaintiffs,

19 v.

20 VENUS LABORATORIES, INC., dba EARTH  
21 FRIENDLY PRODUCTS, INC.,

22 Defendant.  
23  
24  
25  
26  
27  
28

Case No. 3:15-cv-03578-EDL

**DECLARATION OF MARK N.  
TODZO IN SUPPORT OF MOTION  
FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT  
AGREEMENT**

Date: November 3, 2015

Time: 10:00 a.m.

Location: Courtroom E

Judge: Hon. Elizabeth D. Laporte

1 I, Mark N. Todzo, declare:

2 1. I am an attorney with the Lexington Law Group (“LLG”), and I represent Plaintiff  
3 Rebekah Baharestan in the above-captioned action. I have been working together with Melissa  
4 Wolchansky with Halunen Law, which represents plaintiff Jena McIntyre in this action. I have  
5 personal knowledge of the matters set forth below and, if called upon, I could and would  
6 competently testify thereto.

7 2. I am one of the attorneys who has been principally involved in the prosecution of  
8 this litigation and the negotiations that culminated in the Stipulation of Settlement (the “Settlement  
9 Agreement” or “Settlement”) which is before the Court for preliminary approval. A true and  
10 correct copy of the Settlement Agreement, signed by the Parties to this case, is attached as Exhibit  
11 1. The Settlement Agreement itself appends and incorporates seven exhibits, entitled “Exhibit A”  
12 through “Exhibit G,” which I have included as part of Exhibit 1.

13 3. Defendant Venus Laboratories, Inc., d/b/a Earth Friendly Products, Inc.’s,  
14 (“Venus”) manufactures, sells, and distributes the Earth Friendly line of household cleaning  
15 products, including dozens of laundry detergents, odor removers, dishwashing fluids, and other  
16 home cleaning products. These Products are sold through third party retailers to consumers in all  
17 50 states and the District of Columbia. Plaintiffs allege they were induced to purchase the Earth  
18 Friendly Products by Venus’ false and misleading representations that the Products were natural,  
19 derived from plants, free from harmful chemicals, “organic,” and/or gentle. However, each Earth  
20 Friendly Product contains at least one chemical that is, in fact, highly processed, synthetic, and/or  
21 not organic or natural. These chemicals include: MIT, Alcohol Denat, Caprylyl/Myristyl  
22 Glucoside, Cocamidopropyl Betaine, Cocamidopropylamine Oxide, Lauryl Glucoside,  
23 Phenoxyethanol, Potassium Cocoate, Potassium Sorbate, or Sodium Coco-Sulfate.

24 4. In particular, MIT, a biocide used for controlling microbial growth in water-  
25 containing solutions, is neither natural nor made from plants since it is produced by the controlled  
26 chlorination of dimethyldithiodipropionamide (DPAM) in solvent, followed by neutralization and  
27 extraction into water. MIT has been linked to what is called an “epidemic” of painful skin  
28

1 allergies, including rashes, blistering, swelling, redness, and hives. The rapidly increasing rates of  
 2 allergic reactions to MIT resulted in the American Contact Dermatitis Society naming MIT as the  
 3 contact allergen of the year in 2013. Numerous studies from countries all over the world quantify  
 4 the epidemic of allergic reactions to MIT as being so serious as to occur in 2 to 10 percent of  
 5 individuals exposed to the chemical

6         5.         Before commencing this action, Class Counsel conducted an examination and  
 7 evaluation of the relevant laws and facts to assess the merits of the claims and to determine how to  
 8 best serve the interests of the members of the Class.

9         6.         On November 3, 2014, Plaintiff Jena McIntyre sent a letter notifying Venus of her  
 10 intent to pursue consumer protection claims on behalf of herself and a nationwide class of  
 11 purchasers of the Earth Friendly Products throughout the United States based on allegations that  
 12 Venus misrepresented the nature of the Products. After receiving this letter, Venus began  
 13 discussing a possible resolution of Plaintiff McIntyre's claims.

14         7.         On March 25, 2015, independently of Plaintiff McIntyre, Plaintiff Rebekah  
 15 Baharestan sent a letter to Venus alleging that Venus' marketing, advertising, and labeling of the  
 16 Products false and misleading. This letter informed Venus of Plaintiff Baharestan's intent to  
 17 represent a nationwide class of purchasers of the Earth Friendly Products in a class action lawsuit.

18         8.         The Parties subsequently engaged in lengthy, comprehensive, and arm's-length  
 19 settlement discussions over several months. During the Parties' lengthy and comprehensive  
 20 settlement discussions, the Parties engaged in substantial informal discovery. Through this  
 21 discovery, Venus provided Plaintiffs with vital information pertaining to the legitimacy and scope  
 22 of Plaintiffs' claims—including information regarding the Products' labeling and ingredients. This  
 23 exchange of information ensured sophisticated and meaningful settlement negotiations.

24         9.         These settlement discussions culminated in an all-day, in person, mediation before  
 25 the Honorable Morton Denlow (Ret.) in Chicago, Illinois on June 1, 2015. The Honorable Morton  
 26 Denlow, who is a former Magistrate Judge for the United States District Court, Northern District  
 27 of Illinois, has decades of experience in the resolution of complex commercial litigation, including  
 28



1 class actions and product liability cases. A true and correct copy of the Honorable Morton  
2 Denlow's general biography is attached hereto as Exhibit 2. Based upon Plaintiffs' investigation  
3 and evaluation of the facts and law relating to the matters alleged in this case, the Parties agreed to  
4 settle this action pursuant to the provisions of the Settlement. Such agreement was reached after  
5 considering, among other things: (1) the substantial benefits available to the Class under the terms  
6 of the Settlement; (2) the attendant risks and uncertainty of litigation—especially in complex  
7 actions such as this—as well as the difficulties and delays inherent in such litigation; and (3) the  
8 desirability of promptly completing the Settlement to provide effective relief to Plaintiffs and the  
9 Class.

10 10. In my firm's capacity as Class Counsel, we considered a number of factors in  
11 reaching the proposed Settlement Agreement with Defendant. For example, among other issues,  
12 we considered the risk that Defendant's use of the word "natural" on the Products would not be  
13 found to be misleading to a reasonable consumer.

14 11. By settling now, Settlement Class Members secure meaningful monetary  
15 compensation, plus the certainty of knowing Venus' alleged deceptive labeling and marketing  
16 practices will cease on a nationwide basis after the Settlement is approved. Extrapolating from  
17 sales information provided by Venus in settlement discussions, Class counsel has determined that  
18 the number of persons who purchased the Products and were affected by these practices is in the  
19 thousands. These benefits will equally accrue to all Settlement Class Members. Given the vagaries  
20 of pressing forward with litigation, the Settlement has no "obvious deficiencies" and treats all  
21 Settlement Class Members fairly.

22 12. In agreeing to a Settlement Fund in the minimum amount of \$850,000, and up to  
23 \$950,000, Class Counsel also considered the difficulties the Class will face in proving damages at  
24 trial. Plaintiffs contend that they could use a damages model to recover reasonable Class-wide  
25 damages at trial that would exceed the amount of the Settlement Fund. However, Venus disputes  
26 that it charged any premium for its allegedly "natural" or "organic" Earth Friendly Products, and  
27 claims that its Products are actually sold at a discount price compared to other national brands.

1 While Plaintiffs believe their damages calculation is viable, in agreeing to the Settlement Plaintiffs  
2 took into account the additional risk (beyond class certification and liability risks) that Class  
3 members would not be able to prove their damages at trial. Given this litigation risk, the \$850,000  
4 monetary recovery represents a substantial percentage of what Plaintiffs believe to be their best  
5 case scenario for recovery at trial.

6 13. Plaintiffs McIntyre and Baharestan have performed a number of tasks that greatly  
7 assisted in the preparation, prosecution and settlement of the case. Among other things, these  
8 Plaintiffs have consulted with me and other Class Counsel on a number of occasions, made  
9 themselves available as needed, provided factual background to assist in the development of the  
10 case and the pre-suit letters notifying Defendant of their intent to bring a suit for violations of  
11 consumer protection statutes, and reviewed pleadings and correspondence in the case and  
12 evaluated the Settlement papers. To date, neither Plaintiff has received any compensation  
13 whatsoever for their efforts on behalf of the Class.

14 14. Ms. Wolchansky and I, as well as others at our firms, spent numerous hours  
15 investigating and researching the facts of this case, conferring with Plaintiffs, researching  
16 applicable law, drafting pleadings, reviewing and analyzing documents and data produced by  
17 Venus and negotiating the Settlement Agreement. Class Counsel will submit support for the  
18 attorneys' fee and costs award called for by the Settlement in connection with the hearing for final  
19 approval of the Settlement. The proposed Settlement provides that Class Counsel may be awarded  
20 up to \$277,500 as partial compensation for Class Counsel's reasonable attorneys' fees and costs,  
21 which is less than the lodestar incurred by Class Counsel and well within the range of possible  
22 approval.

23 15. LLG is a private law firm that has been successfully pursuing cases on behalf of  
24 consumers and public interest groups for over a decade. LLG has represented numerous parties in  
25 civil actions of various types and degrees of complexity, including many cases brought as class  
26 actions. The attorneys of LLG have substantial experience in false advertising and unfair  
27 competition matters. The following is a representative sampling of some of the cases LLG has  
28

1 successfully litigated or is currently involved in:

2 a) *Golloher, et al. v. Todd Christopher International, Inc.*, Case No. CV-12-  
3 06002 (N.D. Cal.): Class counsel in case involving misrepresentation of non-organic cosmetic  
4 products as organic;

5 b) *Stephenson, et al. v. Neutrogena Corporation*, Case No. C 12-00426 PJH  
6 (N.D. Cal.): Named Class Counsel in case involving misrepresentation of cosmetic products as  
7 “natural”;

8 c) *In re Comcast Peer to Peer (P2P) Transmission Contract Litigation*, Case  
9 No. 2:08-md-01992 (E.D. Pa.): Named Class Counsel in class action against Comcast for alleged  
10 breach of contract and false advertising arising from interference with subscribers’ use of peer to  
11 peer file sharing applications; obtained \$16 million settlement for the class;

12 d) *Dervaes v. California Physicians’ Service*, Case No. RG-06262733  
13 (Alameda County Super. Ct.): Counsel for plaintiff in class case challenging health insurer’s  
14 unilateral mid-year increase to calendar-year costs.

15 Attached hereto as Exhibit 3 is a true and correct copy of LLG’s firm resume.

16 16. Halunen Law has the requisite expertise as they have qualified as lead counsel in  
17 other class actions, and have a proven track record of successful prosecution of significant class  
18 actions. Halunen Law’s extensive experience and qualifications are further detailed in Halunen  
19 Law’s firm resume, attached hereto as Exhibit 4.

20 I declare under penalty of perjury under the laws of the United States that the  
21 foregoing is true and correct.

22 Executed on September 29, 2015, at San Francisco, California.

23 /s/ Mark N. Todzo

24 MARK N. TODZO

# Exhibit 1

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

REBEKAH BAHARESTAN and JENA  
MCINTYRE, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

VENUS LABORATORIES, INC., dba  
EARTH FRIENDLY PRODUCTS, INC.,

Defendant.

Case No. 3:15-cv-03578-EDL

**CLASS SETTLEMENT AGREEMENT**

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**TABLE OF CONTENTS**

I.	RECITALS .....	1
II.	DEFINITIONS .....	4
III.	CERTIFICATION OF THE SETTLEMENT CLASS AND PRELIMINARY APPROVAL.....	12
IV.	SETTLEMENT CONSIDERATION AND BENEFITS .....	8
	4.1 Settlement Fund.....	13
	4.2 Eligibility and Process for Obtaining a Cash Payment .....	15
	4.3 Monetary Relief to Settlement Class Members: Payments of Cash Settlement.....	19
	4.4 Distribution to Authorized Settlement Class Members.....	20
	4.5 Excess or Insufficient Funds in the Settlement Fund .....	20
	4.6 Injunctive Relief: Modification of Earth Friendly Products' Labels .....	23
	4.7 Injunctive Relief Related to Methylisothianzolinone.....	24
	4.8 Other Injunctive Relief Terms and Conditions .....	25
V.	NOTICE TO CLASS AND ADMINISTRATION OF PROPOSED SETTLEMENT .....	26
	5.1 Duties and Responsibilities of the Settlement Administrator .....	26
VI.	OBJECTIONS AND REQUESTS FOR EXCLUSION.....	32
VII.	RELEASES .....	35
VIII.	ATTORNEYS' FEES AND EXPENSES AND CLASS REPRESENTATIVE INCENTIVE AWARDS.....	36
IX.	NO ADMISSION OF LIABILITY .....	37
X.	ADDITIONAL PROVISIONS.....	39

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**TABLE OF EXHIBITS**

Exhibit A: Claim Form

Exhibit B: Class Notice or Long Form Notice

Exhibit C: Notice Plan, Affidavit of Jeffrey D. Dahl With Respect to Settlement Notice Plan

Exhibit D: Summary Notice or Short Form Notice

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**CLASS SETTLEMENT AGREEMENT**

This Class Settlement Agreement is entered into this 25 day of September, 2015 by and between Plaintiffs Jena McIntyre and Rebekah Baharestan (“Plaintiffs”), on behalf of themselves and each of the Settlement Class Members, on the one hand, and Defendant Venus Laboratories, Inc. (“Venus” or “Defendant”), an Illinois corporation, on the other hand (collectively, Plaintiffs and Defendant are the “Parties”). The Parties intend for the Class Settlement Agreement to fully, finally, and forever resolve, discharge, and settle all released rights and claims, subject to the terms and conditions set forth herein.

**I. RECITALS**

1.1. On November 3, 2014, Jena McIntyre sent Venus a notice of violation of the Washington consumer law statutes and a draft class action complaint challenging the labeling, marketing, and advertising of Venus’s Earth Friendly Products. Plaintiff McIntyre alleged that the Earth Friendly Products are not “natural,” and are inaccurately and deceptively labeled as “natural.” Ms. McIntyre sought to represent a proposed nationwide class of purchasers of the Earth Friendly Products, or alternatively, a class of Washington purchasers of the Earth Friendly Products. Ms. McIntyre alleged violations of the Washington Consumer Protect Act – RCS §§ 19.86, *et seq.* and breach of warranty.

1.2. Independently of Plaintiff McIntyre, on March 25, 2015, Rebekah Baharestan sent a letter and a draft class-action complaint to Venus alleging Venus was in violation of the California Consumers Legal Remedies Act, Cal. Civ. Code § 1782 *et seq.* (the “CLRA”), in its labeling and marketing of the Earth Friendly Products. Plaintiff Baharestan sought to represent both a California and a nationwide class of Earth Friendly Products purchasers. The complaint alleged that Venus’s labeling of its ECOS® and Dishmate products was misleadingly labeled as



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natural and made from plants. Furthermore, the complaint alleged that Venus failed to inform consumers that the Products contain Methylisothiazolinone (“MIT”), which it alleged is a known and significant allergen.

1.3. Plaintiffs McIntyre and Baharestan filed a consolidated complaint in the United States District Court for the Northern District of California on August 4, 2015, seeking to represent a nationwide class of purchasers of Earth Friendly Products.

1.4. Following numerous settlement discussions between the parties’ counsel and an exchange of informal pre-litigation discovery, Venus and Counsel for Plaintiffs McIntyre and Baharestan mediated the claims raised in their putative class action complaints on June 1, 2015, before Hon. Morton Denlow (Ret.) of JAMS, in Chicago, Illinois. As part of the mediation process, Counsel for Plaintiffs McIntyre and Baharestan obtained additional information and documents from Venus through confidential discovery for the mediation, including information concerning label design and sales for Venus’s Earth Friendly Products.

1.5. Before entering into this Settlement Agreement, Plaintiffs’ Counsel conducted an extensive and thorough examination, investigation, and evaluation of the relevant law, facts, and allegations to assess the merits of the claims, potential claims, and potential defenses asserted in this Action. As part of that investigation, Plaintiffs’ Counsel obtained information and documents from Venus through confidential, informal discovery.

1.6. This Agreement is the product of extensive, arms-length settlement negotiations and exchange of information.

1.7. The Action has not been certified as a class action. Subject to the approval of the Court, the Parties agree that a class may be conditionally certified only for purposes of this Settlement. Venus agrees to class-action treatment of the claims alleged in this Action solely for

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the purpose of compromising and settling those claims on a class basis as set forth herein. If the Court does not grant approval to this Settlement, Venus reserves all rights to contest class certification for any other purpose.

1.8. Plaintiffs, as proposed Settlement Class representatives, believe the claims settled herein have merit. Plaintiffs and their counsel recognize, however, the litigation risk involved, including the expense and length of continued proceedings necessary to prosecute the claims through trial and appeal, and have taken into account those factors, as well as the litigation's inherent difficulties and delays. They believe the settlement set forth in this Agreement confers substantial benefits upon the Settlement Class Members. They have evaluated the settlement set forth in this Agreement and have determined it is fair, reasonable, adequate to resolve their grievances, and in the best interest of the Settlement Class.

1.9. Venus has denied, and continues to deny, that its marketing, advertising, and/or labeling of its Earth Friendly Products is false, deceptive, or misleading to consumers, breached any warranty, or violates any legal requirement. Venus's willingness to resolve the Action on the terms and conditions embodied in this Agreement is based on, *inter alia*: (i) the time and expense associated with litigating this Action through trial and any appeals; (ii) the benefits of resolving the Action, including limiting further expense, inconvenience, and distraction, disposing of burdensome litigation, and permitting Venus to conduct its business unhampered by the distractions of continued litigation; and (iii) the uncertainty and risk inherent in any litigation, regardless of legal merit.

1.10. This Agreement, any negotiations, proceedings, or documents related to this Agreement, its implementation, or its judicial approval cannot be asserted or used by any person to support a contention that class certification is proper or that liability does or does not exist, or

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for any other reason, in the above-captioned action or in any other proceedings, *provided, however*, that Settlement Class Members, Class Counsel, Venus, other related persons, and any person or entity that is a beneficiary of a release set forth herein, may reference and file this Agreement, and any resulting Order or Judgment, with the Court, or any other tribunal or proceeding, in connection with the implementation or enforcement of its terms (including but not limited to the releases granted therein or any dispute related thereto).

**THEREFORE**, in consideration of the mutual promises and covenants contained herein and of the releases and dismissals of claims described below, the Parties agree to this Settlement, subject to the Final Approval of the Court, upon the following terms and conditions set forth in this Class Settlement Agreement.

**II. DEFINITIONS**

2.1 “Action” means the lawsuit, styled *McIntyre and Baharestan v. Venus Laboratories, Inc.* The complaint filed in *McIntyre, et al. v. Venus Laboratories, Inc.* is referred to herein as the “Complaint.”

2.2 “Agreement” or “Settlement” or “Settlement Agreement” means this Class Settlement Agreement and its exhibits, attached hereto or incorporated herein, including any subsequent amendments agreed to by the Parties and any exhibits to such amendments.

2.3 “Attorneys’ Fees and Expenses” means such funds as the Court may award to Class Counsel to compensate Class Counsel for the fees and expenses they have incurred or will incur in connection with this Action and Settlement, as described in Section VIII of this Agreement. Attorneys’ Fees and Expenses do not include any costs or expenses associated with the Class Notice or administration of the Settlement incurred by the Class Action Settlement Administrator.

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2.4 “Claim Form” means the document to be submitted by Claimants seeking payment pursuant to Section 4.2 of this Class Settlement Agreement. The Claim Form will accompany the mailed Class Notice and will be available online at the Settlement Website, substantially in the form of Exhibit A to this Class Settlement Agreement.

2.5 “Claim Period” means the time period during which Settlement Class Members may submit a Claim Form to the Settlement Administrator for review. The Claim Period shall run for a period of time ordered by the Court, and last at least one-hundred and twenty (120) calendar days from the date of the first publication of the Summary Settlement Notice or Class Notice, whether online, via print publication, or via press release, whichever is earlier.

2.6 “Claimant” means a Settlement Class Member who submits a claim for payment as described in Section 4.2 of this Class Settlement Agreement.

2.7 “Class Action Settlement Administrator,” “Settlement Administrator,” or “Notice Administrator” means Dahl Administration, the company jointly selected by Class Counsel and Venus’s Counsel and approved by the Court to provide Class Notice and to administer the claims process.

2.8 “Class Counsel” means Melissa Wolchansky, Halunen Law, 80 South Eighth Street, Suite 1650, Minneapolis, MN 55402, and Mark Todzo, The Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117.

2.9 “Class Notice” or “Long-Form Notice” means the legal notice of the proposed Settlement terms, as approved by Venus’s Counsel and Class Counsel, subject to approval by the Court, to be provided to potential members of the Settlement Class pursuant to Section 5.1 below. The Class Notice shall be substantially in the form attached hereto as Exhibit B. Any

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changes to the Class Notice from Exhibit B must be jointly approved by Class Counsel and Venus's Counsel.

2.10 "Class Period" means the period from January 23, 2011, up to and including the date of the Court's Preliminary Approval Order.

2.11 "Court" means the United States District Court for the Northern District of California.

2.12 "Dishmate Products" means all Venus or Earth Friendly Products sold under the Dishmate brand including, but not limited to those labeled as:

- a. Dishmate Almond;
- b. Dishmate Lavender;
- c. Dishmate Pear;
- d. Dishmate Free and Clear;
- e. Dishmate Apricot;
- f. Dishmate Grapefruit; and
- g. Any other Dishmate dish soap product sold by Venus during the Class Period.

2.13 "Earth Friendly Products" means Venus's Earth Friendly line of products that had a label containing the words "All-Natural," "100% Natural," "Naturally-derived," "Plant-based," "Plant-derived," or "Natural."

2.14 "ECOS® Laundry Detergent Product(s)" means any Venus or Earth Friendly Products sold under the Ecos brand including:

- a. ECOS® 4X Concentrated Laundry Detergent Lavender;
- b. ECOS® 4X Concentrated Laundry Detergent Magnolia & Lily;
- c. ECOS® 4X Concentrated Laundry Detergent Free & Clear;

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- d. ECOS® 4X Concentrated Laundry Detergent Lemongrass;
- e. ECOS® 2X Laundry Detergent Lavender;
- f. ECOS® 2X Laundry Detergent Magnolia & Lily;
- g. ECOS® 2X Laundry Detergent Free & Clear;
- h. ECOS® 2X Laundry Detergent Lemongrass; and
- i. Any other Ecos Laundry Detergent product sold by Venus during the

Class Period.

2.15 “Effective Date” means:

- a. if no appeal is taken from the Order and Final Judgment, thirty-five (35) days after the Court enters the Order and Final Judgment of this Class Settlement Agreement; or
- b. if an appeal is taken from the Order and Final Judgment, the date on which all appellate rights (including petitions for rehearing or re-argument, petitions for rehearing en banc, petitions for certiorari or any other form of review, and proceedings in the United States Supreme Court or any other appellate court) have expired, been exhausted, or been finally disposed of in a manner that affirms the Order and Final Judgment.

2.16 “Final Approval” of this Class Settlement Agreement means the date that Judgment is entered in this Action approving this Class Settlement Agreement.

2.17 “Fund Institution” means a third-party banking institution where the cash funds Venus will pay under the terms of this Agreement will be deposited into an interest-bearing Qualified Settlement Fund account, specifically, the Settlement Fund, as defined herein. Pursuant to Section 4.1, Class Counsel will select the Fund Institution, subject to the approval of Venus, which will not be unreasonably withheld.

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2.18 “Incentive Award” means the amount the Court may award to compensate the named plaintiffs serving as class representatives, Plaintiffs McIntyre and Baharestan, pursuant to Section 8.5.

2.19 “Initial Claim Amount” means the amount a Settlement Class Member claims as a cash payment on a Claim Form that is timely, valid, and approved by the Settlement Administrator. The value basis of the Initial Claim Amount is described in Section 4.4. The Initial Claim Amount is subject to *pro rata* increase or decrease, depending on the value of all approved Claims submitted, pursuant to Section 4.5.

2.20 “Notice Plan” means the plan for publication of Class Notice developed by the Settlement Claim Administrator, attached hereto as Exhibit C, Affidavit of Jeffrey D. Dahl. The implementation of the Notice Plan must begin no later than 21 days after the Court issues the Preliminary Approval Order.

2.21 “Order and Final Judgment” means the final order to be entered by the Court approving the Settlement pursuant to the terms and conditions of this Agreement, dismissing the Action with prejudice, releasing claims, and otherwise directing as the Court or the Parties deem necessary and appropriate to effectuate the terms and conditions of this Agreement.

2.22 “Other Earth Friendly Product(s)” means any and all Earth Friendly Products excluding the ECOS® Laundry Detergent Products.

2.23 “Preliminary Approval” means the order preliminarily approving the Class Settlement Agreement, preliminarily certifying the Settlement Class, approving the Notice of Proposed Settlement, and issuing any necessary related orders.

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2.24 “Qualified Settlement Fund” means the type of fund, account, or trust, created pursuant to 26 C.F.R. § 1.468B-1, that the Fund Institution will establish to receive payments under this Agreement.

2.25 “Released Claims” means any claim, cross-claim, liability, right, demand, suit, matter, obligation, damage, restitution, disgorgement, loss or cost, attorney’s fee or expense, action, or cause of every kind and description that Plaintiffs and each member of the Settlement Class had or have, including assigned claims, whether in arbitration, administrative, or judicial proceedings, whether as individual claims asserted on a class basis or on behalf of the general public, whether known or unknown, asserted or unasserted, suspected or unsuspected, latent or patent, that is, has been, could reasonably have been asserted by Plaintiffs or members of the Settlement Class in the Action, against any of the Released Persons, arising out of or relating to the allegations in the Complaint and the labels or advertising of any Earth Friendly Products purchased by Plaintiffs and any members of the Settlement Class.

2.26 “Released Persons” means and includes Venus and each of its affiliated entities, subsidiaries, predecessors, and successors, distributors, retailers, customers, and assigns, including the present and former directors, officers, employees, shareholders, agents, insurers, partners, privies, representatives, attorneys, accountants, and all persons acting by, through, under the direction of, or in concert with them.

2.27 “Residual Fund” means the value of funds remaining in the Settlement Fund, less all Claimants’ Initial Claim Amounts; less Class Notice and administration costs; and less all Attorneys’ Fees and Expenses and Incentive Awards pursuant to Court Order or otherwise specified in this Agreement.



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2.28 “Settlement Class” or “Settlement Class Member” means all persons who, during the Class Period, both resided in the United States and purchased in the United States any of the Earth Friendly Products for their household use or personal consumption and not for resale. Excluded from the Settlement Class are: (a) Venus’s board members or executive-level officers, including its attorneys; (b) governmental entities; (c) the Court, the Court’s immediate family, and the Court staff; and (d) any person that timely and properly excludes himself or herself from the Settlement Class in accordance with the procedures approved by the Court.

2.29 “Settlement Fund” means the fund valued at Eight Hundred Fifty Thousand Dollars and No Cents (\$850,000.00) that Venus will pay in cash for the benefit of Settlement Class Members who submit valid and timely Claim Forms, pursuant to Section 4.2. The Settlement Fund will also be used to pay for any award of Attorneys’ Fees and Expenses that the Court orders, any Class Notice and administration costs, Incentive Awards, and other costs pursuant to the terms of Section 4.1(a) of this Agreement.

2.30 “Settlement Hearing” means the hearings the Court will hold to consider and determine whether it should approve the proposed settlement contained in this Class Settlement Agreement as fair, reasonable, and adequate, and whether it should enter Judgment approving the terms of the Class Settlement Agreement. These Settlement Hearings include both a “Preliminary Approval Hearing” and a “Final Approval Hearing” or “Fairness Hearing,” to be held after preliminary approval is granted, as the Court so orders.

2.31 “Settlement Website” means the website to be created for this settlement that will include information about the Actions and the Settlement, relevant documents, and electronic and printable forms relating to the Settlement, including the Claim Form. The Settlement Website shall be activated by the date of the first publication of the Summary Settlement Notice

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or Class Notice, whichever is earlier, and shall remain active until one hundred twenty (120) calendar days after the Court enters the Order and Final Judgment.

2.32 “Summary Settlement Notice” or “Short Form Notice” means the Summary Class Notice of proposed class action settlement, to be disseminated by publication substantially in the form of Exhibit D attached to this Agreement. Any changes to the Summary Settlement Notice or Short Form Notice from the form set forth in Exhibit D must be jointly approved by Class Counsel and Venus’s Counsel.

2.33 “Supplemental Settlement Payment” means an amount up to Seventy-Five Thousand Dollars (\$75,000.00) that Venus will pay into the Settlement Fund if the number of timely, valid, and approved claims before any *pro rata* or decrease is made exceeds the Settlement Fund after all claims, class notice and administration costs, and Attorneys’ Fees and Expenses are paid. Venus shall only be required to pay into the Settlement Fund as much as is necessary to compensate Settlement Class Members for their Initial Claim Amounts. Under no circumstance shall Venus be required to pay any more than Nine Hundred Twenty-Five Thousand Dollars (\$925,000.00) into the Settlement Fund.

2.34 “Tally” or “Final Tally” means the calculation and report the Settlement Administrator shall provide to the Parties, which shall include the value and number of timely, valid, and approved Claims. The Final Tally shall also include the amount due to the Settlement Fund in cash that Settlement Class Members timely and validly claimed. The Settlement Administrator shall give the Final Tally to the Parties no later than seven (7) calendar days after the close of the Claim Period.

2.35 “Venus” means Venus Laboratories, Incorporated, an Illinois corporation with its principal place of business in Addison, Illinois, and its predecessors, subsidiaries, shareholders,

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affiliates, officers, directors, partners, employees, agents, servants, assignees, successors, and/or other transferees or representatives.

2.36 “Venus’s Counsel” means Drinker Biddle & Reath, LLP, 191 N. Wacker Dr. Suite 3700, Chicago, Illinois 60606-1698.

**III. CERTIFICATION OF THE SETTLEMENT CLASS AND PRELIMINARY APPROVAL**

3.1 Solely for the purposes of settlement and the proceedings contemplated herein, the parties stipulate and agree that a nationwide Settlement Class should be certified. Class certification shall be for settlement purposes only and shall have no effect for any other purpose.

3.2 The certification of the Settlement Class shall be binding only with respect to this Class Settlement Agreement. In the event that Final Approval does not occur for any reason, the Preliminary Approval, and all of its provisions, shall be vacated by its own terms, and this Action shall revert to its status that existed prior to the date of this Class Settlement Agreement.

3.3 As part of the settlement process, Venus consents to Plaintiffs’ application to the Court for entry of an order which, among other things: (a) preliminarily certifies the Settlement Class in accordance with the definition set forth in Section 2.28 of this Class Settlement Agreement; (b) preliminarily approves this Agreement for purposes of issuing Class Notice; (c) approves the timing, content, and manner of the Class Notice and Summary Settlement Notice or Short Form Notice; (d) appoints the Settlement Administrator; (e) appoints Halunen Law and The Lexington Law Group as Class Counsel and Plaintiffs McIntyre and Baharestan as named Class Representatives; and (f) makes such orders as are necessary and appropriate to effectuate the terms and conditions of this Agreement.

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**IV. SETTLEMENT CONSIDERATION AND BENEFITS**

The settlement relief includes four components to benefit the Settlement Class: (a) a Settlement Fund from which Settlement Class Members who submit timely, valid, and approved claims will obtain partial refunds; (b) modifications to the Earth Friendly Products labeling; (c) modifications to the Earth Friendly Products website; and (d) modifications to the formulation of one or more Earth Friendly Products.

**4.1 Settlement Fund**

a. **Settlement Fund.** Venus shall establish a Settlement Fund with a value of Eight Hundred Fifty Thousand Dollars and No Cents (\$850,000.00). The value of the Settlement Fund shall be composed of cash. Venus shall pay all cash payments due per Section 4.1(b) by paying this amount into a Qualified Settlement Fund at the Fund Institution. The Settlement Fund shall be applied to pay in full and in the following order:

- i. any necessary taxes and tax expenses;
- ii. all costs and expenses associated with disseminating notice to the Settlement Class, including but not limited to, the Class Notice and Summary Settlement Notice;
- iii. all costs and expenses associated with the administration of the Settlement, including but not limited to, processing claims and fees of the Class Action Settlement Administrator. The costs and expenses set forth in 4.1(a) ii and iii shall not exceed \$230,000.00.
- iv. any Attorneys' Fees and Expenses award made by the Court to Class Counsel pursuant to Section VIII of this Class Settlement Agreement;
- v. any Incentive Award made by the Court to the two named Plaintiffs serving as class representatives under Section 8.5 of this Class Settlement Agreement;

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vi. cash payments distributed to Settlement Class Members who have submitted timely, valid, and approved Claims pursuant to the Claims Process outlined in Section 4.2 and the Monetary Relief outlined in Section 4.3 of this Agreement; and

vii. the Residual Funds, if any, pursuant to Section 4.5 of this Agreement.

b. Venus's Funding of the Settlement Fund.

i. Initial Deposit. Within fourteen (14) calendar days after the entry of the Preliminary Approval Order, Venus shall fund the Settlement Fund by depositing Two Hundred Thirty Thousand Dollars and No Cents (\$230,000.00) into the Settlement Fund account. This seven-day deadline may be extended by mutual consent of the Parties.

ii. Attorneys' Fees and Costs and Incentive Payment. Within five (5) days after the Effective Date, Venus shall fund the amount ordered by the Court in its Final Approval Order for Attorneys' Fees and Expenses and Incentive Awards to the Plaintiffs.

iii. Balance Payment to the Settlement Fund. No later than seven (7) calendar days after the close of the Claim Period, the Settlement Administrator shall provide the Parties a Final Tally, which includes the value, number, and type of timely, valid, and approved Claims. The Tally shall include the amount due to the Settlement Fund in cash to be distributed. No later than fourteen (14) days after receipt of the Final Tally or no later than fourteen (14) days after the Effective Date, whichever is later, Venus shall deposit the remaining cash balance into the Settlement Fund. If the number of timely, valid, and approved claims before any pro rata increase is made exceeds the Settlement Fund after all claims, class notice and administration costs, and Attorneys' Fees and Expenses are paid, Venus shall make a Supplemental Settlement Payment into the Settlement Fund in accordance with Section 2.33.

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c. Class Counsel and Venus Counsel must approve any payment of costs or expenses under Sections 4.1(a)(i), 4.1 (a)(ii), and 4.1(a)(iii).

d. In no circumstances shall Venus's contribution to the Settlement Fund be less than Eight Hundred Fifty Thousand Dollars and No Cents (\$850,000.00) or greater than Nine Hundred Twenty-Five Thousand Dollars and No Cents (\$925,000.00). These payments, pursuant to the terms and conditions of this Agreement, and any other non-monetary obligations of and considerations due from Venus set forth in this Agreement, will be in full satisfaction of all individual and class claims asserted or that could have been asserted in this Action by any Settlement Class Member.

e. Venus and the Released Parties are not obligated (and will not be obligated) to compute, estimate, or pay any taxes on behalf of Plaintiffs, Plaintiffs' Counsel, Class Counsel, any Settlement Class Member, the Notice Administrator, or the Settlement Administrator.

f. In the event the Effective Date does not occur, all amounts paid into the Settlement Fund, less amounts incurred for claims administration and notice, shall be returned to Venus.

**4.2 Eligibility and Process for Obtaining a Cash Payment**

To be eligible for a cash payment, a Settlement Class Member must submit a timely and valid Claim Form, which will be evaluated by the Settlement Administrator.

a. **Claim Form Availability.** The Claim Form shall be in a substantially similar form to that attached as Exhibit A. The Claim Form will be: (i) included on the Settlement Website to be designed and administered by the Settlement Administrator; (ii) made readily available from the Settlement Administrator, including by requesting a Claim Form from

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the Settlement Administrator by mail, e-mail, or calling a toll-free number provided by the Settlement Administrator; and (iii) mailed or emailed to (1) those individuals who have directly bought Earth Friendly Products from [www.ECOS.com](http://www.ECOS.com) (to the extent Venus has a current valid physical or email address for such individual) and (2) such other individuals who purchased Earth Friendly Products and for whom Venus has obtained current valid physical or email addresses not otherwise protected by a protective order entered by a court of competent jurisdiction. The Claim Form will be available for downloading on Class Counsel's website, at Class Counsel's option.

b. **Timely Claim Forms.** Settlement Class Members must submit a timely Claim Form, which is one postmarked or submitted online before or on the last day of the Claim Period, the specific date of which will be prominently displayed on the Claim Form and Class Notice. For a non-online Claim Form, the Claim Form will be deemed to have been submitted on the date of the postmark on the envelope or mailer. For an online Claim Form and in all other cases, the Claim Form will be deemed to have been submitted on the date it is received by the Settlement Administrator.

c. **Validity of Claim Forms.** Settlement Class Members must submit a valid Claim Form, which must contain the Settlement Class Member's name and mailing address, attestation of purchase(s) as described in Section 4.2(d), product names and type(s) of Earth Friendly Products purchased, the month(s) and year(s) of each such purchase, and location(s) of such purchase(s). On the Claim Form, Settlement Class Members must include the number of ECOS® Laundry Detergent Products purchased and/or the number of Other Earth Friendly Products purchased. Subject to Section 4.2(g) herein, Claim Forms that do not meet the requirements set forth in this Agreement and in the Claim Form instructions may be rejected.

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The Settlement Administrator will determine a Claim Form's validity. Where a good faith basis exists, the Settlement Administrator may reject a Settlement Class Member's Claim Form for, among other reasons, the following:

- i. Failure to attest to the purchase of the Earth Friendly Products during the Class Period, or the submission of claim(s) for purchase of products outside the Class Period or that are otherwise not covered by the terms of this Class Settlement Agreement;
- ii. Failure to provide adequate verification or additional information of the Claim pursuant to a request of the Settlement Administrator;
- iii. Failure to fully complete and/or sign the Claim Form;
- iv. Failure to submit a legible Claim Form;
- v. Submission of a fraudulent Claim Form;
- vi. Submission of Claim Form that is duplicative of another Claim Form or the purchase(s) described for a particular household on another Claim Form;
- vii. Submission of Claim Form by a person who is not a Settlement Class Member;
- viii. Request by person submitting the Claim Form to pay funds to a person or entity that is not the Settlement Class Member for whom the Claim Form is submitted;
- ix. Failure to submit a Claim Form by the end of the Claim Period; or
- x. Failure to otherwise meet the requirements of this Agreement.

d. **Attestation of Purchase Under Penalty of Perjury Required.** Because the claims process will not require proof of purchase, each Settlement Class Member shall sign and submit a Claim Form that states to the best of his or her knowledge the total number and product name and type of purchased Earth Friendly Products, the month(s) and year(s) of each



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such purchase, and location of his or her purchase(s). The Claim Form shall be signed under an affirmation stating the following or substantially similar language: “I declare, under penalty of perjury, that the information in this Claim Form is true and correct to the best of my knowledge, and that I purchased the Earth Friendly Product(s) claimed above during the Class Period for personal or household use and not for resale. I understand that my Claim Form may be subject to audit, verification, and Court review.”

e. **Verification of Purchase May be Required.** The Claim Form shall advise Settlement Class Members that while proof of purchase is not required to submit a Claim, the Settlement Administrator has the right to request verification or more information regarding the purchase of the Earth Friendly Products for the purpose of preventing fraud.

f. **Claim Form Submission and Review.** Claimants may submit a Claim Form either by mail or electronically. The Settlement Administrator shall review and process the Claim Forms pursuant to the process described in this Agreement to determine each Claim Form’s validity. Adequate and customary procedures and standards will be used by the Settlement Administrator to prevent the payment of fraudulent claims and to pay only legitimate claims. The Parties shall take all reasonable steps, and direct the Settlement Administrator to take all reasonable steps, to ensure that Claim Forms completed and signed electronically by Settlement Class Members conform to the requirements of the federal Electronic Signatures Act, 15 U.S.C. § 7001, *et seq.*

g. **Claim Form Deficiencies.** Failure to provide all information requested on the Claim Form will not result in immediate denial or nonpayment of a claim. Instead, the Settlement Administrator will take all adequate and customary steps to attempt to cure the defect and to determine the Settlement Class Member’s eligibility for payment and the amount of

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payment based on the information contained in the Claim Form or otherwise submitted, including but not limited to attempting to follow up with the Claimant to gather additional information if necessary. If the Claim Form defect cannot be cured, the Claim will be rejected.

h. **Failure to Submit Claim Form.** Unless a Settlement Class Member opts out pursuant to Section VI, any Settlement Class Member who fails to submit a timely and valid Claim Form shall be forever barred from receiving any payment pursuant to this Agreement, and shall in all other respects be bound by all of the terms of this Agreement and the terms of the Order and Final Judgment to be entered in the Action. Based on the Release contained in the Agreement, any Settlement Class Member who does not opt out will be barred from bringing any action in any forum (state or federal) against any of the Released Parties concerning any of the matters subject to the Release.

4.3. **Monetary Relief to Settlement Class Members: Payments of Cash Settlement.**

a. The relief to be provided to each Settlement Class Member who submits a timely and valid Claim Form pursuant to the terms and conditions of this Agreement shall be a Payment in the form of a cash settlement amount. The amount or value of the payment will vary based on: (i) the type and number of the Earth Friendly Products that the Settlement Class Member purchased; (ii) whether the Settlement Class Member submits a valid Claim Form for all qualifying purchases; and (iii) the total amount of valid claims submitted.

b. Cash settlement amounts will be paid by the Settlement Administrator pursuant to Section 4.4, via check.

c. Subject to *pro rata* upward or downward adjustment pursuant to Section 4.5, a Settlement Class Member will receive One Dollar and Fifty Cents (\$1.50) for each ECOS® Laundry Detergent Product purchased, and One Dollar and No Cents (\$1.00) for each

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Other Earth Friendly Product purchased; up to a combined total cash refund of no more than Twenty-Five Dollars and No Cents (\$25.00) per Settlement Class Member, subject to a *pro rata* upward or downward adjustment pursuant to Section 4.5.

d. For the purposes of this Class Settlement Agreement only, the parties agree that if litigation continued, Plaintiffs would contend that the damages available to Plaintiffs, if any (since Venus would dispute Plaintiffs' claim), would be based in part on a "price premium" theory, whereby Plaintiffs would have attempted to recover the premium paid for the Earth Friendly Products due to the complained-of labeling as opposed to the price paid without the complained-of labeling.

4.4. **Distribution to Authorized Settlement Class Members.**

a. The Settlement Administrator shall begin paying timely, valid, and approved Claims via first-class mail no later than thirty (30) calendar days after the Effective Date. The Settlement Administrator may begin to pay timely, valid, and approved Claims sooner upon Venus and Class Counsel's joint direction, but not before the Effective Date.

b. The Settlement Administrator shall have completed the payment to Settlement Class Members who have submitted timely, valid, and approved Claims pursuant to the Claim Process no later than sixty (60) calendar days after the Effective Date.

4.5. **Excess or Insufficient Funds in the Settlement Fund.**

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a. **Excess Funds.** If, after the payment of all valid Claims, Notice and Administration costs, Attorneys' Fees and Expenses, Incentive Awards, and any other claim, cost, or fee specified by this Agreement, value remains in the Settlement Fund, it shall be called the Residual Fund. Any value remaining in the Residual Fund shall increase eligible Settlement Class Members' relief on a *pro rata* basis such that Settlement Class Members are entitled to receive an increased payment constituting up to one hundred percent (100%) of the Eligible Settlement Class Member's Initial Claim Amount. However, the Supplemental Settlement Payment shall not be used for the purposes of funding a *pro rata* increase for Settlement Class Members. The Settlement Administrator shall determine each authorized Settlement Class member's *pro rata* share based upon each Settlement Class Member's Claim Form and the total number of valid Claims. Accordingly, the actual amount recovered by each Settlement Class Member will not be determined until after the Claim Period has ended and all Claims have been calculated. Examples include, but are not limited to:

i. If enough remained in the Settlement Fund to pay each Eligible Settlement Class Member seventy-five percent (75%) more than his or her Initial Claim Amount and a Claimant was eligible for a cash award of Fifteen Dollars and No Cents (\$15.00), that Claimant would be entitled to an additional Eleven Dollars and Twenty-Five Cents (\$11.25), for a total cash award of Twenty-Six Dollars and Twenty-Five Cents (\$26.25).

ii. If enough remained in the Settlement Fund to pay each Eligible Settlement Class Member twenty-five percent (25%) more than his or her Initial Claim Amount and a Claimant was eligible for a cash award of Fifteen Dollars and No Cents (\$15.00), that Claimant would be entitled to an additional Three Dollars and Seventy-Five Cents (\$3.75), for a total cash award of Eighteen Dollars and Seventy-Five Cents (\$18.75).

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b. **Insufficient Funds.** If the total amount of the timely, valid, and approved Claims submitted by Settlement Class Members exceeds the available relief, considering any fees, payments, and costs set forth in this Agreement that must also be paid from the Settlement Fund, Venus shall contribute up to an additional Seventy-Five Thousand Dollars and No Cents (\$75,000.00) to the Settlement Fund, in accordance with Section 2.33, to cover Settlement Class Members' Initial Claim Amount. If following the additional cash contribution, the total amount of timely, valid, and approved Claims submitted by Settlement Class Members exceeds the available relief, considering any fees, payments, and costs set forth in this Agreement that must also be paid from the Settlement Fund, each eligible Settlement Class Member's Initial Claim Amount shall be proportionately reduced on a *pro rata* basis, such that the aggregate value of the cash payments distributed does not exceed the Settlement Fund Balance. The Settlement Administrator shall determine each authorized Settlement Class member's *pro rata* share based upon each Settlement Class Member's Claim Form and the total number of valid Claims. Accordingly, the actual amount recovered by each Settlement Class Member will not be determined until after the Claim Period has ended and all Claims have been calculated. Examples include, but are not limited to:

i. If the total number of claims exceed the relief, following the additional cash contribution, such that there is a seventy-five percent (75%) *pro rata* reduction of the Settlement Member's Initial Claim Amount, and the Claimant was eligible for a cash award of Fifteen Dollars and No Cents (\$15.00), that Claimant would be entitled to an Initial Claim Amount of Three Dollars and Seventy-Five Cents (\$3.75).

ii. If the total number of claims exceed the relief, following the additional cash contribution, such that there is a twenty-five percent (25%) *pro rata* reduction of

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the Settlement Member's Initial Claim Amount, and the Claimant was eligible for a cash award of Fifteen Dollars and No Cents (\$15.00), that Claimant would be entitled to an Initial Claim Amount of Eleven Dollars and Twenty-Five Cents (\$11.25).

c. It is the Parties intent to distribute all Settlement Funds to Settlement Class Members. However, if there are any funds remaining in the Settlement Fund Balance following the calculation pursuant to the above Sections 4.5(a)(i) or (ii) and any reduction in any Supplemental Settlement Payment by Venus under Section 2.33 reflecting any credit for such remaining funds, including any checks that were not cashed, then, within seven (7) days after the check cashing deadline in Section 5.1(f)(ii), the Settlement Administrator shall distribute the Residual Funds to the following non-profit organization: Consumers Union. The Residual Funds will not be returned to Venus. Venus represents and warrants that any payment of Residual Funds to any charities, non-profit organizations, or government entities shall not reduce any of its donations or contributions to any entity, charity, charitable foundation or trust, and/or non-profit organization.

4.6. **Injunctive Relief: Modification of Earth Friendly Products' Labels.**

Venus agrees to make the following changes to its labeling on its Earth Friendly Products, beginning within ninety (90) days after the Effective Date:

a. Venus shall refrain from placing the terms "100% Natural" or "All-Natural" on the Earth Friendly Products' labels unless the claim is certified by a reputable third-party active in the natural products area similar to the way in which Oregon Tilth Certified Organic certifies food products as organic;

b. Any time the word "natural" is placed on the front label, Venus shall qualify the term "natural" by describing the particular characteristic in the product that it

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describes (e.g. from “Natural Detergent” to “Natural Cleaning Agent”), but only where the statement is true;

c. Venus shall remove the term “organic” from all labels of Earth Friendly Products unless the Product meets the U.S. Department of Agriculture standard for “organic,” or the California Organic Products Act standard for “organic” or its equivalent in other states, if any such standards then exist that apply to Earth Friendly Products;

d. Venus shall continue to list the ingredients contained within the Product on the packaging of the Product;

e. Venus shall add explanatory parentheticals (e.g. “derived from coconut oil” or “.0095% preservative) after each ingredient on the ingredient lists for the Earth Friendly Products;

f. Venus shall place the following statement, or a substantially similar statement, on the back panel of each Product, depending on whether such product qualifies under the EPA’s “Safer Choice” program, either “See [www.ecos.com/ingredients](http://www.ecos.com/ingredients) for more information on our ingredients.” or “See [www.ecos.com/saferchoice/ingredients](http://www.ecos.com/saferchoice/ingredients) for more information on our ingredients.”;

g. On the Earth Friendly Products website, [www.ECOS.com](http://www.ECOS.com), Venus shall add a webpage with a glossary generally describing the manufacturing process for each ingredient to the extent such ingredients are manufactured by Venus or Venus’ ingredient suppliers provide such information to Venus; and

4.7. **Injunctive Relief Related to Methylothianzolinone.**

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Venus agrees to make the changes described below, beginning within ninety (90) days after the Effective Date or the specified date, whichever is later, but shall be able to continue to sell existing inventory pursuant to Section 4.8(c).

a. Within twelve (12) months following the Effective Date, Venus shall cease using Methylisothianzolinone (“MIT”) as an ingredient in all Dishmate Products.

b. Beginning ninety (90) days after the Effective Date and continuing for at least twenty-four (24) months, Venus shall make good-faith efforts to study alternatives to the use of MIT in other Earth Friendly Products.

c. Reporting. Every six (6) months for a period of two (2) years after the Effective Date and following the commencement of the above-mentioned study, Venus will provide Class Counsel with a confidential report on its efforts to study alternatives to the use of MIT in other Earth Friendly Products;

d. To the extent that Venus continues to use MIT in any of the Earth Friendly Products, it will include a disclosure on the Earth Friendly Products website, [www.ECOS.com](http://www.ECOS.com), that “hypoallergenic,” “kind to sensitive skin” or similar statements on the packaging or advertising for such Earth Friendly Products do not mean that a product or ingredient will not cause any allergic reaction in any person and that a small percentage of individuals may have some form of allergic reaction to MIT.

4.8. **Other Injunctive Relief Terms and Conditions.**

a. Plaintiffs and the Settlement Class agree that the above modifications to the labeling, marketing, and advertising of the Earth Friendly Products are satisfactory to Plaintiffs and the Settlement Class and alleviate each and every alleged deficiency with regard to the labeling, packaging, advertising, and marketing of the Earth Friendly Products and their



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ingredients (and similar deficiencies, if any, with regard to other or future Earth Friendly Products) set forth in or related to the Complaint. This includes the allegations that Venus's labeling and marketing of the Earth Friendly Products and its ingredients as "Natural," "All Natural," or "100% Natural," and similar statements were false, deceptive, and misleading.

b. **Expiration.** The injunctive relief requirements by which Venus agrees to abide as part of this Class Settlement Agreement and as described in Section 4.6 shall expire on the date upon which there are any changes to any applicable federal or state statutes or regulations that would allow Venus to label its Earth Friendly Products "natural" without the labeling modifications set forth in this Agreement, including but not limited to changes in U.S. Food and Drug Administration ("FDA"), Federal Trade Commission, U.S. Department of Agriculture and other governmental agencies' regulations, guidance, or pronouncements.

c. For purposes of this Agreement, Venus shall not be required to destroy any existing Products or components of such Products, remove any existing Products from the marketplace, or change any labels on Products already labelled or in the process of being labelled prior to the Effective Date.

## V. NOTICE TO CLASS AND ADMINISTRATION OF PROPOSED SETTLEMENT

### 5.1. Duties and Responsibilities of the Settlement Administrator.

Class Counsel and Venus recommend and retain Dahl Administration, LLC to be the Settlement Administrator for this Agreement. The Settlement Administrator shall abide by and shall administer the Settlement in accordance with the terms, conditions, and obligations of this Agreement and the Orders issued by the Court in this Action.

a. **Class Notice Duties.** The Settlement Administrator shall, in cooperation with the Parties, be responsible for consulting on and designing the Class Notice, Summary Class

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Notice, and Claim Form. After the Court's Preliminary Approval of this Agreement and Appointment of the Settlement Administrator, the Settlement Administrator shall also be responsible for disseminating the Class Notice, substantially in the form as described in the Notice Plan attached as Exhibit C to this Agreement, as specified in the Preliminary Approval Order, and as specified in this Agreement. The Class Notice and Summary Class Notice will comply with all applicable laws, including, but not limited to, the Due Process Clause of the Constitution. Class Notice duties include, but are not limited to:

i. consulting on, drafting, and designing the Class Notice, Summary Class Notice, and Claim Form. Class Counsel and Venus's Counsel shall have input and joint approval rights, which shall not be unreasonably withheld, over these Notices and Form or any changes to the Notices and Form;

ii. developing a Notice Plan, attached as Exhibit C to this Agreement. Class Counsel and Venus's Counsel shall have input and joint approval rights, which shall not be unreasonably withheld, over this Notice Plan or changes to this Notice Plan;

iii. implementing and arranging for the publication of the Summary Settlement Notice and Class Notice via various forms of paper and electronic media, including implementing media purchases, all in substantial accordance with the Notice Plan, attached as Exhibit C. The implementation of the Notice Plan must begin no later than 21 days after the Court issues the Preliminary Approval Order. To the extent that the Settlement Administrator believes additional or different Notice should be undertaken than that provided for in the Notice Plan, Class Counsel and Venus's Counsel shall have input and joint approval rights, which shall not be unreasonably withheld, over any additional or different Notice;

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iv. establishing and publishing a website that contains the Class Notice and related documents, including a Claim Form capable of being completed and submitted on-line. The website, including the Class Notice, shall remain available for one hundred twenty (120) days after the Effective Date;

v. sending the Class Notice and related documents, including a Claim Form, via electronic mail or regular mail, to any potential Settlement Class Member who so requests and sending such Class Notice and documents to the list of direct consumers provided by Venus;

vi. responding to requests from Class Counsel and Venus's Counsel; and

vii. otherwise implementing and assisting with the dissemination of the Notice of the Settlement.

**b. Class Action Fairness Act Notice Duties to State and Federal Officials.**

No later than ten (10) calendar days after this Agreement is filed with the Court, Venus shall mail or cause the items specified in 28 U.S.C. § 1715(b) to be mailed to each State and Federal official, as specified in 28 U.S.C. § 1715(a).

**c. Claims Process Duties.** The Settlement Administrator shall be responsible for implementing the terms of the Claim Process and related administrative activities, including communications with Settlement Class Members concerning the Settlement, Claim Process, and the options they have. Claims Process duties include, but are not limited to:

i. executing any mailings required under the terms of this Agreement;

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- ii. establishing a toll-free voice response unit to which Settlement Class Members may refer for information about the Action and the Settlement;
  - iii. establishing a post office box for the receipt of Claim Forms, exclusion requests, and any correspondence;
  - iv. receiving and maintaining on behalf of the Court all correspondence from any Settlement Class Member regarding the Settlement, and forwarding inquiries from Settlement Class Members to Class Counsel or their designee for a response, if warranted; and
  - v. receiving and maintaining on behalf of the Court any Settlement Class Member correspondence regarding any opt-out requests, exclusion forms, or other requests to exclude himself or herself from the Settlement, and providing to Class Counsel and Venus's Counsel a copy within five (5) calendar days of receipt. If the Settlement Administrator receives any such forms or requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide Class Counsel and Venus's Counsel with copies.
- d. **Claims Review Duties.** The Settlement Administrator shall be responsible for reviewing and approving Claim Forms in accordance with this Agreement. Claims Review duties include, but are not limited to:
- i. reviewing each Claim Form submitted to determine whether each Claim Form meets the requirements set forth in this Agreement and whether it should be allowed, including determining whether a Claim by any Settlement Class Member is timely, complete, and valid;

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ii. working with Settlement Class Members who submit timely claims to try to cure any Claim Form deficiencies;

iii. using all reasonable efforts and means to identify and reject duplicate and/or fraudulent claims, including, without limitation, maintaining a database of all Claims Form submissions;

iv. keeping an accurate and updated accounting via a database of the number of Claim Forms received, the amount claimed on each Claim Form, the name and address of the Settlement Class Members who made the claim, whether the claim has any deficiencies, and whether the claim has been approved as timely and valid; and

v. otherwise implementing and assisting with the Claim review process and payment of the Claims, pursuant to the terms and conditions of this Agreement.

e. **Periodic Updates.** The Settlement Administrator shall provide periodic updates to Class Counsel and Venus's Counsel regarding Claim Form submissions beginning within seven (7) business days after the commencement of the dissemination of the Class Notice or the Summary Settlement Notice and continuing on a monthly basis thereafter and shall provide such an update within seven (7) days before the Final Approval Hearing. The Settlement Administrator shall also provide such updates to Class Counsel or Venus's Counsel upon request, within a reasonable amount of time.

f. **Claims Payment Duties.** The Settlement Administrator shall be responsible for sending payments to all eligible Settlement Class Members with valid, timely, and approved Claims pursuant to the terms and conditions of this Agreement. Claim Payment duties include, but are not limited to:

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i. Within seven (7) days of the Effective Date, provide a report to Class Counsel and Venus's Counsel calculating the amount and number of valid and timely claims that requested refunds, including any to be paid pursuant to the Residual Funds described in Section 4.5;

ii. Per Sections 4.3, 4.4, and 4.5, once the Settlement Fund has been funded, sending refund checks to Settlement Claim Members who submitted timely, valid, and approved Claim Forms, which checks shall have a deadline for negotiation of one hundred and eighty days (180) from the date of the refund check; and

iii. Once refund payments have commenced to the Settlement Class pursuant to the terms and conditions of this Agreement, the Settlement Administrator shall provide a regular accounting to Class Counsel and Venus's Counsel that includes but is not limited to the number and amount of claims paid.

g. **Reporting to Court.** Not later than ten (10) calendar days before the date of the Fairness Hearing, the Settlement Administrator and Notice Administrator shall file a declaration or affidavit with the Court that: (i) includes a list of those persons who have opted out or excluded themselves from the Settlement; and (ii) describes the scope, methods, and results of the notice program.

h. **Duty of Confidentiality.** The Settlement Administrator shall treat any and all documents, communications, and other information and materials received in connection with the administration of the Settlement as confidential and shall not disclose any or all such documents, communications, or other information to any person or entity, except to the Parties or as provided for in this Agreement or by Court Order.

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i. **Right to Inspect.** Class Counsel and Venus's Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

j. **Failure to Perform.** If the Settlement Administrator misappropriates any funds from the Administration or Settlement Funds or makes a material or fraudulent misrepresentation to, or conceals requested material information from, Class Counsel, Venus, or Venus's Counsel, then the Party who discovers the misappropriation or concealment or to whom the misrepresentation is made shall, in addition to any other appropriate relief, have the right to demand that the Settlement Administrator immediately be replaced. If the Settlement Administrator fails to perform adequately on behalf of the Parties, the Parties may agree to remove the Settlement Administrator. Neither Party shall unreasonably withhold consent to remove the Settlement Administrator. The Parties will attempt to resolve any disputes regarding the retention or dismissal of the Settlement Administrator in good faith. If unable to so resolve a dispute, the Parties will refer the matter to the Court for resolution.

**VI. OBJECTIONS AND REQUESTS FOR EXCLUSION**

6.1. A Settlement Class Member may either object to this Agreement pursuant to Section 6.2 or request exclusion from this Agreement pursuant to Section 6.3.

6.2. **Objections.** Settlement Class Members shall have the right to object to this settlement and to appear and show cause, if they have any reason why the terms of this Agreement should not be given Final Approval, pursuant to this paragraph:

a. A Settlement Class Member may object to this Agreement either on his or her own without an attorney, or through an attorney hired at his or her own expense.

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b. Any objection to this Agreement must be in writing, signed by the Settlement Class Member (and his or her attorney, if individually represented), filed with the Court, with a copy delivered to Class Counsel and Venus's Counsel at the addresses set forth in the Class Notice, no later than thirty (30) days before the Fairness Hearing.

c. Any objection regarding or related to this Agreement shall contain information, including but not limited to, address and phone number, sufficient to identify and contact the objecting Settlement Class Member (or his or her individually-hired attorney, if any), as well as a clear and concise statement of the Settlement Class Member's objection, the facts supporting the objection, and the legal grounds on which the objection is based.

d. Any objection shall include documents sufficient to establish the basis for the objector's standing as a Settlement Class Member, such as (i) a declaration signed by the objector under penalty of perjury, with language similar to that included in the Claim Form attached hereto as Exhibit A, that the Settlement Class Member purchased at least one Earth Friendly Product during the Class Period of January 23, 2011 to the date of Preliminary Approval; or (ii) receipt(s) reflecting such purchase(s).

e. Class Counsel and Venus shall have the right to obtain reasonable discovery from any objecting class member and to respond to any objection no later than seven (7) days prior to the Fairness Hearing. The Party so responding shall file a copy of the response with the Court, and shall serve a copy, by regular mail, hand or overnight delivery, to the objecting Settlement Class Member or to the individually-hired attorney for the objecting Settlement Class Member; to all Class Counsel; and to Venus's Counsel.

f. If an objecting Settlement Class Member chooses to appear at the hearing, no later than fifteen (15) days before the Fairness Hearing, a Notice of Intention to Appear, either



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In Person or Through an Attorney, must be filed with the Court and list the name, address and telephone number of the attorney, if any, who will appear.

6.3. **Requests for Exclusion.** Settlement Class Members shall have the right to elect to exclude themselves, or “opt out,” of the monetary portion of the this Agreement, relinquishing their rights to cash compensation under this Agreement and preserving their claims for damages that accrued during the Class Period, pursuant to this paragraph:

a. A Settlement Class Member wishing to opt out of this Agreement must send to the Class Action Settlement Administrator by U.S. Mail a personally-signed letter including his or her name and address, and providing a clear statement communicating that he or she elects to be excluded from the Settlement Class.

b. Any request for exclusion or opt out must be postmarked on or before the opt-out deadline date specified in the Preliminary Approval Order. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted.

c. The Class Action Settlement Administrator shall forward copies of any written requests for exclusion to Class Counsel and Venus’s Counsel, and shall file a list reflecting all requests for exclusion with the Court no later than ten (10) calendar days before the Settlement Hearing.

d. The Request for Exclusion must be personally signed by the Settlement Class Member.

6.4. Any Settlement Class Member who does not file a timely written request for exclusion as provided in the preceding Section 6.3 shall be bound by all subsequent proceedings, orders, and judgments, including, but not limited to, the Release in this Action, even if he or she

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has litigation pending or subsequently initiates litigation against Venus relating to the claims and transactions released in this Action.

6.5. Any Settlement Class Member who does not request exclusion from the Settlement has the right to object to the Settlement. Settlement Class Members may not both object and opt out of the Settlement. Any Settlement Class Member who wishes to object must timely submit an objection as set forth in Section 6.2 above. If a Settlement Class Member submits both an objection and a written request for exclusion, he or she shall be deemed to have complied with the terms of the procedure for requesting exclusion as set forth in Section 6.3 and shall not be bound by the Agreement if approved by the Court and the objection will not be considered by the Court.

## **VII. RELEASES**

7.1. Upon the Effective Date of this Class Settlement Agreement, Plaintiffs and each member of the Settlement Class, and each of their successors, assigns, heirs, and personal representatives, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Persons. The Released Claims shall be construed as broadly as possible to effect complete finality over this litigation involving the advertising, labeling, and marketing of the Earth Friendly Products as set forth herein. The Releasing Parties further agree that compliance with the injunctive relief provisions of ¶¶4.7 and 4.8 alleviate each and every alleged deficiency with regard to the labeling, packaging, advertising and marketing of the Earth Friendly Products as set forth in the Complaint filed in the Action.

7.2. Plaintiffs fully understand that the facts upon which this Class Settlement Agreement is executed may hereafter be other than or different from the facts now believed by

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Plaintiffs and Class Counsel to be true and nevertheless agree that this Class Settlement Agreement shall remain effective notwithstanding any such difference in facts.

7.3. To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this Agreement, including but not limited to any Related Actions.

**VIII. ATTORNEYS' FEES AND EXPENSES AND CLASS REPRESENTATIVE INCENTIVE AWARDS**

8.1. At least fourteen (14) days prior to the deadline for any class members to file objections to the Settlement, Class Counsel will petition the Court for an award of reasonable attorneys' fees and expenses not to exceed an amount equal to thirty percent (30%) of the total combined Settlement Fund and Supplemental Settlement Payment of Nine Hundred Twenty-Five Thousand Dollars and No Cents (\$925,000), which is Two Hundred Seventy Seven Thousand Five Hundred Dollars and No Cents (\$277,500.00). Class Counsel's application will be based on the lodestar (time spent multiplied by hourly rate) and reasonable expenses expended in the Action. This shall be the sole compensation for Class Counsel representing the Class paid by Venus. The ultimate award of Attorneys' Fees and Expenses will be determined by the Court.

8.2. The Settlement Administrator shall wire to an account jointly established and maintained by Class Counsel any Court-approved attorneys' fees and expenses to Class Counsel within 5 days of the Effective Date. Such payment shall be in full settlement of any claim for any attorneys' fees and expenses by the Settlement Class, Plaintiffs McIntyre and Baharestan, Class Counsel, or any other plaintiff's counsel in the Action. The parties also agree that the final order on attorneys' fees submitted to the Court for approval shall state that the maximum amount for which Venus will be liable to all Plaintiffs' counsel in the Action combined is the amount

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approved by the Court, not to exceed Two Hundred Seventy Seven Thousand Five Hundred Dollars and No Cents (\$277,500.00).

8.3. Class Counsel agrees that any award of Attorneys' Fees and Expenses from Venus will be sought solely and exclusively in the Action.

8.4. Venus will not appeal from any order with respect to the award of Attorneys' Fees and Expenses provided that the order does not award Attorneys' Fees and Expenses in excess of the amount stated in Section 8.1. Venus shall have the right to appeal in the event of an award of Attorneys' Fees and Expenses in excess of such amount. Venus shall also have the right to withdraw from the settlement in the event of an award of Attorneys' Fees and Expenses in excess of such amount.

8.5. Within ten (10) days after the Effective Date, the Settlement Fund shall pay Incentive Awards of Two Thousand Dollars and No Cents (\$2,000.00) to each of the named plaintiffs, Plaintiffs McIntyre and Baharestan.

**IX. NO ADMISSION OF LIABILITY**

9.1. Venus has denied and continues to deny that the labeling, advertising, or marketing of its Earth Friendly Products is false, deceptive, or misleading to consumers or violates any legal requirement, including but not limited to the allegations that Venus engaged in unfair, unlawful, fraudulent, or deceptive trade practices, breached an express warranty, was unjustly enriched, or that the Products or the ingredients in the Products caused any damage to anyone. Venus is entering into this Class Settlement Agreement solely because it will eliminate the uncertainty, distraction, burden, and expense of further litigation. The provisions contained in this Class Settlement Agreement and the manner or amount of relief provided to Settlement Class Members herein shall not be deemed a presumption, concession, or admission by Venus of

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any fault, liability, or wrongdoing as to any facts or claims that have been or might be alleged or asserted in the Action, or in any other action or proceeding that has been, will be, or could be brought, and shall not be interpreted, construed, deemed, invoked, offered, or received into evidence or otherwise used by any person in any action or proceeding, whether civil, criminal, or administrative, for any purpose other than as provided expressly herein.

9.2. In the event of any of the following: (i) the Court does not approve this Class Settlement Agreement substantially in the form submitted (or in a modified form mutually acceptable to the Parties), (ii) more than two hundred and fifty (250) Settlement Class Members opt out of the Class Settlement Agreement pursuant to Section 6.3, or (iii) this Class Settlement Agreement is terminated or fails to become effective or final in accordance with its terms, the Plaintiffs and Venus shall be restored to their respective positions in the Action as of the date hereof. In such event, the terms and provisions of this Class Settlement Agreement shall have no further force and effect and shall not be used in the Action or in any other proceeding or for any purpose, and the Parties will jointly make an application requesting that any Judgment entered by the Court in accordance with the terms of this Class Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

9.3. By entering into this Class Settlement Agreement, Venus is not consenting to or agreeing to certification of the Settlement Class for any purpose other than to effectuate the settlement of the Action. The parties agree that if the Court does not approve this Class Settlement Agreement substantially in the form submitted (or in a modified form mutually acceptable to the Parties), including, without limitation, if this Class Settlement Agreement is terminated or fails to become effective or final in accordance with its terms, the Action shall

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proceed as if no Party had ever agreed to such settlement, without prejudice to the right of any Party to take any and all action of any kind in the Action.

**X. ADDITIONAL PROVISIONS**

10.1. Plaintiffs and Class Counsel warrant and represent to Venus that they have no present intention of initiating any other claims or proceedings against Venus, or any of its affiliates, or any entity that manufactures, distributes, or sells Earth Friendly Products or any other product that is marketed or labeled using the Earth Friendly Products brand name, and, except for the claims hereby settled, Plaintiffs and Class Counsel warrant and represent to Venus that they have no present knowledge and are not presently aware of any factual or legal basis for any such claims or proceedings, other than claims or proceedings that may already be pending against Venus.

10.2. The Parties agree that information and documents exchanged in negotiating this Class Settlement Agreement were done so pursuant to Fed. R. Evid. 408, and no such confidential information exchanged or produced by either side may be revealed for any other purpose than this Settlement. This does not apply to publicly-available information or documents.

10.3. The Parties agree to return or dispose of confidential documents and information exchanged in negotiating this Class Settlement Agreement within fifteen (15) days of the Effective Date. This does not apply to publically-available information or documents.

10.4. The Parties agree that the terms of the Class Settlement Agreement were negotiated at arm's length and in good faith by the Parties and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

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10.5. The Parties and their respective counsel agree to use their best efforts and to cooperate fully with one another (i) in seeking preliminary and final Court approval of this settlement; and (ii) in effectuating the full consummation of the settlement provided for herein.

10.6. Each counsel or other person executing this Class Settlement Agreement on behalf of any Party hereto warrants that such person has the authority to do so.

10.7. This Class Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. Executed counterparts shall be deemed valid if delivered by mail, courier, electronically, or by facsimile.

10.8. This Class Settlement Agreement shall be binding upon and inure to the benefit of the settling Parties (including all Settlement Class Members), their respective agents, attorneys, insurers, employees, representatives, officers, directors, partners, divisions, subsidiaries, affiliates, associates, assigns, heirs, successors in interest, and shareholders, and any trustee or other officer appointed in the event of a bankruptcy, as well as to all Released Persons as defined in Section 2.26. The waiver by any Party of a breach of this Class Settlement Agreement by any other Party shall not be deemed a waiver of any other breach of this Class Settlement Agreement.

10.9. This Class Settlement Agreement and any exhibits attached to it constitute the entire agreement between the Parties hereto and supersede any prior agreements or understandings, whether oral, written, express, or implied between the Parties with respect to the settlement. None of the Parties have relied on any written or oral representation not contained in this Agreement in deciding to enter this Agreement.

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10.10. No amendment, change, or modification of this Class Settlement Agreement or any part thereof shall be valid unless in writing, signed by all Parties and their counsel, and approved by the Court.

10.11. The Parties to this Class Settlement Agreement each represent to the other that they have received independent legal advice from attorneys of their own choosing with respect to the advisability of making the settlement provided for in this Class Settlement Agreement, and with respect to the advisability of executing this Class Settlement Agreement, that they have read this Class Settlement Agreement in its entirety and fully understand its contents, and that each is executing this Class Settlement Agreement as a free and voluntary act.

10.12. Except as otherwise provided herein, all notices, requests, demands, and other communications required or permitted to be given pursuant to this Class Settlement Agreement shall be in writing and shall be delivered personally, by facsimile, by e-mail, or by overnight mail, to the undersigned counsel for the Parties at their respective addresses.

10.13. The titles and captions contained in this Class Settlement Agreement are inserted only as a matter of convenience and for reference, and shall in no way be construed to define, limit, or extend the scope of this Class Settlement Agreement or the intent of any of its provisions. This Class Settlement Agreement shall be construed without regard to its drafter, and shall be construed as though the Parties participated equally in the drafting of this Class Settlement Agreement.

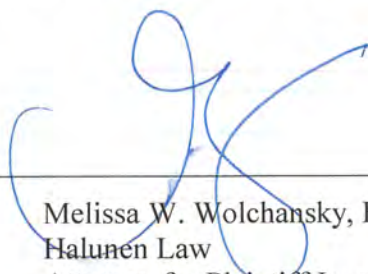
10.14. The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Class Settlement Agreement and the Parties to the Class Settlement Agreement submit to the jurisdiction of the Court for those purposes.



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IN WITNESS WHEREOF, Venus, Incorporated, and Jena McIntyre and Rebekah Baharestan, on behalf of themselves and all others similarly situated, intending to be legally bound hereby, have duly executed this Class Settlement Agreement as of the date set forth below, along with their counsel.

Dated: 9-25-15

By:   
Melissa W. Wolchansky, Esq.  
Halunen Law  
Attorney for Plaintiff Jena McIntyre  
and for the Settlement Class  
Members

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

By: \_\_\_\_\_  
Mark Todzo, Esq.  
Lexington Law Group  
Attorney for Plaintiff Rebekah  
Baharenstan and for the Settlement  
Class Members

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

By: \_\_\_\_\_  
Amber Enriquez, Esq.  
General Counsel  
Venus Laboratories, Inc.

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

By: \_\_\_\_\_  
Daniel J. Delaney, Esq.  
Drinker, Biddle & Reath, LLP  
Attorney for Defendant Venus  
Laboratories, Inc.

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

By: \_\_\_\_\_  
Plaintiff Jena McIntyre

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

By: \_\_\_\_\_  
Plaintiff Rebekah Baharenstan

EXECUTION COPY

**IN WITNESS WHEREOF**, Venus, Incorporated, and Jena McIntyre and Rebekah Baharestan, on behalf of themselves and all others similarly situated, intending to be legally bound hereby, have duly executed this Class Settlement Agreement as of the date set forth below, along with their counsel.

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

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

Melissa W. Wolchansky, Esq.  
Halunen Law  
Attorney for Plaintiff Jena McIntyre  
and for the Settlement Class  
Members

Dated: 9/29/15

By: 

Mark Todzo, Esq.  
Lexington Law Group  
Attorney for Plaintiff Rebekah  
Baharenstan and for the Settlement  
Class Members

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

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

Amber Enriquez, Esq.  
General Counsel  
Venus Laboratories, Inc.

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

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

Daniel J. Delaney, Esq.  
Drinker, Biddle & Reath, LLP  
Attorney for Defendant Venus  
Laboratories, Inc.

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

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

Plaintiff Jena McIntyre

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

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

Plaintiff Rebekah Baharenstan

EXECUTION COPY

IN WITNESS WHEREOF, Venus, Incorporated, and Jena McIntyre and Rebekah Baharestan, on behalf of themselves and all others similarly situated, intending to be legally bound hereby, have duly executed this Class Settlement Agreement as of the date set forth below, along with their counsel.

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

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

Melissa W. Wolchansky, Esq.  
Halunen Law  
Attorney for Plaintiff Jena McIntyre  
and for the Settlement Class  
Members

Dated: 9/25/15

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

Mark Todzo, Esq.  
Lexington Law Group  
Attorney for Plaintiff Rebekah  
Baharenstan and for the Settlement  
Class Members

Dated: 9/24/15

By: Amber M. Enriquez

Amber Enriquez, Esq.  
General Counsel  
Venus Laboratories, Inc.

Dated: 9/25/15

By: Daniel J. Delaney

Daniel J. Delaney, Esq.  
Drinker, Biddle & Reath, LLP  
Attorney for Defendant Venus  
Laboratories, Inc.

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

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

Plaintiff Jena McIntyre

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

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

Plaintiff Rebekah Baharenstan

EXECUTION COPY

IN WITNESS WHEREOF, Venus, Incorporated, and Jena McIntyre and Rebekah Baharestan, on behalf of themselves and all others similarly situated, intending to be legally bound hereby, have duly executed this Class Settlement Agreement as of the date set forth below, along with their counsel.

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

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

Melissa W. Wolchansky, Esq.  
Halunen Law  
Attorney for Plaintiff Jena McIntyre  
and for the Settlement Class  
Members

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

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

Mark Todzo, Esq.  
Lexington Law Group  
Attorney for Plaintiff Rebekah  
Baharenstan and for the Settlement  
Class Members

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

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

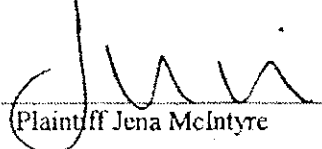
Amber Enriquez, Esq.  
General Counsel  
Venus Laboratories, Inc.

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

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

Daniel J. Delaney, Esq.  
Drinker, Biddle & Reath, LLP  
Attorney for Defendant Venus  
Laboratories, Inc.

Dated: 9/25/2015

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

Plaintiff Jena McIntyre

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

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

Plaintiff Rebekah Baharenstan

EXECUTION COPY

IN WITNESS WHEREOF, Venus, Incorporated, and Jena McIntyre and Rebekah Baharestan, on behalf of themselves and all others similarly situated, intending to be legally bound hereby, have duly executed this Class Settlement Agreement as of the date set forth below, along with their counsel.

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

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

Melissa W. Wolchansky, Esq.  
Halunen Law  
Attorney for Plaintiff Jena McIntyre  
and for the Settlement Class  
Members

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

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

Mark Todzo, Esq.  
Lexington Law Group  
Attorney for Plaintiff Rebekah  
Baharenstan and for the Settlement  
Class Members

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

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

Amber Enriquez, Esq.  
General Counsel  
Venus Laboratories, Inc.

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

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

Daniel J. Delaney, Esq.  
Drinker, Biddle & Reath, LLP  
Attorney for Defendant Venus  
Laboratories, Inc.

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

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

Plaintiff Jena McIntyre

Dated: Sept. 29, 2015

By: Rebekah Baharestan  
Plaintiff Rebekah Baharenstan

# Exhibit A



### Section III – Purchase and Product Information

ECOS® Brand Laundry Detergent products purchased			
Number Purchased	Product Name	Location of Purchase	Date Range of Purchase (MO/YR to MO/YR)
			/   to   /
			/   to   /
			/   to   /
			/   to   /
			/   to   /
			/   to   /

Other Venus Earth Friendly products purchased			
Number Purchased	Product Name	Location of Purchase	Date Range of Purchase (MO/YR to MO/YR)
			/   to   /
			/   to   /
			/   to   /
			/   to   /
			/   to   /
			/   to   /

*Note:* A Settlement Class Member is eligible to obtain \$1.50 for each ECOS® Laundry Detergent Product purchased and \$1.00 for each Other Earth Friendly Product purchased between January 23, 2011 and [DATE] (up to \$25 per person). However, the actual amount paid to individual claimants will depend upon the number of valid claims made.

### Section IV – Required Affirmation

**With my signature below I declare, under penalty of perjury, that the information in this Claim Form is true and correct to the best of my knowledge, and that I purchased the Earth Friendly Product(s) claimed above during the Class Period of January 23, 2011 to [DATE] for personal or household use and not for resale. I understand that my Claim Form may be subject to audit, verification, and Court review.**

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

***Note:** The Settlement Administrator has the right to request verification or more information regarding the claimed purchase of Venus Earth Friendly Products for purposes of preventing fraud. If the Class Member does not timely comply or is unable to produce documents or information to substantiate the Claim Form and the Claim is otherwise not approved, the Settlement Administrator may disqualify the Claim.*

**All Claim Forms must be postmarked if mailed or electronically submitted online  
by [DATE], to:**

**VENUS EARTH FRIENDLY PRODUCTS SETTLEMENT  
C/O DAHL ADMINISTRATION**

**OR    www.aaaaaaaaaaaaaaaaaaaaaaaaaaaa.com**





# **Exhibit B**

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

**IF YOU PURCHASED A VENUS LABORATORIES’  
“EARTH FRIENDLY” PRODUCT  
YOU MAY BE ENTITLED TO A CASH PAYMENT**

***THIS NOTICE AFFECTS YOUR RIGHTS.***

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

**PLEASE READ THIS NOTICE AND THE ENCLOSED CLAIM FORM CAREFULLY.**

- If you purchased an Earth Friendly product between January 23, 2011 and [date], you may be a class member in a proposed settlement class of purchasers of Venus Laboratories’ Earth Friendly products and may be entitled to participate in the proposed settlement. The United States District Court for the Northern District of California (the “Court”) has ordered the issuance of this notice in the lawsuit entitled *Baharestan, et al. v. Venus Laboratories, Inc.* (“the Litigation”). Defendant Venus Laboratories (“Venus”) denies any wrongdoing in this lawsuit. The Court has not ruled on the merits of Plaintiffs’ claims.
- You may be eligible for a cash payment if you qualify and timely submit a valid Claim Form.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a cash payment. Postmark or submit your Claim Form by [DATE].
<b>EXCLUDE YOURSELF</b>	Get no settlement benefits. Remove yourself from both the settlement and the lawsuit. Postmark your exclusion request by [DATE].
<b>OBJECT</b>	Write to the Court about why you don’t like the settlement. File and serve your objection by [DATE].
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the settlement.
<b>DO NOTHING</b>	Get no cash payment. Give up your rights.

- Your rights and options — and the deadlines to exercise them — are explained in this notice.
- The Court in charge of this litigation still has to decide whether to approve the settlement of this case. Distribution of settlement benefits will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

<b>WHAT THIS NOTICE CONTAINS</b>
----------------------------------

**BASIC INFORMATION .....3**

1. What is this lawsuit about?
2. Who is included in the settlement class?

**THE SETTLEMENT BENEFITS – WHAT YOU MAY GET .....3**

3. Cash from the claim process.
4. What else does the settlement provide?

**HOW YOU GET A CLASH PAYMENT – SUBMITTING A CLAIM FORM ..... 3-4**

5. How can I get a payment?
6. How do I send in a claim?
7. When is the Claim Form due?
8. Who decides my claim?
9. When would I get my payment?
10. What if the fund is too small? Too large?
11. What happens if I do nothing at all?

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

12. How do I get out of the settlement?

**THE LAWYERS REPRESENTING YOU ..... 5-6**

13. Do I have lawyers in this case?
14. How will the lawyers be paid?

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

15. In return for these settlement benefits, what am I giving up?

**THE FINAL APPROVAL HEARING .....7**

16. When and where will the Court decide whether to approve the settlement?
17. Do I have to come to the hearing?
18. May I speak at the hearing?

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

23. Are there more details about the settlement?

## BASIC INFORMATION

### 1. What is this lawsuit about?

A proposed settlement has been reached in a class action lawsuit about the labelling, marketing, and advertising of Venus's Earth Friendly Products. The plaintiffs in the lawsuit allege the Earth Friendly Products are not "natural," and are inaccurately and deceptively labeled as "natural." The plaintiffs also allege that one of the allegedly unnatural ingredients, methylisothiazolinone ("MIT") is a powerful allergen and skin irritant. Venus denies all the plaintiffs' allegations and is entering into this settlement to avoid burdensome and costly litigation. The settlement is not an admission of wrongdoing.

### 2. Who is included in the Settlement Class?

You are a member of the Class if you purchased at least one Venus Earth Friendly Product from January 23, 2011 through [DATE]. Settlement Class Members must have both resided in the United States and purchased the product in the United States for their household use or personal consumption and not for resale.

The following persons are excluded from the Settlement Class: (a) Venus's board members or executive-level officers, including its attorneys; (b) governmental entities; (c) the Court, the Court's immediate family, and the Court staff; and (d) any person that timely and properly excludes himself or herself from the Settlement Class in accordance with the procedures approved by the Court.

## SETTLEMENT BENEFITS – WHAT YOU MAY GET

### 3. Cash from the claims process.

Venus will create a fund of up to \$925,000 to pay Class Members' claims, certain administrative costs, attorneys' fees and expenses, incentive awards, and other costs. You may obtain a cash payment of up to \$25 from the fund if you purchased one of the Earth Friendly Products. The amount of your payment will depend on the statements in your Claim Form. These awards may be subject to *pro rata* upward or downward adjustment depending on the number of claims approved. Details appear below.

### 4. What else does the settlement provide?

As part of the settlement, Venus has agreed to (1) make certain changes to the labels and advertising for the Products; (2) change the formulation of Dishmate to remove MIT as an ingredient; and (3) make certain changes to its website.

## HOW YOU GET A CASH PAYMENT – SUBMITTING A CLAIM FORM

### 5. How can I get a payment?

You must return a Claim Form to get a cash payment. A copy of the Claim Form is included in this Notice Package. Claim Forms may be filed online at [www.aaaaaaaaaaaaaaaaaaaaaaaaaaaa.com](http://www.aaaaaaaaaaaaaaaaaaaaaaaaaaaa.com) or you may request a Claim Form by calling 1-8xx-xxx-xxxx.

## **6. How do I send in a claim?**

The Claim Forms are simple and easy to complete.

The Claim Form requires that you provide:

1. Your name and mailing address;
2. The product names and type(s) of Earth Friendly Products you purchased, as well as the month(s) and year(s) and location of each purchase; and
3. Your signature affirming that the information provided is true and correct.

***Please return a Claim Form if you think that you have a claim. Returning a Claim Form is the only way to receive a cash payment from this settlement. Only one Claim Form is permitted for each household, and two or more claimants may not submit Claim Forms for the same alleged damage.***

The Claim Administrator may request verification or additional information if the Claim Form is insufficient to process your claim. Failure to provide any requested documentation may result in the denial of your claim and may limit the type of remedy you receive.

## **7. When is the Claim Form due?**

If you mail your Claim Form, it must be postmarked no later than [DATE].

If you submit your Claim Form on the settlement website at [www.uxxxxxxxxxxxxxxxxxxxxxx.com](http://www.uxxxxxxxxxxxxxxxxxxxxxx.com), it must be submitted no later than [DATE].

## **8. Who decides my claim?**

The Claim Forms will be reviewed by an independent Claim Administrator according to criteria agreed to by the parties.

The Claim Administrator may contact you or other persons listed in your Claim Form if he or she needs additional information or otherwise wants to verify information in your Claim Form.

## **9. When would I get my payment?**

The Court will hold a Final Fairness Hearing at \_\_\_\_ a.m./p.m. on \_\_\_\_\_ in \_\_\_\_\_, California to decide whether to approve the settlement. If the Court approves the settlement, after that there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. If there are no appeals or other delays, you should be sent your cash payment in approximately 60 days.

## **10. What if the fund is too small? Too large?**

If the total amount of timely and valid claims, administration costs, attorneys' fees and expenses, and incentive awards and other costs are more than \$850,000, Venus will contribute up to an additional \$75,000 to the Settlement Fund to cover the initial claim amounts of Settlement Class Members. If after this additional contribution, the total amount of timely, valid, and approved claims exceeds the available relief (considering any fees, payments, and costs as described above) the payments to Settlement Class Members will be reduced

*pro rata* such that each claimant would receive proportionally less than the amount he or she claimed.

If, after everyone sends in Claim Forms, the total of all approved claims and administration costs and attorneys' fees and expenses are less than \$850,000, the payments to Settlement Class Members will be increased on a *pro rata* basis such that Settlement Class Members shall receive an increased payment of up to one hundred percent (100%) of the initial amount claimed. If, after this distribution, monies still remain in the Settlement Fund, a payment will be made to a non-profit entity and will not be returned to Venus.

#### **11. What happens if I do nothing at all?**

You must return a Claim Form to receive a cash payment. If you do nothing, you will get no money from the settlement. But, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Venus about the legal issues in this case.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

#### **12. How do I get out of the settlement?**

If you do not wish to be included in the Class and receive settlement benefits, you must send a letter stating that you want to be excluded from this lawsuit. Be sure to include your name, address, telephone number, and your signature. You must mail your exclusion request post-marked no later than [DATE] to:

VENUS EARTH FRIENDLY PRODUCTS SETTLEMENT  
c/o Dahl Administration  
P.O. Box 3614  
Minneapolis, MN 55403-0614

If you asked to be excluded, you will not get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Venus in the future.

If you have a pending lawsuit against Venus, speak to your lawyer immediately. You may need to exclude yourself from this lawsuit in order to continue your own lawsuit. Remember, the exclusion date is [DATE].

### **THE LAWYERS REPRESENTING YOU**

#### **13. Do I have lawyers in this case?**

The Court appointed the law firms of [LIST COUNSEL] to represent you and other class members. These lawyers are called Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### **14. How will the lawyers be paid?**

Class Counsel will ask the Court to award them attorneys' fees and expenses. Venus has agreed to pay attorney's fees and expenses awarded by the Court up to \$277,500.

The two named plaintiffs will also ask the Court to award them an amount not to exceed \$2,000 each for their time and effort acting as plaintiffs and for their willingness to bring this litigation and act on behalf of consumers. These amounts, if approved by the Court, will be paid from the Settlement Fund.

The costs to administer the settlement, to review Claim Forms, and notify Class Members about this settlement will be paid out of the Settlement Fund.

## **OBJECTING TO THE SETTLEMENT**

### **15. How do I tell the Court that I do not like the settlement?**

If you are a Class Member, you can object to the settlement if you do not like any part of it and the Court will consider your views. To object, you must file an objection with the Court saying that you object to the settlement in *Baharestan, et al. v. Venus Laboratories, Inc.*, [CASE NUMBER]. The written objection must include: (a) your address or phone number, or the address and phone number of any attorney you have hired; (b) a clear and concise statement of your objection, the facts supporting your objection, and the legal grounds for your objection; and (c) documents to establish your standing as a Settlement Class Member, such as (i) a signed declaration with language similar to that included in the Claim Form you purchased at least one Earth Friendly Product during the Class Period; or (ii) receipt(s) reflecting such purchase(s).

If an objecting Settlement Class Member chooses to appear at the hearing, no later than 15 days before the Fairness Hearing, a Notice of Intention to Appear must be filed with the Court and list the name, address and telephone number of the attorney, if any, who will appear.

The objection must be filed with the Court and served on Class Counsel no later than [DATE]. Send your objection to:

[COURT ADDRESS]

[CLASS COUNSEL ADDRESS]

[VENUS'S COUNSEL ADDRESS]

### **16. What is the difference between objecting and excluding?**

Objecting is telling the Court that you do not like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class or the lawsuit. You cannot request exclusion **and** object to the settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

## **RELEASE OF CLASS MEMBERS' CLAIMS AND DISMISSAL OF LAWSUIT**

### **17. In return for these benefits, what am I giving up?**

If the Court approves the proposed settlement and you do not request to be excluded from the Class, you must release (give up) all claims that are subject to the Releases contained in Section VII of the Class Settlement



Agreement, and the case will be dismissed on the merits and with prejudice. **If you remain in the Class, you may not assert any of those claims in any other lawsuit or proceeding. This includes any other lawsuit or proceeding already in progress.**

## THE FINAL APPROVAL HEARING

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

The Judge will hold a Final Approval Hearing at [TIME] on [DATE] at the United States District Court for the Northern District of California, [COURT ADDRESS]. At this hearing, the Judge will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Judge will consider them. The Judge will listen to people who have asked to speak at the hearing. After the hearing, the Judge will decide whether to approve the settlement. We do not know how long this decision will take.

### 19. Do I have to come to the hearing?

No. Class Counsel will answer questions the Judge may have. But, you are welcome to come at your own expense. If you submit an objection, you do not have to come to the Court to talk about it. As long as you deliver your written objection on time, the Judge will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### 20. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must file with the Court a "Notice of Intention to Appear in *Baharestan, et al. v. Venus Laboratories, Inc.*, [CASE NUMBER]." Be sure to include the name, address and telephone number of the attorney, if any, who will appear. Your Notice of Intention to Appear must be filed with the Court no later than [DATE].

## GETTING MORE INFORMATION

### 21. Are there more details about the settlement?

This notice summarizes the proposed settlement. More details are in the Class Settlement Agreement. You can get a copy of the Class Settlement Agreement by writing to the Settlement Administrator or online at [www.xxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxx.com).

If you have questions about how to complete a Claim Form, you can call the Claim Administrator at 1-8xx-xxx-xxxx.

**PLEASE DO NOT CALL OR WRITE TO THE COURT FOR INFORMATION OR ADVICE.**

/s/ [JUDGE'S NAME]

BY ORDER OF THE U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DATED:

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# Exhibit C



settlement administration. I have provided claims administration services and notice plans for more than 400 class actions involving securities, product liability, fraud, property, employment and discrimination. I have experience in all areas of settlement administration including notification, claims processing and distribution. I have also served as a Distribution Fund Administrator for the U.S. Securities and Exchange Commission.

3. A true and correct copy of Dahl's firm background is attached hereto as Exhibit 1.

4. I designed the Notice Plan for the Settlement in the above-captioned action. I am responsible for directing Dahl's execution of the Notice Plan.

5. This affidavit describes (a) the methodology used to create the proposed Notice Plan; (b) the proposed Notice Plan; (c) the Notice design; (d) the direct mailed Notice; (e) the web-based Notice; (f) the web-based Notice targeted using keyword search terms; (g) the web-based Notice targeted using social media interest areas; (h) earned media; (i) the toll-free helpline; and (j) the Settlement website.

### **METHODOLOGY**

6. Working with our media partner, FRWD, I designed a Notice Plan that utilizes mail, print, and web-based media to reach Settlement Class Members. In formulating the Notice Plan, we took account of the powerful data showing that individuals now spend far more time seeking and consuming information on the Internet than from print sources, and we will employ sophisticated methods of

reaching and exposing Settlement Class Members to the Notice that are available to marketers in the digital, online sphere.

7. A true and correct copy of the Affidavit of John Grudnowski, the founder and CEO of FRWD, is attached hereto as Exhibit 2.

8. The Affidavit of John Grudnowski in Support of the Settlement Notice Plan provides detailed information regarding online advertising in general and describes in detail the digital media technologies that are integral to the design and execution of the proposed Notice Plan.

9. The proposed Notice Plan uses methods that have been and are currently used by the nation's largest advertising media departments to target and place billions of dollars in advertising. These methods include the sophisticated targeting capabilities of digital marketing technologies to meet and reach Settlement Class Members at the websites they visit most frequently.

### **PROPOSED NOTICE PLAN**

10. The objective of the proposed Notice Plan is to provide notice of the Proposed Settlement to members of the Proposed Settlement Class ("Settlement Class Members" or "Class") that satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

11. I understand that the Settlement Class Members generally are persons residing in the United States who made a purchase from Venus Laboratories' Earth Friendly line of products ("Earth Friendly Products") in the United States for their household or personal use and not for resale during the Class Period. It is not

possible to determine the Settlement Class size because no mechanism exists to track exactly how many households have purchased Earth Friendly Products. However, estimates from GfK MRI indicate that the total buying population for “green” or “natural” household items defined to include surface cleaners & laundry detergent is 15.08 million U.S. adults. As Venus Laboratories’ product sales are predominantly at Walmart and club stores (e.g., Sam’s Club, Costco, BJ’s Wholesale Club), the total projected population of “green” or “natural” product purchasers at Walmart and club stores is 8.5 million U.S. adults.

12. Thus, the best ballpark estimate for the size of the target audience that includes the members of the Settlement Class is approximately 15.08 million persons, with a particular focus on the subset of an estimated 8.5 million who purchase green/natural products at Walmart or club stores.

13. Dahl and FRWD met with Venus Laboratories representatives to determine the characteristics of the Settlement Class, based upon known characteristics of Earth Friendly Product purchasers and known locations of purchases. Based on information provided, this Notice Plan has been aligned with the targeting done by Venus Laboratories for the Earth Friendly Product brands using similar channels and segmentation. Demographically, the Settlement Class is estimated to be 55% female and 45% male. The Settlement Class includes a 9% higher concentration of persons aged 55+ than other age segments. The highest concentration of the Settlement Class has an annual household income in the \$50,000-\$75,000 range. The Settlement Class shows a near even distribution of

media consumption, with no single media channel or media type showing more than 10% higher or lower than average. However, the Settlement Class is more than twice as likely to use Yahoo as the average consumer, 41% regularly use Weather.com and Accuweather.com, and 70% have accessed social media in the last 30 days. Using the demographic and psychographic information above, we have designed this Notice Plan to target a selection of websites, relevant search interest keywords, and specific social media interest areas that match the characteristics of the Settlement Class.

14. We have designed a Notice Plan that includes seven elements:
  - a. Direct mail or email Notice to any potential Settlement Class Members that can be identified from Venus Laboratories' records;
  - b. Web-based Notice using paid banner ads on targeted websites;
  - c. Additional web-based Notice using "keyword" searches displaying banner ads;
  - d. Social media ads and postings targeting relevant interest areas;
  - e. National earned media through the issuing of a press release distributed nationwide through PR Newswire;
  - f. A dedicated, informational website through which Settlement Class Members can obtain more detailed information about the Settlement and access the Notice and case documents; and



g. A toll-free telephone helpline by which Settlement Class Members can obtain additional information about the Settlement and request a copy of the Notice.

15. The Notice Plan has been designed to obtain over 66 million individual digital impressions targeted to approximately 15.08 million persons in order to achieve sufficient scale and impression frequency to target Settlement Class Members. Coverage and exposure will be further increased by the earned media campaign, the website, and the toll-free helpline.

16. Dahl and FRWD estimate that the Notice Plan will effectively reach 75% of the projected 15.08 million buyers of green/natural household items at a projected frequency of 2.0x-2.5x. The Notice Plan will provide an *additional* 1.0x-1.5x impressions to projected buyers of green/natural products at Walmart and club stores to further focus on the members of the Settlement Class.

17. At the conclusion of the Notice Plan, Dahl will provide a final report verifying implementation of the Notice Plan and provide the final reach and frequency results.

### **NOTICE DESIGN**

18. Rule 23(c)(2) of the Federal Rules of Civil Procedure requires that class action notices be written in “plain, easily understood language.” The proposed Notices have been designed to be noticed, read, and understood by potential Settlement Class Members. Both the Summary Notice and the Long Form Notice, which will be available to those who call the toll-free helpline or visit the website,

contain substantial, easy-to-understand descriptions containing all key information about the Settlement and Settlement Class Members' rights and options. A copy of the proposed Summary Notice is attached to the Settlement Agreement as Exhibit D. A copy of the proposed Long Form Notice is attached to the Settlement Agreement as Exhibit B.

#### **DIRECT MAILED NOTICE**

19. Upon Preliminary Approval, Venus Laboratories will provide Dahl with the names and addresses or email addresses for thousands of persons who are potential Settlement Class Members who purchased Earth Friendly Products from ECOS.com or for whom contact information is otherwise available. Dahl will mail a Long-Form Notice and Claim Form or email a Summary Notice to each of these individuals.

#### **WEB-BASED NOTICE**

20. To reach as many of Settlement Class Members as possible, a web-based notice campaign utilizing banner-style notices with a link to the Settlement website will supplement the print notice. Banner notices measuring 728 x 90 pixels and 300 x 250 pixels will appear on a subset of two groups of websites known as the FRWD Reach Channel and Lifestyle Channel. The Reach Channel provides placements across the top 2,000 most trafficked websites, and provides the ability to reach the Settlement Class. The Lifestyle Channel provides placement across the top beauty, fashion, lifestyle and related websites and provides higher-impact and more contextually-relevant placements with regard to this Settlement Class. The

banner notices will run on websites when the site's demographics match our target audience.

21. A true and correct list of the website domains that are included in the FRWD Reach Channel and Lifestyle Channel and will be utilized in this Notice campaign is attached hereto as Exhibit 3.

22. True and correct samples of the banner ads that will be placed are attached hereto as Exhibit 4.

23. The Grudnowski Affidavit attached as Exhibit 2 provides more detailed information about the technologies and methods that we will use to implement and track this component of the Notice Plan.

#### **USING KEYWORD SEARCH TERMS**

24. The proposed Notice Plan will include banner ads targeted to display in response to the entry of specific keywords related to Earth Friendly Products products and other similar products and interests on major search engine websites, including the keywords "Venus Class Action," "Venus Earth Friendly Lawsuit," and other similar terms.

#### **USING SOCIAL MEDIA INTEREST AREAS**

25. The proposed Plan will include banner ads that will be displayed to users of the Facebook social media network. These banner ads will appear on Facebook web pages displayed to Facebook users who have previously expressed interest using Facebook "Likes" and otherwise in areas such as "Household Cleaning Items," "Detergent," "Countertop Cleaner," "Environmental

Sustainability,” “Green Products,” etc. In previous consumer product class action settlement notification plans, this method of targeting has led to significant increases in overall claims.

26. In order to facilitate the sharing of settlement information on social media a Facebook Page will be created for the settlement and updates will be provided on the page and promoted to the news feeds of individuals likely to be Settlement Class Members. A Twitter Page and hashtag (#EarthFriendlySettlement) will also be created and updates about the settlement will be given and promoted.

#### **EARNED MEDIA**

27. The proposed Notice Plan will also include earned media to supplement the paid media portion of the Plan and will be targeted to a national audience. “Earned media” refers to promotional efforts outside of direct, paid media placement. The earned media efforts will provide additional notice of the Settlement to potential Settlement Class Members, though the effect is not measurable as it is with the impressions accumulated with the paid media portion of the Notice campaign.

28. Concurrent with the launch of the online Notices, Dahl will release a national press release via PR Newswire. The press release will be distributed by PR Newswire to 5,815 newspapers, television stations, radio stations and magazines. In addition, PR Newswire will send the press release to approximately 5,400 websites and online databases, including all major search engines.

29. A true and correct copy of the text of the proposed press release is attached hereto as Exhibit 5.

#### **TOLL-FREE HELPLINE**

30. Prior to the launch of the print and web-based media campaigns, Dahl will also establish a toll-free Settlement helpline to assist potential Settlement Class Members and any other persons seeking information about the Settlement. The helpline will be fully automated and will operate 24 hours per day, seven days per week. Callers will also have the option to leave a message in order to speak with the Settlement Administrator.

31. The toll-free helpline will include a voice response system that allows callers to listen to general information about the Settlement, listen to responses to frequently asked questions (“FAQs”), or request a Long-Form Notice.

32. Dahl will work with Counsel to prepare responses to the FAQs to provide accurate answers to anticipated questions about the Settlement.

#### **SETTLEMENT WEBSITE**

33. Prior to the launch of the print and web-based media campaigns, Dahl will coordinate and integrate into the Notice Plan a Settlement website.

34. Dahl will work with Counsel to develop the content for the Settlement website. The website will provide Settlement Class Members with general information about the Settlement, answers to frequently asked questions, a means to submit an electronic Claim Form or download a Claim Form, important dates and deadline information, a summary of Settlement benefits, a means by which to

review and print copies of certain Settlement documents (including the Long Form Notice), and a link to contact the Settlement Administrator via email.

### **CONCLUSION**

35. The objective of the Notice program is to reach the highest possible percentage of potential Class Members, provide them with meaningful information to help them understand their legal rights and options under the terms of the settlement and provide a simple, open and easy method for them to file claims for settlement benefits.

36. It is my opinion that the proposed Notice Plan, by producing more than 66 million digital impressions that are targeted using methods universally employed in the advertising industry at persons that match characteristics of Earth Friendly Product purchasers – and thus the Settlement Class – provides sufficient Notice to the members of the Settlement Class.

37. It is also my opinion that the proposed Notice Plan is fully compliant with Rule 23 of the Federal Rules of Civil Procedure and meets the notice guidelines established by the Federal Judicial Center's Manual for Complex Litigation, 4<sup>th</sup> Edition (2004), as well the Federal Judicial Center's Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide (2010), and is consistent with notice programs approved previously by both State and Federal Courts.

### **EXHIBITS**

38. Attached hereto are true and correct copies of the following exhibits:

- Exhibit 1: Background information on Dahl Administration
- Exhibit 2: Affidavit of John Grudnowski in Support of the Settlement  
Notice Plan
- Exhibit 3: List of Websites on which Banner Ads may be placed
- Exhibit 4: Sample Banner Ads
- Exhibit 5: Press Release text

I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge. Executed this 25<sup>th</sup> day of September, 2015 in Minneapolis, Minnesota.

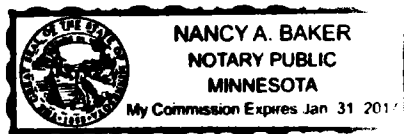
Jeffrey D. Dahl

Jeffrey D. Dahl  
Founder and Principal  
Dahl Administration, LLC

Sworn to and Subscribed before me  
this 25<sup>th</sup> day of September, 2015.

Nancy A. Baker

Notary Public



# Exhibit 1





**Firm Information  
and Selected References**

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## **OUR FIRM**

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## OUR FIRM

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### OUR HISTORY

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After more than 15 years of experience managing hundreds of settlements and distributing billions in settlement benefits, Jeff and Kristin returned to their roots as hands-on administrators providing innovative and cost-effective solutions. They created Dahl Administration to provide responsible, accountable, and transparent settlement administration services, and to become a trusted resource for class action counsel nationwide.

Dahl Administration has a history that stretches back to the beginnings of the class action settlement administration industry. Jeff Dahl was a founding partner of Rust Consulting and Kristin Dahl was Rust's second employee. During their time with Rust, the firm managed over 2,000 class action settlements.

Jeff and Kristin built Dahl Administration from the ground-up to provide the kind of service and expertise that complex claims administration projects demand, something that is too often lost within the corporate overhead and "turn-key solutions" that come with very large administrators. To do this, Dahl Administration combines advanced claims processing technology with expert project teams that are 100% focused on meeting client needs. This project team approach eliminates departmental "silos" that lack overall understanding of a client's project needs and lose the ability to communicate effectively when issues arise.

To focus on client needs, Jeff and Kristin created an organization that produces truly custom solutions, where project managers and principals actually answer their phones and emails, employees are empowered to resolve issues, and team members proactively communicate with clients to eliminate unwelcome surprises. The same people that consult and generate project proposals also attend weekly project update meetings and actively manage project work. This continuity ensures that project execution and costs meet or exceed the standards set in the proposal.

Dahl Administration is a full-service provider, with a staff of professionals experienced in class action administration, direct and media notice, process development, document and script development, data and image capture, claims processing, quality control review, accounting, project management, software development, and distribution. We also have sophisticated technology resources in place to implement solutions of any size and any level of complexity.

We are committed to managing successful projects that are completed on time, on budget, and with the highest level of quality in the industry.



## OUR FIRM

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### OUR PHILOSOPHY

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#### Dahl's 6 Key Principles:

##### **Accountable**

We are experts at what we do. When you hire us the work is done correctly and we stand behind it. No exceptions.

- **Immediate Resolution**

When issues arise, we fix them. Dahl principals are actively involved in day-to-day client support and project management.

- **Project Team Responsibility**

Our project managers are empowered to make decisions and resolve issues directly, guided by Dahl principals who actively monitor every project.

- **True Real-time Quality Assurance**

We perform quality reviews continuously within the project processing cycle, not through a generic, detached auditing function.

##### **Responsive**

Nothing is more frustrating than having issues arise and no one will answer the phone or respond to an email. Our managers and principals are required to answer their phone and check their email 24/7. We want you to call our mobile numbers in an emergency, that's why we give them to you. You can always call our president and he will be happy to assist you. We don't just say this, we do it.

- **Online, All the Time**

We answer the telephone. We know your time is money, so when you have an issue, you can call or email your project manager, your project principal, or the company president to get it resolved promptly – day or night.

- **Empowered, Knowledgeable Staff**

We don't forward you to different departments or park your issue with a ticketing system. Your assigned project manager is knowledgeable and empowered to provide solutions on your project. If they don't know the answer, they will get it – promptly and willingly.

- **Client Relationships Drive Our Business**

We are about you. We strive to develop a long-term, successful partnership with you.



## OUR FIRM

### Technology-Driven

Sometimes it takes a custom technology solution to meet a unique settlement administration challenge. We have a dedicated information technology staff and a full menu of technology services to offer our clients. Whether you need a secure web-based claims submission portal, a custom IVR phone solution, innovative web-based class notice, or anything else, we will work with you to build the solution that works for your settlement and your budget.

- **Advanced Capabilities**

We offer advanced print and mail solutions, custom IVR phone technology, online filing, "Quick Site" claim image access for clients, high-speed scanning, and flexible fund distribution alternatives.

- **Data Security**

We provide secure physical facilities, proven technical infrastructure, and information-handling procedures to protect sensitive data.

- **Custom Technical Solutions**

We custom configure solutions for each project, so you get innovative claims processing workflow that fits your needs.

- **Capacity and Sophistication**

We have dedicated information technology staff and a high-capacity technology environment to support any size or type of case.

### Affordable

In today's economic times, price is always a factor. At Dahl, we have eliminated a lot of unnecessary overhead by focusing our staffing on project-based needs. Dahl employees work on projects. This allows us to keep rates low and stay focused on our clients.

- **Best Service at the Best Price**

We provide innovative and efficient services designed to administer your project correctly and cost-effectively.

- **Nimble and Right Sized**

We have project-based teams focused on your case solutions. All of our employees do project work, eliminating non-essential corporate overhead.



## OUR FIRM

### Custom Solutions

We don't provide 'turn-key' processing solutions. Over the years, we have found that our clients expect more from us. We customize our solutions to meet our clients' varied expectations and do it at a 'turn-key' price.

- **True Customization**

We deploy our expertise and tools to fit your project's needs.

- **Your Project Your Way**

We don't force your project into our process, we adjust our process to meet your requirements.

- **Adjustable and Adaptable**

We are nimble and proactive, enabling us to make real-time processing changes to meet your deadlines and requirements.

### No Surprises

You should not have to deal with missed deadlines or surprise invoices that far exceed proposed costs. We anticipate issues and stay on top of your settlement schedule for you. Weekly processing updates and monthly budget updates eliminate unpleasant surprises. Clients tell us that their "no surprises" experience with Dahl is what keeps them coming back again and again.

- **Every Project Every Day**

We anticipate issues. Our "every project, every day" philosophy means our project team is on top of your schedule and proactively addressing any issues.

- **Consistent Reporting**

We deliver weekly processing updates and monthly budget updates on every project.

- **Active Communication**

Our principals and project managers proactively track changes in project dynamics and communicate any issues to you



## OUR FIRM

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### OUR SERVICES

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Dahl provides project management and settlement distribution services to attorneys, distribution agents, special masters, governmental agencies, and the courts.

Our services include:

- Settlement Administration Planning and Design
- Management Team
- Project Management
- Cost Analysis
- Pre-Settlement Consultation
- Claimant Notification
- Innovative Notice Planning and Execution
- Claim Document Development and Layout
- Website and Call Center Services
- Claimant Communication
- CAFA Notice
- Document Imaging and Data Capture
- Claim Evaluation and Processing
- Reporting
- Quality Assurance Review
- Problem Identification and Resolution
- Distribution Management



## OUR FIRM

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### INNOVATIVE NOTICE PLANNING AND EXECUTION

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Change in the media landscape is accelerating and it is imperative that class action notification planning and execution reflect these changes. More people are now consuming news media via Internet sources than are reading even the most recognized print publications. Given this sea change, it no longer makes sense for class action notification plans to reflexively purchase print advertisements in the same leading national or regional print publications without considering the reality of where class members are directing the bulk of their attention. Print publication still has its place, often as a supplementary notice tactic, but that place will be less and less as the primary method of reaching unidentified class members.

With over 22 years of experience in class action notice and claims administration, Jeff Dahl recognized that class action notice plans were insufficiently utilizing the newly-available tools from the Internet marketing and communications industry. To fill this gap, Dahl Administration reached out to a leading digital marketing agency, FRWD, to develop best practices in applying digital media strategies and execution programs to the class action notification arena. The premise is simple: reach class members using the same digital media tools that FRWD's clients—brands such as 3M, Coca-Cola, Best Buy, Proctor & Gamble, General Mills and more—use to reach their own customers. In planning to provide “the best notice that is practicable under the circumstances” it is no longer acceptable to ignore the digital sphere where class members are now spending the bulk of their media consumption time and attention.

Dahl has deep experience in class action notification, and Dahl handles individual notice planning and execution more efficiently than anyone in the industry. Whether the case involves direct postal mail or email, Dahl will handle the data cleansing, returned mail and tracing, and other standard or custom procedures such that as many of the reasonably identifiable class members get notice of the litigation as possible.

When it comes to publication notice, the Dahl-FRWD approach diverges from the rest of the class action notification industry.

- We reach class members using the same strategies and tactics that leading advertisers would use to reach the same target audience as customers.
- Where feasible, we meet with marketing staff from the defendant(s) along with plaintiff and defense counsel to determine customer demographic and psychographic profiles.
- The logic is unassailable: where defendants have developed highly sophisticated knowledge about their customers and prospective customers, the class action notice process should seek out this knowledge and put it to use.





## OUR FIRM

- Too often, this approach is overlooked in favor of the same print publication placements and, sometimes, a scattershot web banner ad campaign directed only by the broadest of demographic profiles.

### Targeting

First, we validate targeting parameters and align media buying with all parties. This process includes hand selecting specific website domains, print publications, geographic targeting, audience interest targeting, and more. By bringing the parties into the process, we are able to align more specifically on targeting needs and expectations in notification.

### Technology

Second, we begin technology systems alignment. In delivering a modern notification plan, multiple technical systems must be aligned. This is done to ensure accuracy in delivery of media as well as verifying that delivery met expectations. In typical notification planning Dahl-FRWD will leverage data collection, ad serving, and verification technologies. In parallel with finalizing media, Dahl-FRWD will install and set up all needed technology. In a recent matter where U.S. nationwide notification was required, we structured 50 unique campaigns to ensure proper distribution and verification of notice in each U.S. state. This often overlooked step is vital to ensuring proper notification as Dahl-FRWD can verify reach by state, country, and region. Any notification plan overlooking this step is simply not leveraging available technology to the best practices level.

### Execution

The Dahl-FRWD approach involves much more than the mere use of “industry-standard methodology” for the placement of web banner ads. In fact, class action notice “experts” often settle for buying blocks of surplus banner ads from wholesalers. Our goal is to use the same targeting and execution methodology that leading brands use to reach their own customers when we seek to reach those same persons in their capacity as class members. Our methodology of media planning and buying leads to greater accuracy, quality and control of media. The cost advantage is typically 20% to 30%, meaning we can typically reach 20% to 30% greater population base at the same media cost as traditional media notice plans.

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## OUR PEOPLE

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**CHRISTOPHER LONGLEY**

President

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Chris is President of Dahl Administration. A former practicing attorney for the Minneapolis law firm of Hessian, McKasy & Soderberg, Chris has spent the last 25 years in the business sector.

Prior to joining Dahl, Chris was Managing Director and Vice President at SRS|Acquiom, a leading professional shareholder representative firm located in Denver and San Francisco. Prior to SRS Chris spent many years within Thomson Reuters running a global team focused on Mergers and Acquisitions.

A successful entrepreneur, Chris was part of the founding team of 10 start-up companies, and spent 11 years as Vice President of Business Development at a mid-size private equity firm in Minneapolis, where he ran sales and marketing operations for various portfolio companies from Florida to Ankara, Turkey.

Chris graduated from William Mitchell College of Law, and the University of St. Thomas. He is admitted to practice in Minnesota, The 8<sup>th</sup> circuit and the United States Supreme Court.

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**JEFF DAHL**

Founder and Principal

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Jeff co-founded Dahl Administration, LLC in early 2008 and was previously a founding partner and co-owner at Rust Consulting, Inc., one of the two largest class action claims administration firms in the country.

Jeff is a noted expert in all areas of settlement administration including notification, claims processing and distribution. He is known for providing innovative solutions to resolve complex project issues.

Jeff was the court-appointed Neutral Expert tasked with providing final claim determinations for a \$176 million settlement in Rhode Island, involving over 300 victims of a 2003 nightclub fire.

He served as the distribution agent for the U.S. Securities and Exchange Commission's \$350 million settlement with Fannie Mae.

During Jeff's 19-year career with Dahl and Rust Consulting, his firms provided claims administration services for over 2,000 class action and regulated settlements including the \$1.1 billion Microsoft California settlement; the \$950 million PB Pipe settlement; the \$850 million Masonite siding and roofing settlement; and they distributed over \$2 billion from U.S. Securities & Exchange Commission Fair Funds.

Jeff graduated from Concordia College-Moorhead with a Bachelor of Arts degree in Business Administration and is a Certified Public Accountant.

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**JOHN GRUDNOWSKI**

Media Expert

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In May 2009, John founded FRWD. He brings 18 plus years of PR and digital marketing services experience that he gained over the course of his career at Accenture, General Mills, Carmichael Lynch and Vail Resorts. John has developed digital strategies, provided expert training, counseled and advised marketing executives, led internal client innovation teams and led execution teams for a variety of Fortune 1,000 clients including: American Express, Discovery, 3M, General Mills, Deluxe, Target, Best Buy, Sony Pictures, Dairy Queen, Starz Entertainment and Ameriprise.

Prior to founding FRWD, John founded and led the modern media practice at space150, a Twin-Cities based ad agency, as well as led agency business development supporting revenue growth from under \$1MM to over \$12MM in four years. John has also co-founded the Minneapolis-based i612 media organization, and has served on multiple digital-based start-up boards of directors.

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**KRISTIN DAHL**

Principal

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Kristin co-founded Dahl Administration, LLC and leads the project management group.

She has worked on three U.S. Securities and Exchange Commission settlements including the \$432 million Global Research Analyst Settlement, the \$100 million HealthSouth Securities settlement, and the \$26 million Banc of America Securities settlement on behalf of Distribution Fund Administrator Francis E. McGovern.

Kristin has eighteen years of project management experience solely in the field of class action claims administration. In her career at both Dahl and Rust Consulting, she was the active project manager on over 150 settlements, including the groundbreaking Denny's race discrimination settlement during which over 1 million phone calls were answered and over 150,000 claims were processed.

Kristin holds a Bachelor of Science degree from the University of Wisconsin-River Falls.

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**JEFF HOUDEK**

Director of Operations

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Jeff Houdek is a Principal at Dahl and serves as Dahl's Director of Operations. Among his duties is the management of the tax reporting function for Dahl's Qualified Settlement Funds. A former Big 4 Auditor, he's built his career helping organizations develop effective and scalable accounting and operational systems to enable organizational growth while serving the needs of their customers.

Having worked in a number of heavily regulated industries, where both privacy and cost-effectiveness are paramount, he has helped with the design and development of several technology platforms and reporting applications.

Jeff is a graduate of St. John's University in Collegeville, Minnesota with Bachelor of Arts in Accounting. A Certified Fraud Examiner, Jeff has also previously held CPA, Securities (FINRA) and Insurance licenses.

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**NANCY BAKER**

Principal

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Nancy is a Project Manager with over nine years' experience in securities and class action claims management. Prior to joining Dahl, Nancy was a project manager for Rust Consulting specializing in securities cases. Nancy manages a variety of settlements for Dahl including property, insurance and consumer cases. She also drafts notice documents, call scripts and other claimant communications for the firm's projects, handles our published notice campaigns, and coordinates special projects for clients. Nancy graduated with honors from Augsburg College with a Bachelor of Arts degree.

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**KELLY KRATZ**

Principal

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Kelly is a Senior Project Manager at Dahl with experience in the mortgage and financial services industries and more than eight years of Big 4 Public Accounting experience, including six years of consulting and project management, and two years of operations and resource management. Prior to joining Dahl, Kelly worked as a tax consultant at Deloitte in the National Federal Tax Services Group managing numerous complex high-profile client engagements for several Fortune 100 companies, providing related project IRS audit defense, and preparing tax memorandums.

Kelly holds her Bachelor of Arts with a concentration in Financial Management from the University of St. Thomas.

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**MARK FELLOWS**

Principal

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Mark is an attorney whose work is focused on notice planning and project initialization for large or complex matters. He has particular expertise in drafting plain language notice and related documentation to comply with applicable legal standards. He also is experienced in working with counsel to create hybrid notice strategies using electronic media to meet due process standards in challenging situations.

He has more than ten years of experience serving as Legal Counsel and Manager of Legal Research and Education for a large claims adjudication and processing organization. Mark previously worked as a consultant in the data analytics and business intelligence industry. Mark earned his law degree from William Mitchell College of Law and his B.S. from Lewis and Clark College.

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**DAN LEGIERSKI**

Principal

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Dan Legierski is a Principal at Dahl who works closely with other Principals, Project Managers, and the Operations Team to ensure that our clients' needs are met. His professional experience includes over twenty years of effectively leveraging technology to better process legal, regulatory, and consumer claims.

Dan has spent time directing Finance/Accounting, Technology, and Operations Departments so he truly understands all aspects of claims processing and how the various functions work together to ensure quality and efficiency. During his tenure at Dahl, he has led the design and development of two major technology platforms that manage the administration of class action cases, promoting quality, accuracy, and cost effectiveness.

Dan graduated from the graduate Software Systems Program at the University of St. Thomas, and from St. Cloud State University with a Bachelors of Science in both Finance and Economics.

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**DAVID HOFFMAN**

Vice President of Business Development

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David Hoffman is National Director of Business Development at Dahl and is responsible for leading Dahl's efforts to provide expert consulting to aid clients in structuring the notice and claims administration processes. He has more than ten years of experience in providing consulting solutions to attorneys engaged in high-impact litigation. David takes pride in structuring engagement proposals for Dahl clients and prospective clients that accomplish settlement requirements as efficiently and reliably as possible. David studied Behavioral Science & Law at the University of Wisconsin at Madison and has actively pursued continuing education in client services and business development approaches from Miller-Heiman, FranklinCovey, Dale Carnegie, and others.

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**BRYN BRIDLEY**

Project Initialization Manager

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Serving as a Project Manager for more than five years, Bryn recently transitioned to the role of Project Initialization Manager. Bryn was a project manager for Rust Consulting prior to joining Dahl and has over nine years of experience in the claims administration industry. Bryn is responsible for the setup of each new Dahl project. After a thorough review of each project's case documents, she establishes a project timeline and works directly with Plaintiff and Defense Counsel to finalize notice documents, drafts telephone and website contents, cleanses data files for mailing, and transitions the project to the Dahl claims management team after notice is mailed.

Bryn graduated with honors from the University of Minnesota-Duluth with a Bachelor of Arts degree.

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**SEAN COMBS**

Project Manager

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Sean is a Project Manager with over eleven years' experience in consumer class action claims management. Prior to joining Dahl, Sean was a Project Coordinator for Rust Consulting, specializing in high volume claims processing and quality assurance. Sean also has several years' experience in providing CAFA notice mailings.

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**CARRIE O'CONNELL**

Project Manager

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Carrie O'Connell joined the Dahl team after working for seven years as a Supervisor in a high-volume legal claim processing organization. Carrie has eight years of experience in legal case management and quality control, which enables her to oversee a variety of settlements for Dahl and to lead our quality assurance team. Carrie earned a Bachelor of Science degree in History from Iowa State University and she received her Paralegal Certificate in 2004.

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**ANN LINTON**

Project Manager

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Ann joined Dahl after working for five years in the distribution business and was involved in chamber of commerce and a neighborhood business group. Previous to that she spent seven years working with juvenile delinquents at a day treatment program.

Ann earned a Masters in Social Work from Augsburg College and a Bachelors of Social Work from University of St. Thomas.

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**JOHN SNYDER**

Director of Information Technology

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John is the architect of Dahl's online claims portal, which allows parties to view and process cases over the internet using paperless workflow capabilities. He has over six years of information technology experience in legal claims processing and nearly 15 years of experience with information technology in general.

John possesses an MBA from the University of Minnesota Carlson School of Business and a law degree from the University of Wisconsin.

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**GENNADIY KATSNELSON**

Web Interface/Custom Development

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Gennadiy is a Software Developer and focuses primarily on web interface and custom software development. He has more than 20 years of top-level website development, design and architecture experience. His prior experience includes project management, website architecture, website design and hands-on development in which he successfully delivered large-scale systems to the market in a number of industries, including legal. Gennadiy has knowledge and practical expertise in a wide range of software platforms and technologies. Gennadiy obtained a Masters Degree in Mathematics and Computer Science from Belarusian State University, Minsk, Belarus.



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## OUR REFERENCES

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## OUR REFERENCES

### DEFENSE COUNSEL

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<b>JOHN F. WARD, JR.</b>	<b>MICHAEL T. BRODY</b>	<b>NEIL M. BAROFSKY</b>
Partner, Jenner & Block LLP	Partner, Jenner & Block LLP	Partner, Jenner & Block LLP

---

John Ward and Michael Brody are Defense counsel for the Hertz/ATS/PlatePass settlement (Ward) and the Hertz Equipment Rental Corporation LDW settlement (Brody). Neil Barofsky is Defense counsel representing CashCall in settlements between individual states and a consumer lender and related entities.

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#### BRIAN R. ENGLAND

Special Counsel, Sullivan & Cromwell LLP

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Defense counsel for Philips BPA settlement and Philips TV settlement.

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#### MARCI A. EISENSTEIN

Partner, Schiff Hardin LLP

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#### PAULA J. MORENCY

Partner, Schiff Hardin LLP

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Marci Eisenstein is Defense counsel in the Twin City Fire Insurance/Hartford Insurance settlement. Paula Morency is Defense counsel in the Suave 30-Day Smoothing Kit settlement.

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## OUR REFERENCES

### DEFENSE COUNSEL, CONTINUED

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**BRYAN O. BALOGH**

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Defense counsel in the Janoka v. Veolia Environmental Services settlement.

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Partner, Cooley LLP

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**ELIZABETH B. McREE**

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Defense counsel representing Verizon in the Coie v. Verizon settlement.

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## OUR REFERENCES

### PLAINTIFF COUNSEL

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**JOE KRONAWITTER**

Partner, Horn Aylward & Bandy, LLC

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Plaintiff counsel for the In Re: Motor Fuel Sales Practices Litigation settlements.

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**RALPH K. PHALEN**

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**MITCHELL L. BURGESS**

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Class co-counsel in numerous settlements administered by Dahl Administration.

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**MARK S. MANDELL**

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Lead Plaintiff Counsel for the Station Nightclub Fire settlement.

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## OUR REFERENCES

### PLAINTIFF COUNSEL, CONTINUED

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**STEVEN JAFFE**

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Class Counsel in the Appel v. Liberty American Insurance Company settlement.

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**CHRISTOPHER S. POLASZEK**

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**MICHAEL COREN**

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Class Counsel in the Bower v. MetLife settlement.

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## **SELECTED CASES**

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## OUR CASES

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### **STATION NIGHTCLUB FIRE SETTLEMENT - \$176 MILLION**

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Dahl staff provided onsite claim evaluation services at 11 law firms in Providence, Rhode Island to determine claim validity and final claim values for over 300 death and personal injury claims. The review included analysis of authority documents and medical records by a staff of Registered Nurses and senior level project managers. Jeff Dahl is the court-appointed Neutral Expert responsible for final determinations of all claims for this settlement.

Lead Counsel: Mark S. Mandell, Law firm of Mandell, Schwartz & Boisclair, Providence, RI

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### **VEOLIA CLASS SETTLEMENT - 1.2 MILLION COMPLEX DATA RECORDS PROCESSED**

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Dahl was selected to provide Class Notice and Distribution for the Janoka v. Veolia Environmental Services class action. Dahl analyzed and processed over 1.2 million complex data records, mailed notice to over 900,000 potential class members, and processed incoming correspondence and opt outs. Dahl then managed complex claims processing procedures, including detailed analysis of class member invoices and other supporting documentation, and distributed settlement funds to eligible class members.

Plaintiff Counsel: James M. Terrell, McCallum, Methvin & Terrell, P.C., Birmingham, AL

Defense Counsel: Rik S. Tozzi and Brian O. Balogh, Burr Forman LLP

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### **METLIFE CLASS SETTLEMENT - NEARLY 1 MILLION CLASS MEMBER CHECKS DISTRIBUTED**

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Dahl was selected to provide Class Notice, Settlement, Notice, and Distribution for the Bower v. MetLife class action. Dahl mailed notice to over 900,000 potential class members, and processed incoming correspondence and opt outs. Dahl distributed nearly one million checks to eligible class members and handled all requests for re-issued checks. Dahl implemented innovative, cost-effective solutions to manage the distribution process.

Plaintiff Counsel: Steven R. Jaffe, Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L., Fort Lauderdale, FL; Stephen A. Dunn, Emanuel & Dunn PLLC, Raleigh, NC; and Michael Coren, Cohen, Placitella & Roth, P.C, Philadelphia, PA

Defense Counsel: Ross Bricker and John F. Ward, Jr., Jenner & Block LLP and Robert D. Friedman and Scott H. Moskol, Burns & Levinson LLP



## OUR CASES

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### **HERTZ PLATEPASS SETTLEMENT - 1.6 MILLION NOTICES MAILED**

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Dahl was selected to provide Class Notice, Claims Processing, and Distribution for the Doherty and Simonson v. Hertz, ATS, and PlatePass class action. Dahl mailed notice to over 1.6 million potential class members, administered an efficient online claim filing procedure, and processed incoming correspondence and opt outs. Dahl processed incoming claims and distributed nearly 100,000 checks to eligible class members.

Plaintiff Counsel: Jeffrey Goldenberg, Goldenberg Schneider LPA, Cincinnati, OH and Brian Dershaw, Beckman Weil Shepardson LLC, Cincinnati, OH

Defense Counsel: James Comodeca, Dinsmore & Shohl LLP and James Griffith, Jr., Akin Gump Strauss Hauer & Feld LLP

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### **URBAN ACTIVE FITNESS SETTLEMENT - 600,000 CLASS MEMBERS**

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Dahl was the Settlement Administrator for the Urban Active Fitness class action settlement and was responsible for the distribution of mailed notice to more than 600,000 class members, implementation of a published notice campaign, extensive data processing, online claim filing, and complex claims processing.

Plaintiff Counsel: Thomas N. McCormick, Vorys Sater Seymour and Pease LLP, Columbus, OH

Defense Counsel: V. Brandon McGrath, Bingham Greenebaum Doll PLLC, Cincinnati, OH

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### **RODENBAUGH V. CVS PHARMACY SETTLEMENT - 400,000 CLASS MEMBERS**

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Dahl is the Settlement Administrator for the Rodenbaugh v. CVS Pharmacy class action settlement and was responsible for the distribution of mailed notice to more than 400,000 class members, implementation of a published notice campaign, operation of an informational phone line, processing of claim forms and correspondence submitted by class members, and providing claim review services.

Defense Counsel: Roman Wuller, Thompson Coburn LLP, St. Louis, MO and Edward Hardin Jr., Burr & Forman LLP, Birmingham, AL

Plaintiff Counsel: John Edgar, Edgar Law Firm LLC, Kansas City, MO and Carles McCallum III and R. Brent Irby, McCallum, Hoaglund Cook & Irby LLP, Vestavia Hills, AL





## OUR CASES

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### **COIE v. VERIZON WIRELESS SETTLEMENT- CUSTOM DIRECT NOTICE PROGRAM**

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Dahl distributed the Class Notice and Opt-In Form to a large employment class, including a custom outer envelope including a “QR” matrix barcode which directed Class Members to the mobile-optimized settlement website when scanned by a mobile device. Dahl implemented a comprehensive tracing and re-mail program to maximize the reach of the direct notice program. Dahl managed a live telephone helpline that responded to thousands of phone calls, processed filed claims, and successfully distributed the settlement funds.

Defense Counsel: Elizabeth McRee, Jones Day, Chicago, IL

Plaintiff Counsel: Ilan Chorowsky, Progressive Law Group, Chicago, IL

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### **APPEL v. LIBERTY SETTLEMENT - COMPLEX CLAIM PROCESSING**

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Dahl was the Settlement Administrator for the Appel v. Liberty settlement involving insurance coverage limits for mobile and manufactured homes suffering wind damage in Florida. Dahl implemented a direct notice program, implemented a settlement website and live call center including Spanish-speaking representatives, processed received claims, implemented complex claim processing procedures, and distributed the settlement fund.

Defense Counsel: Amy L. Brown, Squire Sanders, Washington D.C.

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## OUR CASE EXPERIENCE

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## CASE CITES

## CURRENT CASES – DAHL

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 CONSUMER
 

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**Aguiar v. Merisant Co.**, No. 2:14-CV-00670 (C.D. Cal.)  
**Applewhite v. Capital One Bank**, No. 4:06-CV -69 (N.D. Miss.)  
**Avalishvili v. Reussille Law Firm, LLC**, No. 3:12-CV-02772-TJB (D. N.J.)  
**Banner v. Law Offices of David J. Stern**, No. 9:11-CV-80914 (S.D. Fla.)  
**In re Bisphenol-A (BPA) Polycarbonate Plastic Prods. Liab. Litig.**, No. 4:08-MD-1967 (W.D. Mo.)  
**Boewer v. Chris Auffenberd Kirkwood Mitsubishi**, No. 09SL-CC05382 (Mo. Cir. Ct. St. Louis County)  
**Bradley v. Sears, Roebuck & Co.**, No. 06-L-0095 (Ill. Cir. Ct. St. Clair County)  
**Brandon v. Van Chevrolet-Cadillac, Inc.**, No. 1031-CV14654 (Mo. Cir Ct. Greene County)  
**Brannon v. Capital One**, No. 3:07-CV -1016 (M.D. Fla.)  
**Brewer v. Missouri Title Loans, Inc.**, No. 0722-CC-00015 (Mo. Cir. Ct. St. Louis County)  
**Briggs v. Fletcher Auto. No. 7, LLC**, No. 10AO-CC003331 (Mo. Cir. Ct. Jasper County)  
**Brown v. Suntrup Ford, Inc.**, No. 08SL-CC05103 (Mo. Cir. Ct. St. Louis County)  
**Brown v. Zeiser Motors**, No. 0811-CV04298 (Mo. Cir. Ct. St. Charles County)  
**Brunner v. Head Motor Co.**, No. 0811-CV04298 (Mo. Cir. Ct. Boone County)  
**Bryant v. Motors Liquidation Co.**, No. 09-50026 (Bankr. S.D.N.Y.)  
**Budeprion XL Mktg. & Sales Practices Litig.**, No. 2:09-CV-2811 (E.D. Pa.)  
**Busby v. RealtySouth**, No. 2:04-CV -2799 (N.D. Ala.)  
**Bush v. Cyber Asset Recovery, LLC**, No. MID-L-005132-10 (N.J. Middlesex County Ct.)  
**Carlile v. Murfin Drilling Co., Inc.**, No. 13-CV-61 (Kan. Dist. Ct. Seward County)  
**Charron v. Pinnacle Group, N.Y.**, No. 1:07-CV -6316 (S.D.N.Y.)  
**Chulsky v. Hudson Law Offices, P.C.**, No. 3:10-CV-3058-FLW (D.N.J.)  
**Conderman v. Jim Trenary Chevrolet, Inc.**, No. 0811-CV-11388 (Mo. Cir. Ct. St. Charles County)  
**Cornett v. Samson Ress. Co.**, No. CJ-09-81 (Okla. Dist. Ct. Dewey County)  
**Cox v. Max Motors II, LLC**, No. 09BS-CC00078 (Mo. Cir. Ct. Bates County)  
**Cullan and Cullan, LLC, v. M-Qube, Inc.**, No. 8:13-CV-00172 (D. Ne.)  
**Custom LED, LLC v. eBay Inc.**, No. 3:12-CV-00350 (N.D. Cal.)  
**Davis Landscape, LTD. v. Hertz Equip. Rental Corp.**, No. 06-3830 (D.N.J.)  
**DKW Constr., Co., Inc. & Brian Wood v. Southtown Dodge, Inc.**, No. 08SL-CC05106 (Mo. Cir. Ct. St. Louis County)



## CASE CITES

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 CONSUMER - CONTINUED
 

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**Dobson v. Dave Cross Motors, Inc.**, No. 1016-CV-26853 (Mo. Cir. Ct. Jackson County)  
**Doherty v. The Hertz Corp.**, No. 1:10-CV-00359 (D. N.J.)  
**Dugan v. Lloyds TSB Bank, PLC**, No. 3:12-CV-02549 (N.D. Cal.)  
**Farno v. Ansure Mortuaries of Indiana, LLC**, No. 41C01-0910-PL-7 (Ind. Cir. Ct. Johnson County)  
**Friess v. Layne Energy, Inc.**, No. 11-CV-57 (Kan. Dist. Ct. Wilson County)  
**Fritzinger v. Angie's List, Inc.**, No. 1:12-CV-1118 (S.D. Ind.)  
**Frost v. Ohio E. Express, Inc.**, No. 3:12-CV-3016 (N.D. Ohio)  
**Gaffney v. Autohaus West, Inc.**, No. 09SL-CC00430 (Mo. Cir. Ct. St. Louis County)  
**Gascho v. Global Fitness Holdings, LLC**, No. 2:11-CV-436 (S.D. Ohio)  
**Gentry v. Reliable Auto., Inc.**, No. 0831-CV06073 (Mo. Cir. Ct. Greene County)  
**Grant v. Onyx Acceptance Corp.**, No. 07-20315 (Fla. Cir. Ct. Broward County)  
**Green v. American Cleaners and Laundry Co., Inc.**, No. 12SL-CC03095 (Mo. Cir. Ct. St. Louis County)  
**Green v. Major Infiniti, Inc.**, No. 1116-CV09583 (Mo. Cir. Ct. Jackson County)  
**Gregg v. Check Into Cash of Missouri, Inc.**, No. 11-CV-368 (W.D. Mo.)  
**Gumm v. Joe Machens Ford, Inc.**, No. 08BA-CV03153 (Mo. Cir. Ct. Boone County)  
**Hamilton v. Cash Am. of Missouri, Inc.**, No. 1216-CV-10576 (Mo. Cir. Ct. Jackson County)  
**Heien v. Archstone Communities, LLC**, No. 1:12-CV-11079-RGS (D. Mass.)  
**Hermida v. ASN Reading LLC**, No. 10-CV-12083-WGY (D. Mass.)  
**Herrera v. Check 'n Go of California, Inc.**, No. CGC-07-4627790 (Cal. Super. Ct. San Francisco County)  
**Hershey v. ExxonMobil Oil Corp.**, No. 6:07-CV-01300 (D. Kan.)  
**Hewitt v. Law Offices of David J. Stern**, No. 50-2009-CA-036046 (Fla. Cir. Ct. Palm Beach County)  
**Hollins v. Capital Solutions Invs., Inc.**, No. 11SL-CC04216 (Mo. Cir. Ct. St. Louis County)  
**Hooper v. Suntrup Buick-Pontiac-GMC Truck, Inc.**, No. 0811-CV10921 (Mo. Cir. Ct. St. Charles County)  
**Hopler v. Sapaugh Motors, Inc.**, No. 09JE-CC00146 (Mo. Cir. Ct. Jefferson County)  
**Horn v. Commercial Lending Capital, Inc.**, No. RIC10019819 (Cal. Super. Ct. Riverside County)  
**Howerton v. Cargill, Inc.**, No. 1:13-CV-00336 (D. Haw.)  
**In the Matter of Xacti LLC**, No. 13C20192 (Or. Cir. Ct. Marion County)  
**Janicki v. Jeffrey L. Rosen and Trustmark Recovery Serv. Inc.**, No. 1:13-CV-06759 (N.D. Ill.)  
**Janoka v. Veolia Envtl. Servs. N. Am. Corp.**, No. 69-CV-2011-900056 (Ala. Cir. Ct. Barbour County)  
**Johnson v. Washington Univ.**, No. 2:10-CV-4170 (W.D. Mo.)  
**Jones v. Wells Fargo, N.A.**, No. BC337821 (Cal. Super. Ct. L.A. County)



## CASE CITES

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 CONSUMER - CONTINUED
 

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**Jones v. W. County BMW, Inc.**, No. 08SL-CC05222-01 (Mo. Cir. Ct. St. Louis County)  
**Keirsev v. eBay, Inc.**, No. 12-Cv-01200-JST (N.D. Cal.)  
**Khweye v. Leaders Fin. Co.**, No. ESX-L-5584-10 (N.J. Super. Ct. Essex County)  
**Kreilich v. JL Autos, Inc.**, No. 09SL-CC0172 (Mo. Cir. Ct. St. Louis County)  
**Lagas v. Verisma Sys., Inc.**, No. 4:13-CV-01082 (W.D. Mo.)  
**Ledterman v. James Perse Enter., Inc.**, No. BC480530 (Cal. Super. Ct L.A. County)  
**LeFever v. Am. Ear Hearing Aid & Audiology**, No. 11-CV-0832 (Ohio Comm. Pl. Licking County)  
**Lewellen v. Reliable Imports and RV, Inc.**, No. 1031-CV11926 (Mo. Cir. Ct. Greene County)  
**Lippert v. Edison Motor Cars, Inc.**, No. MID-L-6599-10 (N.J. Super. Ct. Middlesex County)  
**Livingston v. Capital One**, No. 3:07-CV-266 (M.D. Fla.)  
**Love v. LendingTree Claims Admin.**, No. 2009CV009598 (Wis. Cir. Ct. Milwaukee County)  
**Lucero v. Love, Beal & Nixon, P.C.**, No. 4:12-CV-659 (N.D. Okla.)  
**Lundsford v. Woodforest Nat'l Bank**, No. 1:12-CV-103-CAP (N.D. GA.)  
**Lundy v. Check Into Cash of Missouri, Inc.**, No. 1216-CV10150 (Mo. Cir. Ct. Jackson County)  
**Lundy v. Mid-America Credit, Inc.**, No. 1116-CV02060 (Mo. Cir Ct. Jackson County)  
**Mayfield v. Thoroughbred Ford of Platte City, Inc.**, No. 08AE-CV00467 (Mo. Cir Ct. Platte County)  
**Metcalf v. Marshall Ford Sales, Inc.**, No. 0811-CV11381 (Mo. Cir. Ct. St. Charles County)  
**Mikale v. John Bommarito Oldsmobile-Cadillac, Inc.**, No. 08SL-CC05223 & 09SL-CC00167 (Mo. Cir. Ct. St. Louis County)  
**Miller v. Capital One Bank**, No. 3:07-CV-265 (M.D. Fla.)  
**Miller v. Nat'l Enter. Sys., Inc.**, No. 13 C 1720 (N.D. Ill.)  
**Motor Fuel Temperature Sales Practices**, No. 07-MD-1840-KHV (D. Kan.)  
**Mortgage Store, Inc. v. LendingTree Loans**, No. 06CC00250 (Cal. Super. Ct. Orange County)  
**Moy v. Eltman, Eltman & Cooper, P.C.**, No. 12-CV-02382 (E.D.N.Y.)  
**Naes v. Tom Pappas Toyota, Inc.**, No. 0711-CV09005 (Mo. Cir. Ct. St. Charles County)  
**Neese v. Lithia Chrysler Jeep of Anchorage, Inc.**, No. 3AN-06-4815 (Alaska Super. Ct. Anchorage)  
**North Star Capital Acquisitions v. King**, No. 3:07-CV-264 (M.D. Fla.)  
**Omar v. 950 B14 DE, LLC**, No. CGC-13-530203 (Cal. Super. Ct. San Francisco County)  
**Omohundro v. Glendale Chrysler-Jeep, Inc.**, No. 2107CC-03927 (Mo. Cir. Ct. St. Louis County)  
**Padberg v. Dish Network, LLC**, No. 11-4035 (W.D. Mo.)  
**Painter v. Ackerman Motor Company, Inc.**, No. 1022-CC10135 (Mo. Cir. Ct. City of St. Louis)



## CASE CITES

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 CONSUMER - CONTINUED
 

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**Perkins v. Philips Oral Healthcare, Inc.**, No. 12-CV-1414H BGS (S.D. Cal.)  
**Petersen v. Central Jersey Pool**, No. MON-L-4044-11 (N.J. Super. Ct. Monmouth County)  
**In re Philips/Magnavox Television Litig.**, No. 2:09-CV-3072 (D. N.J.)  
**Powers v. Fifth Third Mortg. Co.**, No. 1:09-CV-2059 (N.D. Ohio)  
**Redd v. Suntrup Hyundai, Inc.**, No. 09SL-CC00173 (Mo. Cir. Ct. St. Louis County)  
**Reid v. Unilever United States, Inc.**, No. 12-CV-6058 (N.D. Ill.)  
**Rhodenbaugh v. CVS Pharmacy, Inc.**, No. 0916-CV09631 (Mo. Cir. Ct. Jackson County)  
**Richards v. Lou Fusz Auto. Network, Inc.**, No. 08SL-CC04594 (Mo. Cir. Ct. St. Louis County)  
**Richardson v. Weber Chevrolet Co.**, No. 09SL-CC00170 (Mo. Cir. Ct. St. Louis County)  
**Riley v. Northland Group, Inc.**, No. 2:12-CV-00950 (E.D. Wis.)  
**Rizzo v. Hendrick Auto. Group.**, No. 4:08-CV-137 (W.D. Mo.)  
**Roberts v. Source for Public Data**, No. 2:08-CV -4167 (W.D. Mo.)  
**Robinson v. J & C Auto Outlet, LLC**, No. MID-L-1961-13 (N.J. Super. Ct. Middlesex County)  
**S37 Management, Inc. v. Advance Refrigeration Co.**, No. 06-CH-20999 (Ill. Cir. Ct. Cook County)  
**Sams v. Adams Auto Corp.**, No. 0916-CV1521 (Mo. Cir. Ct. Jackson County)  
**Seekamp v. It's Huge, Inc.**, No. 1:09-CV-00018 (N.D. N.Y.)  
**Serochi, Jr. v. Bosa Dev. Cal. II, Inc.**, No. 37-2009-00096686-CU-BT-CTL (Cal Super. Ct. San Diego County)  
**Schuster v. Machens Enters., Inc.**, No. 11BA-CV01269 (Mo. Cir. Ct. Boone County)  
**Shaffer v. Royal Gate Dodge**, No. 07SL-CC00949 (Mo. Cir. Ct. St. Louis County)  
**Sherrell v. Great S. Bank**, No. 1131-CV02280 (Mo. Cir. Ct. Greene County)  
**Shirley v. Reliable Chevrolet, Inc.**, No. 0831-CV06082 (Mo. Cir. Ct. Greene County)  
**Silverberg v. Hotels.com, LP**, No. 12-01819 (Tex. Dist. Ct.)  
**Sims v. Rosedale Cemetery Co.**, No. 03-C-506 (W. Va. Cir. Ct. Berkeley County)  
**Soper v. American Traffic Solutions, Inc.**, No. CACE 10-046095 (17<sup>th</sup> Cir. Ct. Broward County)  
**Stasko v. City of Chicago**, No. 09-CH17167 (Ill. Cir. Ct. Cook County)  
**State of Texas v. Bluehippo**, No. D-1-GV-10-000102 (Tex. Dist. Ct. Travis County)  
**State of Texas v. Cristo Vive**, No. D-1-GV-12-001092 (Tex. Dist. Ct. Travis County)  
**Steiner v. Rawlings Sporting Goods Co., Inc.**, No. 2:12-CV-02531 (D. N.J.)  
**Stevens v. Bommarito Nissan, Inc.** No. 09SL-CC00167 (Mo. Cir. Ct. St. Louis County)  
**Strickland v. Fletcher Auto., No. 9**, No. 09AP-CC00091 (Mo. Cir. Ct. Jasper County)  
**In re Surewest Comm'ns Shareholder Litig.**, No. SCV-0030665 (Cal. Super Ct. Placer County)



## CASE CITES

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 CONSUMER - CONTINUED
 

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**Swires v. Glaxosmithkline**, No. 11-L-587 (Ill. Cir. Ct. St. Clair County)

**Thomas v. Tenet Healthsystems SL, Inc.**, No. 12SL-CC01811 (Mo. Cir. Ct. St. Louis County)

**Tortora v. Guardian Protection Servs., Inc.**, No. MID-L-1041-10 (N.J. Super. Ct. Middlesex County)

**Valley v. Johnny Londoff Chevrolet, Inc.**, No. 10SL-CC00523 (Mo. Cir. Ct. St. Louis County)

**Van Loo v. Capitol City Chrysler-Nissan, Inc.**, No. 11AC-CC00324 (Mo. Cir. Ct. Cole County)

**In re Voluntary Dissolution of Nexus Fiduciary Trust Corp.**, No. 29D03-1003-CC-323 (Ind. Super. Ct. Hamilton County)

**Wade v. Thoroughbred Ford, Inc.**, No. 10AE-CV04323 (Mo. Cir. Ct. Platte County)

**Walczak v. ONYX Acceptance Corp.**, No. 03 CH 0693 (Ill. Cir. Ct. Lake County)

**Wallace B. Roderick Revocable Living Trust, Trustee Amanda Roderick v. Noble Energy, Inc.**, No. 2009CV2 (Kan. Dist. Ct. Kearny County)

**Wallace B. Roderick Revocable Living Trust, Trustee Amanda Roderick v. Osborn Heirs Co., Ltd.**, No. 2009CV15 (Kan. Dist. Ct. Kearny County)

**Welsh v. John Youngblood Motors, Inc.**, No. 0931-CV14259 (Mo. Cir. Ct. Greene County)

**Westman v. Rogers Family Funeral Home, Inc.**, No C 98-03165 (Cal. Super. Ct. Contra Costa County)

**Wenger v. South Brunswick Furniture, Inc.**, No. MID-L-000479-12 (N.J. Middlesex County Ct.)

**Wiles v. S.W. Bell Tel. Co.**, No. 2:09-CV-4236 (W.D. Mo.)

**Wogoman v. Worth Harley Davidson N., Inc.**, No. 09CY-CV9090 (Mo. Cir. Ct. Clay County)

**Wood v. Plaza Tire Servs.**, No. 11SL-CC01507 (Mo. Cir. Ct. St. Louis County)

**Woods v. QC Fin.I Servs., Inc.**, No. 11-148-01395-09 (Am. Arb. Ass'n)

**Woodward v. Ozark Kenworth, Inc.**, No. 1031-CV02203 (Mo. Cir Ct. Greene County)

**Yarde v. Ed Napleton St. Louis Imports, Inc.**, No. 09SL-CC00171 (Mo. Cir. Ct. St. Louis County)

**Zaromb v. SSM Health Care Corp.**, No. 12SL-CC00654 (Mo. Cir. Ct. St. Louis County)

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 INSURANCE
 

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**Abrahams-Goullub v. United Servs. Auto. Assoc.**, No. 3AN-09-6693CI (Alaska Super. Ct. Anchorage)

**Appel v. Liberty Am. Ins. Co.**, No. 1:08-CV-20385 (S.D. Fla.)

**Besecker v. Peerless Indem. Ins. Co.**, No. 2:09-CV-05513-TJS (E.D. Pa.)

**Bower v. MetLife**, No. 1:09-CV-351 (S.D. Ohio)

**Casey v. Coventry Health Care of Kansas, Inc.**, No. 4:08-cv-201 (W.D. Mo.)

**Childs v. Unified Life Ins. Co.**, No. 4:10-CV-23 (N.D. Okla.)



## CASE CITES

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 INSURANCE - CONTINUED
 

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**Cressy v. Fidelity & Guaranty Life Ins. Co.**, No. BC514340 (Cal. Super. Ct. L.A. County)

**Douglass v. Am. United Life Ins. Co.**, No. 29D03-9810-CP-00568 (Ind. Super. Ct. Hamilton County)

**Holling-Fry v. Coventry Health Care of Kansas, Inc.**, No. 4:07-CV-0092 (W.D. Mo.)

**Lujan v. Hallmark Ins. Co.**, No. D-101-CV-2012-01429 (N.M. Santa Fe County)

**Martin v. Twin City Fire Ins. Co.**, No. 3:08-CV-5651 (W.D. Wash.)

**Newendorp v. United Servs. Auto. Assoc.**, No. CJ-04-1955 (Ok. Dist. Ct. Cleveland County)

**Poutsch v. USAA Cas. Ins. Co.**, No. CV-2011-01210 (N.M. Dist. Ct. Bernalillo County)

**Scott v. United Servs. Auto. Assoc.**, No. 2:11-CV-01422-JCC (U.S. Dist. Ct. W.D. Wash.)

**San Allen v. Stephan Buehrer, Admin. of Ohio BWC**, No. CV-07-644950 (Ohio C.P. Cuyahoga County)

**Walker v. Life Ins. Co. of the Sw.**, No. 10-CV-9198-JVS (C.D. Cal.)

**Waterman v. USAA Cas. Ins. Co.**, No. 10-5016-TJS (E.D. Pa.)

**Welschmeyer v. St. Luke's Health Sys., Inc.**, No. 1316-CV19250 (Mo. Cir. Ct. Jackson County)

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 EMPLOYMENT
 

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**Agatep v. Forest Lawn Mortuary**, No. BC433744 (Cal. Super. Ct. L.A. County)

**Alexander v. Chevron Stations**, No. C11-00896 (Cal. Super. Ct. Contra Costa County)

**Anzaldo v. The Original Mowbray's Tree Serv., Inc.**, No. S-1500-CV-274897 WDP (Cal. Super. Ct. Kern County)

**Ayon v. Cintas Corp., Inc.**, No. BC310696 (Cal. Super. Ct. L.A. County)

**Balderas v. Massage Envy Franchising, LLC**, No. 3:12-CV-06327 (N.D. Cal.)

**Barbosa v. Cargill Meat**, No. CV F 11-00275 SKO (E.D. Cal.)

**Bayard v. Veruzon W. Va., Inc.**, No. 1:11-CV-00132 (N.D. W. Va.)

**Bedoya v. Rubio's Rests.**, No. BC463799 (Cal. Super. Ct. L.A. County)

**Bell v. Delta Air Lines, Inc.**, No. 4:13-CV-01199 (N.D. Cal.)

**Bendana v. Custom Air Trucking, Inc.**, No. BC456055 (Cal. Super. Ct. L.A. County)

**Berg v. Zumiez Inc.**, No. BC408410 (Cal. Super. Ct. L.A. County)

**Binissia v. ABM Indusies., Inc.**, No. 13-CV-1230 (N.D. Ill.)

**Bonilla v. Agri-Empire**, No. RIC1209556 (Cal. Super. Ct. Riverside County)

**Borja v. TNT Plastic Molding**, No. 30-2012-00423018-CU-OE-CXC (Cal. Super. Ct. Orange County)

**Bradley v. Networkers, Inc.**, No. GIC 862417 (Cal. Super. Ct. San Diego County)





## CASE CITES

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 EMPLOYMENT - CONTINUED
 

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**Brooks v. U.S. Bank, N.A.**, No. 12-CV-4935 EMC (N.D. Cal.)  
**Brown v. Abercrombie & Fitch Co.**, No. 2:14-CV-01242 (C.D. Cal.)  
**Bult-Ito v. Univ. of Alaska**, No. 3AN 09-7875CI (Alaska Super. Ct. Anchorage)  
**Burden v. SelectQuote**, No. C10-05966 SBA (N.D. Cal.)  
**Bustos v. Massage Envy Spa - Mission Valley**, No. 37-2012-00104022-CU-OE-CTL (Cal. Super. Ct. San Diego County)  
**Byard v. Verizon W. Va., Inc.**, No. 1:11-CV-132 (N.D. W. Va.)  
**Calhoun v. Gen. Petroleum Corp.**, No. BC425216 (Cal. Super. Ct. L.A. County)  
**Caracoza v. Ephonation.com, Inc.**, No. 30-2013-006892690-CU-CR-CXC (Cal. Super. Ct. Orange County)  
**Cardenas v. Crothall Healthcare**, No. 11-4145 (C.D. Cal.)  
**Carothers v. Lawry's The Prime Rib, Inc.**, No. 12-CV-10048 (N.D. Ill.)  
**Cassidy v. Aldo U.S., Inc.**, No. 1:13-CV-04858 (N.D. Ill.)  
**Castro v. Seaton, LLC**, No. BC516824 (Cal. Super. Ct. L.A. County)  
**Chambers v. Chase Bank USA**, No. 1:11-CV-6014 (N.D. Ill.)  
**Chavez v. Hat World, Inc.**, No. 1:12-CV-05563 (N.D. Ill.)  
**Cherry v. Mayor and City Council of Baltimore**, No. 1:10-CV-01447 (D. Md.)  
**Cioe v. Verizon Wireless**, No. 1:11-CV-1002 (N.D. Ill.)  
**Cisneros v. Oasis South Ins. Servs.**, No. 37-2012-00103109-CU-OE-CTL (Cal. Super Ct. San Diego County)  
**Clarke v. Insight Global, Inc.**, No. 3:13-CV-00357 (S.D. Cal.)  
**Copi v. Brainfuse**, No. 11-CV-05195 (S.D.N.Y.)  
**Crosby v. California Healthcare Medical Billing, Inc.**, No. 37-2011-00087583-CU-OE-CTL (Cal. Super Ct. San Diego County)  
**D'Ambrosia v. Claro Italian Mkts.**, No. BC497301 (Cal. Super. Ct. L.A. County)  
**Deliz v. Miller's Ale House, Inc.**, No. 13-CA-005176 (Fla. 13th Cir. Ct. Hillsborough County)  
**Diaz v. Alco Iron & Metal Co.**, No. HG10517616 (Cal. Super. Ct. Alameda County)  
**Diego v. JMS Prop. LLC**, No. 37-2013-00056177-CU-OE-CTL (Cal. Super. Ct. San Diego County)  
**Dilts v. Penske Logistics, LLC**, No. 3:08-CV-00318 (S.D. Cal.)  
**Dunlap v. Universal Sec. Corp.**, No. 10 CH 18197 (Ill. Cir. Ct. Cook County)  
**Echeverria v. Adir Int'l**, No. BC395380 (Cal. Super. Ct. L.A. County)  
**Epton v. AIS Servs., LLC**, No. 3:11-CV-00856-JM-POR (S.D. Cal.)  
**Erickson v. QSP & TI Media Solutions, L.A.S.C.**, No. BC469830 (Cal. Super. Ct. L.A. County)



## CASE CITES

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 EMPLOYMENT - CONTINUED
 

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**Escoto-Miranda v. Evans Tire & Serc. Cents., Inc.**, No. 37-2012-00103102-CU-OE-CTL (Cal. Super. Ct. San Diego County)

**Fabela v. Micro World Corp.**, No. BC509643 (Cal. Super. Ct. L.A. County)

**Fischer v. Nat'l Distrib. Ctr. LP**, No. RIC1114952 (Cal. Super. Ct. Riverside County)

**Fitts v. Designed Metal Connections, Inc.**, No. TC027097 (Cal. Super. Ct. L.A. County)

**Flournoy v. 3S Network, Inc.**, No. C09-00113 (Cal. Super. Ct. Contra Costa County)

**Garner v. Primedia, Inc.**, No. 30-2012-00619014-CU-06-CXC (Cal. Super. Ct. Orange County)

**Gonzales v. Downtown LA Motors LP**, No. BC350769 (Cal. Super. Ct. L.A. County)

**Gonzalez v. RC Packing, LLC**, No. M108764 (Cal. Super. Ct. Monterey County)

**Grant v. Convergys Corp.**, No. 4:12-cv-000496-CEJ (E.D. Mo.)

**Haro v. Cotti Foods Corp.**, No. BC407056 (Cal. Super. Ct. L.A. County)

**Hobbs v. Ace Industrial Supplies, Inc.**, No. BC466122 (Cal. Super. Ct. L.A. County)

**Holsted v. R.J. Noble Co.**, No. 30-2010-00379770 (Cal. Super. Ct. Orange County)

**Jones v. TNT Self-Storage Mgmt., Inc.**, No. 30-2011-00513903-CU-OE-CXC (Cal. Super. Ct. Orange County)

**Kavousy v. The Western and Southern Life Ins. Co.**, No. 8:12-CV-2109 AG (C.D. Cal.)

**Kay v. Asian Rehabilitation Servs. Inc.**, No. BC442795 (Cal. Super. Ct. L.A. County)

**Khweye v. Leaders Fin. Co.**, No. ESX-L-5584-10 (N.J. Super. Ct. Essex County)

**King v. Build.com, Inc.**, No. 159985 (Cal. Super. Ct. Butte County)

**Kinney v. Harvest AI Mgmt. Sub, LLC**, No. 2:12-CV-02716-TLN-CKD (E.D. Cal.)

**Kulvicki v. Pick-N-Pull Auto Dismantlers**, No. RG11560441 (Cal. Super. Ct. Alameda County)

**Las v. ABM Indus. Inc.**, No. 1:11-CV-05644 (N.D. Ill.)

**Las v. District Towing, Inc.**, No. 12-CV-5538 (N.D. Ill.)

**Lopez v. Pioneer Med. Group, Inc.**, No. BC496710 (Cal. Super. Ct. L.A. County)

**Macias v. Sun Grown Organic Distrib., Inc.**, No. 37-2012-00095817-CU-OE-CTL (Cal. Super. Ct. San Diego County)

**Magee v. Am. Residential Servs., LLC**, No. BC423798 (Cal. Super. Ct. L.A. County)

**Martinez v. John Morrell & Co.**, No. 1-11-CV-198307 (Cal. Super. Ct. Santa Clara County)

**Myart v. AutoZone, Inc.**, No. 05CC03219 (Cal. Super. Ct. Orange County)

**Neponoceno v. El Puerto Berry Farms, LLC**, No. 56-2014-00451373-CU-OE-VTA (Cal. Super. Ct. Ventura County)

**Nimely v. Randstad Gen. Partner (US), LLC**, No. 1:12-CV-10431 (N.D. Ill.)



## CASE CITES

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 EMPLOYMENT - CONTINUED
 

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**O'Brien v. Cathy Jean, Inc.**, No. 37-2011-00085539-CU-OE-CTL (Cal. Super. Ct. San Diego County)

**Office of Fed. Contract Compliance Programs, U.S. Dep't of Labor v. Cargill Meat Solutions Corp.**, No. 2012-OFC-00001 (DOLOALJ)

**Ortiz v. CVS Caremark Corp.**, No. 12-CV-05859-EDL (N.D. Cal.)

**Park v. Staples the Office Superstore LLC**, No. BC449815 (Cal. Super. Ct. L.A. County)

**Pina v. Con-way Freight**, No. C10-00100 (N.D. Cal.)

**Recendez v. Tidwell**, No. 56-2011-00404761-CU-OE-VTA (Cal. Super. Ct. Venture County)

**Robinson v. Defender Sec. Co.**, No. RG10505016 (Cal. Super. Ct. Alameda County)

**Rocha v. Royal Oaks**, No. 5:12-CV-01303 (N.D. Cal.)

**Rodriguez v. Fred Loya Ins.**, No. BC491770 (Cal. Super. Ct. L.A. County)

**Roque v. Pick-N-Pull Auto Dismantlers**, No. 34-2012-00118782 (Cal. Super. Ct. Sacramento County)

**Rosero v. East L.A. Doctors Hosp., LP**, No. BC505483 (Cal. Super. Ct. L.A. County)

**Rothberg v. Crunch LLC**, No. CGC 12-519740 (Cal. Super. Ct. San Francisco County)

**Russell v. EF International Language Schs**, No. BC481435 (Cal. Super. Ct. L.A. County)

**Saba Mungaray v. Corovan Moving & Storage Co.**, No. 30-2012-00618398-CU-OE-CXC (Cal. Super. Ct. Orange County)

**Sano v. Southland Mgmt. Group, Inc.**, No. BC489112 (Cal Super. Ct. L.A. County)

**Salazar v. Adir Int'l**, No. BC398402 (Cal. Super. Ct. L.A. County)

**Salgado v. Shik Do Rak, Inc.**, No. BC432841 (Cal. Super. Ct. L.A. County)

**Sanchez v. St. Mary Med. Ctr.**, No. CIVDS 1304898 (Cal. Super. Ct. San Bernardino County)

**Scaglione v. M.O. Dion & Sons, Inc.**, No. BC425216 (Cal. Super. Ct. San Bernardino County)

**Schmaltz v. O'Reilly Automotive Stores, Inc.**, No. 4:12-CV-01056 (E.D. Mo.)

**Scott v. RailCrew Xpress, LLC**, No. 10C-000546 (Kan. Dist. Ct. Shawnee County)

**Shackleford v. Cargill**, No. 12-CV-4065-FJG (W.D. Mo.)

**Solorio v. Angelica Textile Servs, Inc.**, No. 5:12-CV- 03569 (N.D. Cal.)

**Sotelo v. Universal Indus. Finishing, Inc.**, No. 1-13-CV-239771 (Cal. Super. Ct. Santa Clara)

**Sparks v. FPI Mgmt., Inc.**, No. BC465773 (Cal. Super. Ct. L.A. County)

**Stevenson v. Falcon Critical Care Transp.**, No. CIVMSC09-00862 (Cal. Super. Ct. Contra Costa County)

**Studley v. Alliance Healthcare Servs., Inc.**, No. 8:10-CV-00067-CJC-AN (C.D. Cal)

**Tapia v. Pro's Ranch Mkts.**, No. S-1500-CV-274898 (Cal. Super. Ct. Kern County)

**Tula v ABM Indus. Inc.**, No. 1:12-CV-054-LY (W.D. Tex.)



## CASE CITES

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 EMPLOYMENT - CONTINUED
 

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**Tuter, Bauer v. King's Seafood Co.**, No. 37-2011-00084756-CU-OE-CTL (Cal. Super. Ct. San Diego County)

**Vaca v. Famarock, Inc.**, No. BC494504 (Cal. Super. Ct. L.A. County)

**Valencia v. Mobile Mini, Inc.**, No. RG-13-684308 (Cal. Super. Ct. Alameda County)

**Valencia v. SCIS Air Sec. Corp.**, No. BC421485 (Cal. Super. Ct. L.A. County)

**Valenzuela v. United Natural Foods W., Inc.**, No. BC450168 (Cal. Super. Ct. L.A. County)

**Veliz v. Cintas Corp.**, No. 5:03-CV-1180 (N.D. Cal.)

**Villarreal v. Source Refrigeration & HVAC, Inv.**, No. 1:12-CV-00243 (W.D. Tex.)

**Vincent v. Cent. Purchasing, LLC**, No. BC458544 (Cal. Super. Ct. L.A. County)

**Warren v. SCS-Chicago**, No. 10 CH 8380 (Ill. Cir. Ct. Cook County)

**Williams v. Ill. Title Loans, Inc.**, No. 13 CH 24303 (Ill. Cir. Ct. Cook County)

**Wilson v. Continental Vending, Inc.**, No. 30-2012-00585315-CU-OE-CXC (Cal. Super. Ct. Orange County)

**Wynn v. Express, LLC**, No. 1:11-CV-04588 (N.D. Ill.)

**Zaniewski v. PRRC Inc.**, No. 3:11-CV-01535 (D. Conn.)

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 BELAIRE-WEST PRIVACY NOTICE MAILINGS
 

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**Alegria v. Student Transp. Of America, Inc.**, No. RIC1209792 (Cal. Super. Ct. Riverside County)

**Anderson v. Gulf S. Safety Consultants, LLC**, No. BC537452 (Cal. Super. Ct. L.A. County)

**Angeles v Hofs Hut Rests. Inc.**, No. BC495624 (Cal. Super. Ct. L.A. County)

**Barajas v. WHM, LLC**, No. BC491045 (Cal. Super. Ct. L.A. County)

**Bradley v. Networkers, Inc.**, No. GIC 862417 (Cal. Super. Ct. San Diego County)

**Brueske v. DHSE, Inc.**, No. RIC1205382 (Cal. Super. Ct. Riverside County)

**Castellanos v. Faro Serv. Inc.**, No. BC509830 (Cal. Super. Ct. L.A. County)

**Davis v. St. Jude Hospital**, No. 30-2012-00602596-CU-OE-CXC (Cal. Super. Ct. Orange County)

**East v. Aces**, No. 11CECG04226 (Cal. Super. Ct. Fresno County)

**Erickson v. QSP & TI Media Solutions, L.A.S.C.**, No. BC469830 (Cal. Super. Ct. L.A. County)

**Fitts v. Designed Metal Connections, Inc.**, No. TC027097 (Cal. Super. Ct. L.A. County)

**Franco v. Flight Line Products, Inc.**, No. BC497382 (Cal. Super. Ct. L.A. County)

**Gonzales v. Corsair Elec. Connectors, Inc.**, No. 30-2012-00594399-CU-OE-CXC (Cal. Super. Ct. Orange County)

**Gutierrez v. Commerce Casino**, No. BC360704 (Cal. Super. Ct. L.A. County)

**Huizar v. Newport Serv. Corp.**, No. 30-2010-00430372-CY-OE-CXC (Cal. Super. Ct. Orange County)



## CASE CITES

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### BELAIRE-WEST PRIVACY NOTICE MAILINGS - CONTINUED

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**Jaramillo-Tabar v. Nakase Bros. Wholesale Nursery**, No. 30-2012-00587417 (Cal. Super. Ct. Orange County)

**Krajec v. Mission Hospital Regional Medical Cent.**, No. 30-2012-00602596-CU-OE-CXC (Cal. Super. Ct. Orange County)

**Linares v. PCAM, LLC**, No. BC487188 (Cal. Super. Ct. L.A. County)

**Murray v. Ralph's Grocery Co.**, No. RIC1105977 (Cal. Super. Ct. Riverside County)

**Navarro v. KJ Beck's, Inc.**, No. BC509096 (Cal. Super. Ct. L.A. County)

**Ornelas v. RVGC Partners, Inc.**, No. BC500123 (Cal. Super. Ct. L.A. County)

**Read v. Howroyd-Wright Emp't Agency, Inc.**, No. BC449744 (Cal. Super. Ct. L.A. County)

**Robinson v. Airgas On-Site Safety Servs., Inc.**, No. BC523502 (Cal. Super. Ct. L.A. County)

**Rodriguez v. E.M.E., Inc.**, No. BC518692 (Cal. Super. Ct. L.A. County)

**Rodriguez v. Equinox Holdings, Inc.**, No. BC437283 (Cal. Super. Ct. L.A. County)

**Sanchez v. CPG Foods, LLC**, No. BC487187 (Cal. Super. Ct. L.A. County)

**Scott-George v. PVH Corp.**, No. 13-CV-00441-TLN-DAD (E.D. Cal.)

**Serrano v. Triumph Structures-Los Angeles, Inc.**, No. BC507112 (Cal. Super. Ct. L.A. County)

**Shiferaw v. Sunrise Senior Living Mgmt., Inc.**, No. 2:13-CV-02171-JAK-PLA (C.D. Cal.)

**Smith v. Space Exploration Technologies Co., Inc.**, No. BC486776 (Cal. Super. Ct. L.A. County)

**Vagle v. Archstone Cmtys., LLC**, No. 2:13-CV-9044 RGK (C.D. Cal.)

**Vidales v. Windset Farms (Cal.), Inc.**, No. 1456106 (Cal. Super. Ct. Santa Barbara County)

**Walsh v. Pacific Bell Tel. Co.** No. 30-2011-00498062-CY-OE-CXC (Cal. Super. Ct. Orange County)

**Wilson v. Rock-Tenn Co., Inc.**, No. BC488456 (Cal. Super. Ct. L.A. County)

**Zamora v. Cardenas Markets, Inc.**, No. BC505451 (Cal. Super. Ct. L.A. County)

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### GOVERNMENT

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**Lopez-Venegas v. Jeh Johnson**, No. 2:13-CV-03972 (C.D. Cal.)

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### PRIVACY

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**Avery v. Boyd Bros. Transp., Inc.**, No. 4:13-CV-00579 (W.D. Mo.)

**Caffarello v. ADS Logistics Co., LLC**, No. 1:12-CV-08300 (N.D. Ill.)

**Diparvine v. A.P.S, Inc. d/b/a Car Quest Auto Parts**, No. 11-CV-6116 (N.D. Ill.)

**Edwards v. Impairment Res., LLC**, No. 112CV220583 (Cal. Super. Ct. Santa Clara County)



## CASE CITES

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### PRIVACY - CONTINUED

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**Fun Servs. of Kansas City, Inc. v. Hertz Equip. Rental Corp.**, No. 08-CV-03944 (Kan. Dist. Ct. Johnson County)

**Gordon v. Feinstein Raiss Kelin & Booker, LLC**, No. 3:13-CV-00089 (D. N.J.)

**Johnson v. Midwest Logistics Systems, Ltd.**, No. 2:11-CV-1061 (S.D. Ohio)

**Schulz v. Rushmore Service Center, LLC**, No. 2:13-CV-00105 (E.D. Wis.)

**Yaakoby v. EagleRider**, No. 1:09-CV-5772 (N.D. Ill.)

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### ANTITRUST

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**Kansas City Urology Care, PA, v. Blue Cross Blue Shield of Kansas City, Inc.**, No. 0516-CV-04219 (Mo. Cir. Ct. Jackson County)

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### SECURITIES

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**Capgrowth v. Franklin Elec. Publishers, Inc.**, No. BUR-C-043-09 (N.J. Super. Ct. Ch. Div. Burlington County)

**Waterford Twp. General Emps. Ret. System v. BankUnited Fin. Corp.**, No. 1:08-CV-22572-MGC (S.D. Fl.)

**Williams v. Colonial Prop. Trust**, No. 01-CV-2013-902416.00 (Ala. Cir. Ct. Jefferson County)

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### PERSONAL INJURY

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**Gray v. Derderian**, No. 1:04-CV-312 (D. R.I.)



## CASE CITES

## PREVIOUS CASES – JEFF AND KRISTIN DAHL

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 CONSUMER
 

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Aks v. Southgate Trust Co., No. 92-2193-L (D. Kan.)  
 Alachua Gen. Hosp. v. Greene, No. 90-3359-CA (Fla. Cir. Ct. Alachua County)  
 Gray v. Derderian, No. 04-312L (D. R.I.)  
 Arscott v. Humana Hosp. Daytona Beach, No. 91-2478-CI-CI (Fla. Cir. Ct. Volusia County)  
 Benacquisto v. Am. Express Fin. Corp., No.00-1980 DSD (D. Minn.)  
 Bokusky v. Edina Realty, Inc., No. 3-92--223 (D. Minn.)  
 Bonilla v. Trebol Motors Corp., No. 92-1795(JP) (D. P.R.)  
 Bunch v. Rent-A-Center, Inc., No. 00-0364-CV-W-3 (W.D. Mo.)  
 Burney v. Thorn Ams., Inc., No. 97-CV.-1596 (Wis. Cir. Ct. Racine County)  
 Circle Plumbing v. Ferguson, No. 92-036478 (Tex. Dist. Ct. Harris County)  
 Cook v. LADA, No. 94-1730 (W.D. La.)  
 Crocker v. Sunshine Corp., No. 93-2224-H/A (W.D. Tenn.)  
 Dismuke v. Edina Realty, Inc., No. 92-8716 (Minn. Dist. Ct. Hennepin County)  
 Dyson v. Flagstar Corp., No. DKC93-1503 (D. Md.)  
 Fed. Trade Comm'n v. Mylan Labs., Inc., No. 1:98-CV-3114 (TFH) No. 990276 (TFH/JMF)  
 Garcia v. Houston Nw. Medical Ctr., Inc., No. H-94-2276, (S.D. Tex.)  
 George v. BancOhio Nat'l Corp., No. C2-92-314 (S.D. Ohio)  
 Gutterman v. Am. Airlines, Inc., No. 95 CH 982 (Ill. Cir. Ct. Cook County)  
 Hartings v. Am. Express Co., No. 88-0744 (W.D. Pa.)  
 Hinton v. ColorTyme Inc., No. 94-CV. 5198 (Wis. Cir. Ct. Milwaukee County)  
 In re Compact Disc Minimum Advertised Price Antitrust Litig., No. 1361 (D. Me.)  
 In re Toys R Us Antitrust Litig., No. 98 M. D. L. 1211 (NG) (JLC) (E.D. N.Y.)  
 LaMontagne v. Hurley State Bank, No. 97-30093-MAP (D. Mass.)  
 Nitti v. Edina Realty, Inc., No. 3-92--386 (D. Minn.)  
 Ridgeway v. Denny's California, No. C93-20202 JW (PV.T) (N.D. Cal.)  
 Rowland v. Goldkist, Inc., No. CV. 94-106 (Ala. Cir. Ct. Walker County)  
 Sparano v. Southland Corp., No. 04 C 2098 (N.D. Ill.)  
 Connecticut v. Mylan Labs., Inc., No. 1:98-CV-3115 (TFH) Misc. No. 990276 (TFH/JMF) (D.D.C.)  
 Thomas v. Charles Schwab & Co., Inc., No. 66,7000 (La. Dist. Ct. Natchitoches Parish)



## CASE CITES

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### CONSUMER - CONTINUED

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Toledo Fair Hous. Ctr. v. Nat'l Mut. Ins. Co., No. 93-1685 (Ohio C.P. Lucas County)

U.S. v. Am. Family Mut. Ins., No. 90-C-0759 (E.D. Wis.)

Weiss v. Washington, No. 99-2-11807-3 KNT (Wash. Super. Ct. King County)

Weissberg v. Delta Air Lines, Inc., No. 88 CH 4846 (Ill. Cir. Ct. Cook County)

Whitson v. Heilig-Meyers Furniture Co., No. CV. 94-PT-0309-E (N.D. Ala.)

Wolens v. Am. Airlines, Inc., No. 88CH 7554 (Ill. Cir. Ct. Cook County)

Woosley v. California, No. CA 000499 (Cal. Super. Ct. L.A. County)

Yoel v. N.J. Nat'l Bank, No. 94-4675 (MLP) (D. N.J.)

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### EMPLOYMENT

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Allen v. Thorn Ams., Inc., Case No. 97-1159-CV.-W-SOW (W.D. Mo.)

Babbitt v. Albertson's Inc., No. C92-1883 WHO (N.D. Cal.)

Berquist v. Am. Family Mut. Ins. Co., No. 96CV (Wis. Cir. Ct. St. Croix County)

Borja v. Wal-Mart Stores, Inc., No.98-CV-119 (Colo. Dist. Ct. Las Animas County)

Brunson v. City of New York, No. 94 Civ. 4507 (LAP) (S.D.N.Y.)

Forbush v. J. C. Penney Co., No. 3:90-2719-X, No. 3:92-0109-X (N.D. Tex.)

Hofer v. Capitol Am. Life Ins. Co., No. 336 (Wyo. Dist. Ct. Goshen County)

Hoffman v. Sbarro, Inc., No. 982 F. Supp. 249 (S.D.N.Y.)

Khan v. Denny's Holdings, Inc., No. BC 177254 (Cal. Super. Ct. L.A. County)

Merk v. Jewel Foods, No. 85 C 7876 (N.D. Ill.)

OCAW v. Am. Home Prods., No. 92-1238 (JP) (D.P.R.)

Stender v. Lucky Stores, Inc., No. 88-1467 (N.D. Cal.)

Taylor v. O' Charley's, No. 3-94-0489 (M.D. Tenn.)

Wooten v. Dillard's Inc., No. 99-0990-CV-W-3-ECF (W.D. Mo.)





## CASE CITES

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### INSURANCE

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Barnicle v. Am. Gen. Corp., No. EC 011 865 (Cal. Super. Ct. San Diego County)

Beavers v. Am. Gen. Fin., Inc., No. CV.-94-174 (Ala. Cir. Ct. Walker County)

Blanke v. Lincoln Nat'l Life Ins. Co., No. 512,048 Div. K (La. Dist. Ct. Jefferson Parrish)

Bussie v. Allmerica, No. 97-40204 (D. Mass.)

Danko v. Erie Ins. Exch., No. 298 1991 G.D. (Pa. C.P. Fayette County)

Elkins v. Equitable Life Ins. Co. of Iowa, No. 96-296-CIV.-T-17B (M.D. Fla.)

Garst v. Franklin Life Ins. Co., No. 97-C-0074-S (N.D. Ala.)

Green v. Metro. Ins., No. 969547 (Cal. Super. Ct. S.F. County)

Hearth v. First Nat'l Life Ins. Co. of Am., No. 95-818- T-21A (M.D. Fla.)

In re Lutheran Bhd. Variable Ins. Prods. Co., No. 99-MD-1309 (PAM/JGL)

In re Metro. Life Ins. Co., No. 96-179 MDL No. 1091 (W.D. Pa.)

In re Nat'l Life Ins. Co., No. 2-97-CV.-314 (D. Vt.)

Jordan v. State Farm Life Ins., No. 97 CH 11 (Ill. Cir. Ct. McLean County)

Kolsrud v. Equitable Life Ins. Co. of Iowa, No. 320838 (Ariz. Super. Ct. Pima County)

Kreidler v. W.-S. Life Assurance Co., No. 95-CV-157 (Ohio C.P. Erie County)

Lee v. USLIFE Corp., No. 1:97CV. -55-M (W.D. Ky.)

Levin v. Am. Gen. Life Ins. Co., No. 3-98-0266 (M.D. Tenn.)

Ludwig v. Gen. Am. Life Ins. Co., No. 4:97CV.18920 CDP (E.D. Mo.)

McNeil v. Am. Gen. Life & Accident Co., No. 3-99-1157 (M.D. Tenn.)

Reyes v. Country Life Ins. Co., No. 98 CH 16502 (Ill. Cir. Ct. Cook County)

Thompson v. Metro. Life Ins. Co., No. 00 Civ. 5071 (HB) Also applies to No.00 Civ., 9068, No.01-2090 & No. 01 Civ. 5579 (U.S. Dist. Ct. S.D. N.Y.)

Woodley v. Protective Life Ins. Co., No. CV. 95-005 (Ala. Cir. Ct. Fayette County)



## CASE CITES

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### PRODUCT LIABILITY

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Ahearn v. Fibreboard, No. 6:93cv.526 (E.D. Tex.)

Cox v. Shell Oil Co., No. 18,844 (Tenn. Ch. Ct. Obion County)

Garza v. Sporting Goods Props. Inc., No. SA 93-CA-1082 (W.D. Tex.)

Hart v. Central Sprinkler Corp., No. BC176727 (Cal.Super. Ct. L.A. County)

In re Louisiana-Pacific Corp. Inner-Seal Oriented Strand Bd. Trade Practices Litig., No. C96-2409 VRW (Mellett), No. C96-2468 VRW (Stewart) No. C95-3178 VRW(Aguis)

In re Rio Hair Naturalizer Prods. Liab. Litig., No. 1055 (E.D. Mich.)

Ruff v. Parex, Inc., No. 96-CV.-500-59 (E.D.N.C.)

Salah v. Consolidated Indus., Inc., No. CV 738376 (Cal. Super. Ct. Santa Clara County)

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### PROPERTY

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Anderson v. Cedar Grove Composting, Inc., No. 97-2-22820-4SEA (Wash. Super. Ct. King County)

Black v. Fag Bearings Corp., No. CV.396-264CC (Mo. Cir. Ct. Newton County)

Branin v. Asarco, Inc., No. C93-5132 (B) WD (W.D. Wash.)

Brighton v. Cedar Grove Composting, No. 97-2-21660-5 SEA (Wash. Super. Ct. King County)

Campbell v. Paducah & Louisville Ry., Inc., No. 93-CI-05543 (Ky. Cir. Ct. Jefferson County)

Comfort v. Kimberly-Clark Corp., No. DV. -90-616 (Ala. Cir. Ct. Shelby County)

Vicwood v. Skagit, No. 00-2-00665-6 (Wash. Super. Ct. Thurston County)

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### BANKRUPTCY

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In re Celotex Corp., No. 90-10016-8B1, 90-10017-8B1 (M.D. Fla.)

In re Raytech Corp., Case No. 89-00293 (Bankr. Ct. Conn.)

In re the Babcock & Wilcox Co., No. 00-0558 Bankr Case No. 00-10992 Sect: "R" (5) (U.S. Dist. Ct. E.D. La.)

In re U.S. Brass Corp., No. 94-40823S (Bankr. Ct. E.D. Tex.)

In re W.R. Grace & Co., No. 01-01139 (Bankr. Ct. Del.)



## CASE CITES

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### SECURITIES

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**Eilers Furs of Rapid City v. US West Commc'ns, Inc., No. 92-5121 (D.S.D.)**

**Finucan v. Egghead, Inc., No. C93-1268WD (W.D. Wash.)**

**Global Research Analyst Settlement, (M.D. N.Y.)**

**In re Chambers Dev. Corp. Sec. Litig., No. 982 (W.D. Pa.)**

**United States Sec. Exch. Comm'n v. HealthSouth Corp., No. CV-03-J-06515S (N.D. Ala.)**

**In re Banc of America Sec. LLC, File No. 3-12591 (Secs. Exch. Comm'n)**

**United States Sec. Eexch. Comm'n v. MBIA, No. 07Civ. 658 (LLS) (S.D.N.Y.)**

**United States Sec. Exch. Comm'n v. Fed. Nat'l Mortg. Assoc., No. 1:06-CV-00959 (RJL) (D.D.C.)**

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### BELAIRE-WEST PRIVACY NOTICE MAILINGS

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**Berg v. Zumiez, Inc., No. BC408410 (Cal. Super. Ct. L.A. County)**

# Exhibit 2

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

REBEKAH BAHARESTAN and JENA	)	No. 3:2015-cv-03578
MCINTYRE, on behalf of themselves and all	)	
others similarly situated	)	<u>CLASS ACTION</u>
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
VENUS LABORATORIES, INC., dba EARTH	)	
FRIENDLY PRODUCTS, INC.,	)	
	)	
Defendant.	)	
_____	)	

**AFFIDAVIT OF JOHN GRUDNOWSKI IN SUPPORT OF**  
**SETTLEMENT NOTICE PLAN**

I, John Grudnowski, being duly sworn and deposed, say:

1. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

2. I am Founder and CEO of FRWD Co. (“FRWD”), a digital marketing firm based in Minneapolis, Minnesota. My firm has been asked by Dahl Administration, LLC (“Dahl”) to partner in the design and execution of the Notice Plan for the settlement in the above-captioned action (the “Settlement”).

3. I have more than 18 years of experience in marketing and public relations. In the past 13 years, I have focused exclusively on digital media. In addition to founding FRWD in 2009, I co-founded a Minneapolis-based media organization, i612, which

provides educational content to the Minneapolis/St. Paul marketing community. I also serve as an Adjunct Professor in Digital Marketing at the University of Minnesota's Carlson School of Management.

4. My work has involved designing, executing, and validating traditional and digital media advertising and communications campaigns. The technologies and tools described herein are well-accepted, leading practices in the digital advertising world and are directly transferable and applicable to the execution of an effective class action notice plan.

5. This affidavit describes advertising industry trends and practices as well as the media approach and methodology for the Notice Plan for the Settlement.

6. FRWD and Dahl constructed the Notice Plan to be consistent with, and to take advantage of, how individuals consume media and locate information today. Specifically, we are leveraging digital components including desktop web banners, mobile web banners, and social media, as described in the Affidavit of Jeffrey D. Dahl. Leveraging how today's consumer accesses media enables us to construct a more robust, action-oriented notification plan. In addition, as we constructed the Notice Plan, we focused on demographic information provided by Defendants specific to their customer base. This information enables us to better target our Notice Plan and reach potential Class Members. Specifically, our Notice efforts will target a nationwide audience of 15.08 million buyers of "green" or "natural" household items defined to include surface cleaners & laundry detergent, and more intensively target 8.5 million purchasers of green/natural products at Walmart and club stores (e.g., Sam's Club, Costco, BJ's

Wholesale Club). These audiences were selected based on demographic information, detailed audience purchase information provided by Nielsen Catalina Solution as well as through research gained from Venus Laboratories staff, as well as through tools provided by Gfk MRI, comScore and Google. Our Notice Plan will focus on the 15.08 million green/natural product purchasers and will even more intensively target 8.5 million purchasers of green/natural products at WalMart and club stores as the vast majority of buyers purchased through Walmart and club stores.

7. Between the online components of the Notice Plan, our tools indicate we will produce over 66 million impressions that are targeted to reach an audience with the characteristics of the Settlement Class. I estimate that the Notice Plan will effectively reach 75% of the projected 15.08 million buyers of green/natural household items at a projected frequency of 2.0x-2.5x, and will provide an *additional* 1.0x-1.5x impressions to projected buyers of green/natural products at Walmart and club stores to further focus on the members of the Settlement Class.

### **FRWD BACKGROUND**

8. Over the past six years, my company has planned, managed, executed, and reported on thousands of individual digital & traditional (TV, Print, Radio, Out of Home (OOH)) executions for some of the world's largest brand advertisers and business-to-business organizations. FRWD clients have included American Express, L'Oreal, Proctor & Gamble, Best Buy, Disney, General Mills, Colgate, and 3M.

9. "Digital media executions" are advertising, communications, or marketing activities directed at the online audience. Digital media executions can be a single event

or a more coordinated, long-term campaign, and are done using online advertising tactics such as paid search, display, video, social media, and other forms of paid media. Each of these approaches is designed to reach a defined target audience in the online spaces where people increasingly seek and obtain information. In executing this Notice Plan, FRWD will employ display tactics—specifically, placing banner advertisements on specific websites—to reach our intended audience.

10. In my past six years as CEO of FRWD, and in my previous twelve years in marketing, I have overseen all aspects of digital & traditional media executions, ranging from strategic and creative design, to planning, to identification of technology partners, to integration of technology, to media buying, to optimizations of media executions. I have personally managed more than \$120 million in digital and traditional media executions. I have been hired by Fortune 500 clients to train their internal teams on digital media technology and management. I have hired and trained more than 100 employees and personally integrated third-party, industry-leading technologies such as DoubleClick DFA, comScore, Terminal One, Nielsen and others which enable greater control of reach/frequency management, audience targeting, and verification, all of which will be applied in this case to implement an effective class action Notice Plan. In addition to digital media executions, I have personally overseen advertising programs that included digital and print as well as and digital and television. In 1999-2000, I personally managed newspaper and Outdoor advertising placements for Northwest Airlines. This experience at all stages of a media campaign, from planning through execution and



training, provides a solid foundation of experience that informs my work on this Notice Plan.

11. As part of FRWD's execution of multimedia campaigns, we have planned, designed, built, placed, and reported on thousands of individual web-based creative assets such as banner ads, websites, keyword search ads, Facebook landing pages, and other forms of content development.

12. Areas of special expertise and focus for FRWD include local (city and state level) and national advertising focused on achieving specific reach and frequency targets. We use all of the digital tactics listed above. Over the past six years, FRWD has completed more than 1,000 individual digital media campaigns focused on a specific locale (geo-footprint), combined with audience targeting and very specific reach and frequency goals. We have done so for brands including Cheerios, Wheaties, Yoplait, Covergirl, Olay, Charmin, and Colgate.

### **ADVERTISING TRENDS**

13. In the past decade, and specifically within the past few years, consumers have significantly shifted their consumption of media from print-based consumption to online-based consumption. In response to this consumer shift in consumption, advertisers have shifted their spending from print-based to online-based advertising.

14. The major driver behind these shifts is technology and its impact on consumers' time with media each day. As reported by eMarketer,<sup>1</sup> U.S. adults in 2008

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<sup>1</sup> eMarketer aggregates more than 4,000 sources of digital marketing and media research and publishes objective analysis of internet market trends. For more than a decade,

spent a combined 63 minutes every day reading magazines and newspapers.<sup>2</sup> In 2011, that number had declined to 44 minutes per day, a decline in usage of 30%. In 2015, that number has declined to 21 minutes, a decline of 109% in the last 4 years alone.<sup>3</sup> During that same time period (from 2011 to 2015), daily time spent on digital media (online and mobile) has increased from 232 minutes per day to 338 minutes per day, a 50% increase. Thus, the average U.S. adult in 2015 now spends 16 times more time each day consuming media and information online than reading newspapers and magazines.

<b>Average Time Spent per Day with Major Media by US Adults, 2011-2015</b> hrs:mins and CAGR						
	2011	2012	2013	2014	2015	CAGR (2011-2015)
<b>Digital</b>	<b>3:40</b>	<b>4:20</b>	<b>4:51</b>	<b>5:15</b>	<b>5:38</b>	<b>11.4%</b>
—Desktop/laptop*	2:33	2:27	2:19	2:22	2:22	-1.8%
—Mobile (nonvoice)	0:48	1:35	2:16	2:34	2:51	37.2%
—Other connected devices	0:18	0:18	0:17	0:19	0:25	7.8%
<b>TV**</b>	<b>4:34</b>	<b>4:38</b>	<b>4:31</b>	<b>4:22</b>	<b>4:15</b>	<b>-1.8%</b>
<b>Radio**</b>	<b>1:34</b>	<b>1:32</b>	<b>1:30</b>	<b>1:28</b>	<b>1:27</b>	<b>-2.0%</b>
<b>Print**</b>	<b>0:44</b>	<b>0:38</b>	<b>0:32</b>	<b>0:26</b>	<b>0:21</b>	<b>-17.0%</b>
—Magazines	0:18	0:16	0:14	0:12	0:10	-13.5%
—Newspapers	0:26	0:22	0:18	0:14	0:11	-19.8%
<b>Other**</b>	<b>0:39</b>	<b>0:38</b>	<b>0:31</b>	<b>0:26</b>	<b>0:24</b>	<b>-11.7%</b>
<b>Total</b>	<b>11:11</b>	<b>11:46</b>	<b>11:55</b>	<b>11:57</b>	<b>12:04</b>	<b>1.9%</b>
<i>Note: ages 18+; time spent with each medium includes all time spent with that medium, regardless of multitasking; for example, 1 hour of multitasking on desktop/laptop while watching TV is counted as 1 hour for TV and 1 hour for desktop/laptop; *includes all internet activities on desktop and laptop computers; **excludes digital</i> Source: eMarketer, April 2015						
188127	www.eMarketer.com					

15. The data on the total percentage of the average U.S. adult's interaction with media are similar. Time online (mobile and traditional Internet) in 2010 made up

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leading brands and agencies have relied on eMarketer as a recognized resource for data, analysis, and insights on digital marketing, media, and commerce. eMarketer clients include Google, General Motors, and Kimberly Clark. FRWD is also a client.

<sup>2</sup> eMarketer, Dec., 2011.

<sup>3</sup> eMarketer, April, 2015.

33.3% of the average person's total media consumption each day. In 2015 time online is now 44.6%. In 2010, time with newspapers and magazines combined for 8.2% of the average person's consumption, down from 10.8% in 2008.<sup>4</sup> In 2015, time spent with newspapers and magazines is at 1.7%.

16. This shift in consumer consumption of media has led to widespread adoption of online advertising and a concurrent decline in reliance on print media. Industry-wide, this impact is evident from another eMarketer study. In the year 2000, advertisers spent a collective \$72.68 billion on magazine and newspaper advertising.<sup>5</sup> In 2005, this number increased to \$74.14 billion. It has since been on a significant and steady decline, totaling \$51.54 billion in 2009 and projecting to \$31.6 billion in 2015.<sup>6</sup>

17. Unsurprisingly, advertisers have shifted their expenditures to meet consumers where they are: online. In 2000, advertisers spent \$6.0 billion online. In 2005, that number increased to \$10.0 billion. In 2009, the amount dedicated to online advertising reached \$20.3 billion.<sup>7</sup> In 2012, the amount dedicated to online advertising reached \$36.8 billion and is projected to reach \$52.5 billion in 2015.<sup>8</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> ZenithOptimedia, Apr. 7, 2010; provided to eMarketer by StarcomMediaVest Group, June 1, 2010.

<sup>6</sup> eMarketer, April, 2015.

<sup>7</sup> Internet Advertising Bureau Revenue Report, <http://www.iab.net/AdRevenueReport>.

<sup>8</sup> eMarketer, April, 2015.

<b>US Total Media Ad Spending, by Media, 2011-2017</b>							
<i>billions</i>							
	2011	2012	2013	2014	2015	2016	2017
<b>TV</b>	<b>\$60.7</b>	<b>\$64.5</b>	<b>\$66.4</b>	<b>\$68.5</b>	<b>\$70.0</b>	<b>\$73.1</b>	<b>\$75.3</b>
<b>Digital</b>	<b>\$32.0</b>	<b>\$36.8</b>	<b>\$42.3</b>	<b>\$47.6</b>	<b>\$52.5</b>	<b>\$57.3</b>	<b>\$61.4</b>
—Mobile	\$1.6	\$4.4	\$8.5	\$13.1	\$18.6	\$24.7	\$31.1
<b>Print</b>	<b>\$35.8</b>	<b>\$34.1</b>	<b>\$32.9</b>	<b>\$32.2</b>	<b>\$31.6</b>	<b>\$31.3</b>	<b>\$31.2</b>
—Newspapers*	\$20.7	\$18.9	\$17.8	\$17.1	\$16.6	\$16.2	\$16.1
—Magazines*	\$15.2	\$15.2	\$15.1	\$15.1	\$15.1	\$15.1	\$15.2
<b>Radio**</b>	<b>\$15.2</b>	<b>\$15.4</b>	<b>\$15.6</b>	<b>\$15.9</b>	<b>\$16.0</b>	<b>\$16.0</b>	<b>\$16.1</b>
<b>Outdoor</b>	<b>\$6.4</b>	<b>\$6.7</b>	<b>\$7.0</b>	<b>\$7.2</b>	<b>\$7.4</b>	<b>\$7.6</b>	<b>\$7.8</b>
<b>Directories*</b>	<b>\$8.2</b>	<b>\$7.5</b>	<b>\$6.9</b>	<b>\$6.4</b>	<b>\$5.9</b>	<b>\$5.5</b>	<b>\$5.3</b>
<b>Total</b>	<b>\$158.3</b>	<b>\$165.0</b>	<b>\$171.0</b>	<b>\$177.8</b>	<b>\$183.4</b>	<b>\$190.9</b>	<b>\$197.0</b>
Note: eMarketer benchmarks its US newspaper ad spending projections against the NAA, for which the last full year measured was 2012, and its US outdoor ad spending projections against the OAAA, for which the last full year measured was 2011; numbers may not add up to total due to rounding; *print only; **excludes off-air radio & digital Source: eMarketer, Aug 2013							
161679				www.eMarketer.com			

18. I have personally participated in this evolution from print to digital advertising and understand advantages that digital media tools offer. It is my opinion that using digital advertising in this Notice Plan offers an effective route to reach Settlement Class Members and inform them about the Settlement.

### **DEFINITION OF TARGET: AUDIENCE TARGETING AND VERIFICATION**

19. Online advertising affords multiple options to reach and verify that the Settlement Class Members were exposed to the Notice. In the course of targeting, FRWD worked with Dahl to balance targeting and efficiency in reaching Settlement Class Members most effectively.

20. We have the ability to target individuals according to specific demographic and psychographic (lifestyle and interest) characteristics. This is done by focusing our notification advertising on specific websites (domains) which index highly against our core target. As indicated in Paragraph 6 above, this notification plan is focused primarily on a nationwide audience of green/natural household product buyers. Leveraging industry leading digital tools such as comScore and Google, FRWD has selected

hundreds of websites on which our audience visits at a rate of 50% greater than the typical Internet population. These custom lists are a best practice in consumer advertising and will further strengthen our ability to provide notice to Settlement Class Members in this plan. In this case, control of the websites that show the Notice, and where the Notice banner will appear on those websites, provides a higher likelihood of successfully exposing Settlement Class Members to the Notice.

21. A full list of specific website domains on our list of potential targets is included as Exhibit 4 to the Affidavit of Jeffrey D. Dahl.

22. In addition to selecting specific websites, we are leveraging Facebook Interest Targeting<sup>9</sup> which provides the opportunity to reach Settlement Class Members based on information they have added to their Facebook timelines. This considers information such as the Facebook Pages they like, apps they use, and other information they have added to their timelines.

### **CONNECTION TO THE NOTICE WEBSITE**

23. All digital communication in the form of web-based banners, keyword search and content syndication will be connected to our notice website. Social media (Facebook) notice ad responses will be connected to our notice website. This will provide the ability to connect Settlement Class Members directly to online communication providing greater detail on this Settlement Notice. Specifically, our banner advertisements will list the Settlement website, and users who click on our banner advertisements will be routed directly to the Settlement website, where they will find

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<sup>9</sup> Facebook, <https://www.facebook.com/help/131834970288134/>.

information in greater detail. This combination of reaching our audience and connecting to greater detail via the Settlement website provides us with a comprehensive approach to reaching Settlement Class Members.

24. In addition, FRWD will leverage Google Analytics<sup>10</sup> (“GA”) on the Settlement website. By using GA, FRWD can showcase reporting on the engagement of the Settlement Class Members on our Settlement website. Specifically, GA will measure the most highly trafficked content and the total number of Settlement Class Members performing specific actions, such as the number of visitors, the number of pages viewed, the time spent, and the number of documents downloaded by type.

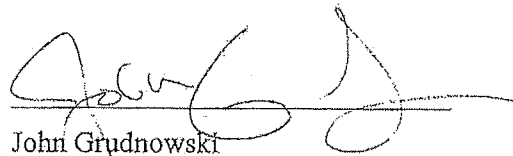
### **CONCLUSION**

25. Based on my experience in designing and executing digital outreach and marketing plans, as well as best practices in the digital marketing industry, it is my opinion that the digital media component of the Notice Plan will effectively reach Settlement Class Members.


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<sup>10</sup> Google Analytics is a service offered by Google that generates detailed statistics about the visitors to a website. GA can track visitors from all referring websites, including search engines, display advertising, pay-per-click networks, email marketing, and other traffic sources.

I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge. Executed this 25<sup>th</sup> day of September, 2015 in Minneapolis, Minnesota.

  
John Grudnowski  
CEO  
FRWD Co.

Sworn to and Subscribed before me  
this 25<sup>th</sup> day of September, 2015.

  
\_\_\_\_\_  
Notary Public



# Exhibit 3



**Women's lifestyle Channel**

101cookbooks.com	chaosinthekitchen.com	dishtip.com
247moms.com	cheapcooking.com	divascancook.com
5dollardinner.com	cheftalk.com	diypinterest.com
9jafoodie.com	chow.com	dwellonjoy.com
a-crock-cook.com	christinacooks.com	easy-cookbook-recipes.com
addapinch.com	christinesrecipes.com	easy-french-food.com
afamilyfeast.com	closetcooking.com	eatathomecooks.com
afewshortcuts.com	collegerecipes.com	eatbetteramerica.com
againstallgrain.com	cookbook-recipes.org	eatbydate.com
alanskitchen.com	cookeatdelicious.com	eatdrinkbetter.com
aliciasrecipes.com	cookeatshare.com	eatdrinkeat.com
allcookingandrecipes.com	cookfoodeat.com	eat-drink-love.com
alldayidreamaboutfood.com	cookingcache.com	eater.com
allmenus.com	cookingchanneltv.com	eatgood4life.com
allrecipes.com	cookingclub.com	eating-made-easy.com
allrecipestried.com	cookinglight.com	eatingwell.com
amandascookin.com	cookingrecipecentral.com	eatliverun.com
amandathevirtuouswife.com	cookpad.com	eatsalem.com
amazingrecipez.com	cooks.com	eat-yourself-skinny.com
amazingribs.com	cooksinfo.com	eatyourworld.com
ambitiouskitchen.com	cooksrecipes.com	ellenskitchen.com
ameessavorydish.com	cookyourfood.org	Emeril.com
anniesrecipes.com	coolmompicks.com	endlessappetizers.com
aroundmyfamilytable.com	crazyfood.net	epicmealtime.com
backtoherroots.com	creativekidsnacks.com	epicurious.com
bbq-brethren.com	crockingirls.com	fabulousfoods.com
beautyandbedlam.com	crocpotladies.com	familycookbookproject.com
befoodsmart.com	crystalandcomp.com	familycorner.com
bestfondue.com	culinaryadventuresinthekitchen.com	familyfreshmeals.com
betterrecipes.com	cupcakerecipes.com	familyoven.com
bhg.com	cutefoodforkids.com	fatfreevegan.com
biggirlsmallkitchen.com	damndelicious.net	fauziaskitchenfun.com
bigredkitchen.com	daydreamkitchen.com	feastie.com
blessthismessplease.com	dedemed.com	finecooking.com
bonappetit.com	deliaonline.com	finedinings.com
budgetbytes.com	delish.com	fingerlickinrecipes.com
budgetgourmetmom.com	delishmish.com	food-4tots.com
budgetsavvydiva.com	detoxinista.com	foodandwine.com
bunsinmyoven.com	devileddeggs.com	foodbanter.com
cafemom.com	dineanddish.net	Foodbuzz.com
cdkitchen.com	dinerrestaurant.com	foodbycountry.com
celebrating-family.com	dinnerdishesanddesserts.com	foodchannel.com
	discusscooking.com	food.com

foodepix.com	hillbillyhousewife.com	mealplanning101.com
foodgawker.com	holycowvegan.net	mealplanningmagic.com
foodieportal.com	homemadesimple.com	mealsforyou.com
foodista.com	howdoesshe.com	mealtrain.com
foodloveswriting.com	howsweeteats.com	melskitchencafe.com
foodlve.com	hungryhealthyhappy.com	midwestliving.com
foodndrecipe.com	hungrymonster.com	minimalistbaker.com
foodnetwork.com	ice-cream-recipes.com	modernmom.com
foodnetworkfans.com	ichef.com	modernparentsmessykids.com
foodnetworkgossip.com	lfood.tv	momsconfession.com
foodonthetable.com	inmamaskitchen.com	monthlymealplanner.com
foodpantries.org	innatthecrossroads.com	mostlyhomemademom.com
foodpicstime.com	iowagirleats.com	MRFOOD.COM
foodrandom.com	jamieoliver.com	myfridgefood.com
foodrepublic.com	jdaniel4smom.com	myhealthydish.com
foodsubs.com	jeanetteshealthyliving.com	myhoneysplace.com
foodterms.com	justapinch.com	myrecipemagic.com
foodvannet.com	justfruitrecipes.com	myrecipes.com
foodvee.com	justgetoffyourbuttandbake.com	mywebgrocer.com
forthe love of cooking.net	justherfood.com	nancyskitchen.com
fourmarrsonevenus.com	justvegetablerecipes.com	navywifecook.com
freefood.org	katheats.com	nomnompaleo.com
funandfoodcafe.com	khanapakana.com	noobcook.com
gastronomyblog.com	kidskubby.com	ochef.com
gimmesomeoven.com	kidsstuffworld.com	onceuponachef.com
girlmakesfood.com	kitchendaily.com	pachakam.com
globalgourmet.com	kitchenmeetsgirl.com	panlasangpinoy.com
goodrecipesonline.com	kitchentreaty.com	partypinching.com
GOURMANDIA.COM	kraftrecipes.com	party-recipes-and-ideas.com
gourmetsleuth.com	kuali.com	petitchef.com
greatpartyrecipes.com	laurainthekitchen.com	plainchicken.com
great-salsa.com	lifesambrosia.com	pocketchange gourmet.com
grocerybudget101.com	lilluna.com	portuguesediner.com
grocerysmarts.com	lisdinnertimedish.com	preventionrd.com
grouprecipes.com	livemoredaily.com	quick-and-easy-dinner.com
gwens-nest.com	living-foods.com	rachaelraymag.com
halfhourmeals.com	lorisculinarycreations.com	rachaelrayshow.com
healthierhabits.net	lovefoodies.com	rawfoodsupport.com
healthy-delicious.com	lovingmynest.com	realcajunrecipes.com
healthyfoodhouse.com	lynnskitchenadventures.com	realmomkitchen.com
heandsheeatclean.com	makedinnereasy.com	realsimple.com
heathersdish.com	mamaslebanesekitchen.com	recipage.com
helpwithcooking.com	manjulaskitchen.com	recipe4all.com

recipe4living.com  
 recipebest.com  
 recipebyphoto.com  
 recipechart.com  
 recipecircus.com  
 recipe.com  
 recipegirl.com  
 recipehub.com  
 recipekey.com  
 recipelink.com  
 reciperecommendations.com  
 reciperehab.com  
 recipes4cakes.com  
 RECIPESECRETS.NET  
 recipesgawker.com  
 recipesource.com  
 recipetips.com  
 RELISH.COM  
 ricardocuisine.com  
 roadfood.com  
 runningtothekitchen.com  
 saharrestaurant.com  
 sandralee.com  
 sanjeevkapoor.com  
 SAVEUR.COM  
 savorysweetlife.com  
 secondchancetodream.com  
 semihomemade.com  
 seriouseats.com  
 shrinkingkitchen.com  
 simplyrecipes.com  
 sixsistersstuff.com  
 skinnymom.com  
 skinnymys.com  
 skinnytaste.com  
 slenderkitchen.com  
 slowandsimple.com  
 smilecooking.com  
 snack-girl.com  
 sortedfood.com  
 southernliving.com  
 spendwithpennies.com  
 staceysnacksonline.com

stacymakescents.com  
 supercook.com  
 superhealthykids.com  
 surefoodsliving.com  
 susieqtpiescafe.com  
 sweetiepiess.com  
 tablefeast.com  
 tammysrecipes.com  
 tasteofhome.com  
 tastespotting.com  
 tastingpoland.com  
 tastytreat.org  
 texascooking.com  
 thatsmyhome.com  
 theendlessmeal.com  
 thefreshloaf.com  
 thegraciouspantry.com  
 thehungrymouse.com  
 the-italian-food.com  
 THEKITCHN.COM  
 themarathonmom.com  
 themediterraneankitchen.org  
 thenibble.com  
 therecipecritic.com  
 theslowroasteditalian.com  
 theworldwidegourmet.com  
 thrivinghomeblog.com  
 titlisbusykitchen.com  
 topdinnerrecipes.net  
 topinspired.com  
 topsecretrecipes.com  
 traditional-foods.com  
 twopeasandtheirpod.com  
 vahrehvah.com  
 veryculinary.com  
 vietnamese-recipes.com  
 wearychef.com  
 webekitchen.com  
 weekly-dinner-ideas.com  
 wellcooked.net  
 whats4eats.com  
 whatscookingamerica.com  
 whatsfordinner.net

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 ACCUWEATHER.COM  
 ACER.COM  
 ACESHOWBIZ.COM  
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 ACTIVE.COM  
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 ADDICTIVETIPS.COM  
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 AIM.COM  
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BLOCKSHOPPER.COM	BULBAGARDEN.NET	CBSSPORTS.COM
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BOXOFFICEMOJO.COM	CARID.COM	CHOICEHOTELS.COM
BRADFORDEXCHANGE.COM	CARING.COM	CHOW.COM
BRADSDEALS.COM	CARINGBRIDGE.ORG	CHRISTIANBOOK.COM
BRAINYQUOTE.COM	CARMAX.COM	CHRISTIANPOST.COM
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CIGNA.COM	CONSTANTCONTACT.COM	DAILYFINANCE.COM
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CISCO.COM	CONTACTMUSIC.COM	DAILYMOTION.COM
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CITYSEARCH.COM	COOLMATH-GAMES.COM	DEADSPIN.COM
CLARIDADPUERTORICO.COM	COOLMATH.COM	DEALTIME.COM
CLASSESUSA.COM	COOLMATH4KIDS.COM	DEGREELINK.NET
CLASSIFIEDADS.COM	COOLROM.COM	DELISH.COM
CLASSMATES.COM	COREL.COM	DELL.COM
CLEVELAND.COM	CORNELL.EDU	DELTA.COM
CLIFFSNOTES.COM	CORPORATIONWIKI.COM	DENVERPOST.COM
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CNET.COM	COUPONS.COM	DHGATE.COM
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CNN.COM	COX.COM	DICTIONARY.COM
CNNMONEY.COM	COX.NET	DIGG.COM
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COACH.COM	CRACKLE.COM	DILLARDS.COM
COLDWATERCREEK.COM	CRAIGSLIST.ORG	DIRECTORSLIVE.COM
COLDWELLBANKER.COM	CRATEANDBARREL.COM	DIRECTV.COM
COLLEGEBOARD.COM	CRAVEONLINE.COM	DISCOVERBING.COM
COLLEGECONFIDENTIAL.COM	CREDITKARMA.COM	DISCOVERCARD.COM
COLLEGEHUMOR.COM	CREDITONEBANK.COM	DISCOVERMAGAZINE.COM
COLLIDER.COM	CREDITREPORT.COM	DISCOVERY.COM
COMCAST.COM	CRUNCHYROLL.COM	DISCOVERYEDUCATION.COM
COMCAST.NET	CRUTCHFIELD.COM	DISH.COM
COMEDYCENTRAL.COM	CSMONITOR.COM	DIVINECAROLINE.COM
COMENITY.NET	CUNY.EDU	DIYFASHION.COM
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COMICVINE.COM	CUSTOMINK.COM	DMV.ORG
COMPLEX.COM	CVS.COM	DOCSTOC.COM
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DOMINOS.COM	ENCYCLOPEDIA.COM	FANPOP.COM
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DREAMJOBBER.COM	ENOTES.COM	FAQS.ORG
DREAMSTIME.COM	ENTERPRISE.COM	FARK.COM
DRUDGEREPORT.COM	ENTREPRENEUR.COM	FARMVILLE.COM
DRUGSTORE.COM	EONLINE.COM	FASTCOMPANY.COM
DSWSHOES.COM	EPA.GOV	FATWALLET.COM
DUMMIES.COM	EPICURIOUS.COM	FAVIM.COM
DVDVIDEOSOFT.COM	EPINIONS.COM	FC2.COM
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EA.COM	EQUIFAX.COM	FIDELITY.COM
EARTHLINK.NET	ESPN.COM	FILE.ORG
EASTBAY.COM	ESPNRADIO.COM	FILEBOX.COM
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EATINGWELL.COM	ESQUIRE.COM	FILEFACTORY.COM
EBAUMSWORLD.COM	ESSENCE.COM	FILEHIPPO.COM
EBAY.CO.UK	ESSORTMENT.COM	FILESERVE.COM
EBAY.COM	ETAMZ.COM	FILESONIC.COM
EBAYCLASSIFIEDS.COM	ETONLINE.COM	FILESTUBE.COM
EBAYSTORES.COM	ETRADE.COM	FILMANNEX.COM
ECOLLEGE.COM	ETSY.COM	FINANCIAL-NET.COM
ECONOMIST.COM	EVENTBRITE.COM	FINDARTICLES.COM
ECRATER.COM	EVENTFUL.COM	FINDLAW.COM
EDIBLEARRANGEMENTS.COM	EVENUE.NET	FINDTHEBEST.COM
EDLINE.NET	EVERYDAYHEALTH.COM	FINDTHERIGHTJOB.COM
EDMODO.COM	EVITE.COM	FINECOMB.COM
EDMUNDS.COM	EW.COM	FINGERHUT.COM
EDUCATION-PORTAL.COM	EXAMINER.COM	FINISHLINE.COM
EDUCATION.COM	EXPEDIA.COM	FIRESTONECOMPLETEAUTOCARE.COM
EDUCATIONASSISTANCE.ORG	EXPERIAN.COM	FIRSTROWSPORTS.EU
EDUCATIONCONNECTION.COM	EXPERIENCEPROJECT.COM	FITNESSMAGAZINE.COM
EGOTASTIC.COM	EXPOSAY.COM	FITSUGAR.COM
EHARMONY.COM	EXPRESS.COM	FIXYA.COM
EHEALTHFORUM.COM	EZINEARTICLES.COM	FLALOTTERY.COM
EHOW.COM	FAB.COM	FLICKR.COM
ELEXPRESSO.COM	FACEBOOK.COM	FLICKRIVER.COM
ELLE.COM	FAILBLOG.ORG	FLIXSTER.COM
ELNUEVODIA.COM	FAMILY.COM	FLY.COM
ELNUEVODIA.COM	FAMILYBUILDER.COM	FODORS.COM
ELYRICS.NET	FAMOUSFOOTWEAR.COM	FOOD.COM
EMEDICINEHEALTH.COM	FANDANGO.COM	FOODANDWINE.COM
EMEDTV.COM	FANFICTION.NET	FOODNETWORK.COM

FOOL.COM	GAMERCLICK.COM	GOOGLE.CA
FOOTLOCKER.COM	GAMES-VILLAGE.COM	GOOGLE.CO.UK
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FREECREDITSCORE.COM	GILT.COM	GRINDTV.COM
FREEFLYS.COM	GIRLSGOGAMES.COM	GROOVESHARK.COM
FREEONLINEGAMES.COM	GIZMODO.COM	GROUPON.COM
FREESHIPPING.COM	GLAM.COM	GROUPRECIPES.COM
FROMMERS.COM	GLAMOUR.COM	GSN.COM
FRONTIER.COM	GLASSDOOR.COM	GUAMPDN.COM
FROSTWIRE.COM	GLOBALGRIND.COM	GUARDIAN.CO.UK
FRYS.COM	GLOGSTER.COM	GUITARCENTER.COM
FT.COM	GMC.COM	GUYISM.COM
FTC.GOV	GNC.COM	HALF.COM
FTD.COM	GO.COM	HALLMARK.COM
FULLSAIL.EDU	GODADDY.COM	HAMPTON-INN.COM
FUNBRAIN.COM	GODVINE.COM	HARBORFREIGHT.COM
FUNNYJUNK.COM	GOFREE.COM	HARK.COM
FUNNYORDIE.COM	GOGECAPITAL.COM	HARVARD.EDU
FUNTRIVIA.COM	GOGOANIME.COM	HASBRO.COM
G4TV.COM	GOLF.COM	HAUTELOOK.COM
GADLING.COM	GOLFLINK.COM	HBO.COM
GAMEFAQS.COM	GOOD.IS	HBOGO.COM
GAMEFLY.COM	GOODCHOLESTEROLCOUNT.COM	HEALTH.COM
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HERDAILY.COM	HRW.COM	INC.COM
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WALLSTCHEATSHEET.COM	WIKIHOW.COM	Y8.COM
WALMART.COM	WIKIMEDIA.ORG	YAHOO.CA
WALMARTMONEYCARD.COM	WIKIMEDIAFOUNDATION.ORG	YAHOO.CO.IN
WALMARTSTORES.COM	WIKIPEDIA.ORG	YAHOO.CO.KR
WARNERBROS.COM	WIKIQUOTE.ORG	YAHOO.CO.UK
WASHINGTON.EDU	WIKISPACES.COM	YAHOO.COM
WASHINGTONEXAMINER.COM	WIKITRavel.ORG	YAHOO.COM.AU
WASHINGTONPOST.COM	WIKTIONARY.ORG	YAHOO.COM.CN
WASHINGTONTIMES.COM	WILEY.COM	YAHOO.COM.MX
WATCHCARTOONONLINE.COM	WIMP.COM	YAHOO.COM.PH
WATCHSERIES.EU	WINDOWS MEDIA.COM	YAHOO.COM.SG
WAYFAIR.COM	WINZIP.COM	YAHOO.ES
WAYPORT.NET	WIRED.COM	YAKAZ.COM
WE-CARE.COM	WISC.EDU	YARDBARKER.COM
WEATHER.COM	WIZARD101.COM	YARDELLR.COM
WEATHER.GOV	WN.COM	YELLOWBOOK.COM
WEATHERBUG.COM	WND.COM	YELLOWBOT.COM
WEBCRAWLER.COM	WNLOADS.NET	YELLOWNOW.COM

YELLOWPAGES.COM

YELP.COM

YEPI.COM

YFROG.COM

YIDIO.COM

YOLASITE.COM

YOUBEAUTY.COM

YOUKU.COM

YOURAVON.COM

YOURDICTIONARY.COM

YOURTANGO.COM

YOUSENDIT.COM

YOUTUBE-MP3.ORG

YOUTUBE.COM

YUKU.COM

YUMMLY.COM

ZAP2IT.COM

ZAPPOS.COM

ZAZZLE.COM

ZBIDDY.COM

ZDNET.COM

ZENDESK.COM

ZILLOW.COM

ZIMBIO.COM

ZIPPYSHARE.COM

ZIPREALTY.COM

ZMOVIE.TV

ZOCDOC.COM

ZOOSK.COM

ZULILY.COM

ZUMIEZ.COM

ZYNGA.COM

# Exhibit 4

728x90 Banner

<p>Did You Purchase Venus Earth Friendly Products? <b>A Class Action Settlement May Affect Your Rights.</b></p>	<p><b>CLICK HERE FOR MORE INFORMATION</b></p>
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300x250 Banner

<p>Did You Purchase Venus Earth Friendly Products? <b>A Class Action May Affect Your Rights.</b></p> <p><b>Click Here</b></p>
---

Social (Facebook)

<p><b>CLICK HERE</b></p> <p><b>Venus Earth Friendly Lawsuit</b> <a href="http://www.EarthFriendlySettlement.com">www.EarthFriendlySettlement.com</a> Did You Purchase Venus Earth Friendly Products? Your rights may be affected.</p>
---

Keyword Search

**Earth Friendly Lawsuit**

[www.EarthFriendlySettlement.com](http://www.EarthFriendlySettlement.com)

**Ads** Buy Venus Earth Friendly products?  
Your rights may be affected

# Exhibit 5

**Settlement Administrator Dahl Administration Announces Class Action Settlement in the *Baharestan v. Venus Laboratories, Inc.* Litigation**

MINNEAPOLIS, <<DATE>> /PRNewswire/ -- A proposed settlement has been reached in a class action lawsuit about the labelling, marketing, and advertising of Venus Laboratories “Earth Friendly” products (“Products”). The plaintiffs in the lawsuit claim that Venus Laboratories mislabeled its Products by describing them as “natural.” Venus Laboratories denies all the plaintiffs’ allegations and is entering into this settlement to avoid burdensome and costly litigation. The settlement is not an admission of wrongdoing.

*Am I a Class Member?* You are a member of the Class if you purchased at least one Venus Laboratories Earth Friendly Product from January 23, 2011 through [DATE], for household use or personal consumption and not for resale. Excluded from the Class are Venus Laboratories and its board members, officers, and attorneys; governmental entities; the Court presiding over the settlement, and those persons who timely and properly request exclusion from the Settlement Class.

*What Can I Get From the Settlement?* A fund of \$850,000 will be created to pay Class Members’ claims, certain administrative costs, attorneys’ fees and expenses, incentive awards, and other costs. Venus Laboratories will also make changes to the labels for the Products and to its website.

Settlement Class Members may submit a properly completed Claim Form and be eligible to receive a cash payment of up to \$25. These awards may be subject to pro rata upward or downward adjustment depending on the number of claims approved. A detailed Class Notice and copies of the Claim Form are available at [www.xxxxxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxxxxx.com) or by calling 1-8xx-xxx-xxxx.

*What are My Options?* To ask for a cash payment and stay in the Class, you must send in a Claim Form by [DATE]. If you do not wish to participate in the settlement, you may exclude yourself from the Class by [DATE]. The detailed notice available at [www.xxxxxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxxxxx.com) or by calling 1-8xx-xxx-xxxx explains how to exclude yourself from the settlement. If you exclude yourself, you can’t get money from this settlement if it is approved. If you’re a Class Member, you may object to any part of the settlement you don’t like, and the Court will consider your views. Your objection must be timely, in writing and must provide documents to establish your membership in the Class. Procedures for submitting objections are set out in the detailed notice available at [www.xxxxxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxxxxx.com) or by calling 1-8xx-xxx-xxxx.

The Court will hold a Final Fairness Hearing at \_\_\_\_ a.m./p.m. on \_\_\_\_\_ in \_\_\_\_\_, California. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate and whether to approve the named plaintiffs’ incentive awards of up to \$2,000 each and attorneys’ fees and expenses up to \$277,500. You may attend the hearing, and you may hire your own lawyer, but you are not required to do either. The Court will consider timely written

objections and will listen to people who have made a prior written request to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement.

*What If I Have Questions?* This Notice is just a summary. Detailed notice, as well as the Settlement Agreement and other documents filed in this lawsuit can be found online at [www.xxxxxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxxxxx.com). For more information, you may call or write to the Settlement Administrator at 1-8xx-xxx-xxxx, Venus Earth Friendly Products Settlement, c/o Dahl Administration, P.O. Box 3614, Minneapolis, MN 55403-0614 or [info@xxxxxxxxxxxxxxxxxxxx.com](mailto:info@xxxxxxxxxxxxxxxxxxxx.com).

QUESTIONS? CALL 1-8xx- xxx-xxxx or VISIT [www.xxxxxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxxxxx.com)

MEDIA: Jeff Dahl, 952-562-3601

SOURCE: DAHL ADMINISTRATION, LLC

RELATED LINKS: [www.xxxxxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxxxxx.com)

# Exhibit D



## **LEGAL NOTICE**

### **IF YOU PURCHASED A VENUS LABORATORIES' "EARTH FRIENDLY PRODUCTS" PRODUCT, YOU MAY BE ENTITLED TO A CASH PAYMENT**

A proposed settlement has been reached in a class action lawsuit about the labelling, marketing, and advertising of Venus Laboratories' "Earth Friendly Products" ("Products"). The plaintiffs in the lawsuit claim that Venus Laboratories ("Venus") mislabeled its Products by describing them as "natural." Venus denies all the plaintiffs' allegations and is entering into this settlement to avoid burdensome and costly litigation. The settlement is not an admission of wrongdoing.

**Am I a Class Member?** You are a member of the Class if you purchased at least one of Venus' Earth Friendly Products from January 23, 2011 through [DATE], for household use or personal consumption and not for resale. Excluded from the Class are Venus and its board members, officers, and attorneys; governmental entities; the Court presiding over the settlement, and those persons who timely and properly request exclusion from the Settlement Class.

**What Can I Get From the Settlement?** A fund of up to \$925,000 will be created to pay Class Members' claims, certain administrative costs, attorneys' fees and expenses, incentive awards, and other costs. Venus will also make changes to the labels for some of the Products, to its website, and to the formulation for Dishmate.

Settlement Class Members may submit a properly completed Claim Form and be eligible to receive a cash payment of up to \$25. These awards may be subject to pro rata upward or downward adjustment depending on the number of claims approved. A detailed Class Notice and copies of the Claim Form are available at [www.xxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxx.com) or by calling 1-8xx-xxx-xxxx.

**What are My Options?** To ask for a cash payment and stay in the Class, you must send in a Claim Form

by [DATE]. If you do not wish to participate in the settlement, you may exclude yourself from the Class by [DATE]. The detailed notice available at [www.xxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxx.com) or by calling 1-8xx-xxx-xxxx explains how to exclude yourself from the settlement. If you exclude yourself, you can't get money from this settlement if it is approved. If you're a Class Member, you may object to any part of the settlement you don't like, and the Court will consider your views. Your objection must be timely, in writing and must provide documents to establish your membership in the Class. Procedures for submitting objections are set out in the detailed notice available at [www.xxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxx.com) or by calling 1-8xx-xxx-xxxx.

The Court will hold a Final Fairness Hearing at \_\_\_\_ a.m./p.m. on \_\_\_\_\_ in \_\_\_\_\_, California. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate and whether to approve the named plaintiffs' incentive awards of up to \$2,000 each and attorneys' fees and expenses up to \$277,500. You may attend the hearing, and you may hire your own lawyer, but you are not required to do either. The Court will consider timely written objections and will listen to people who have made a prior written request to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement.

**What If I Have Questions?** This Notice is just a summary. Detailed notice, as well as the Settlement Agreement and other documents filed in this lawsuit can be found online at [www.xxxxxxxxxxxxxxx.com](http://www.xxxxxxxxxxxxxxx.com). For more information, you may call or write to the Settlement Administrator at 1-8xx-xxx-xxxx, Venus Earth Friendly Products Settlement, c/o Dahl Administration, P.O. Box 3614, Minneapolis, MN 55403-0614 or [info@xxxxxxxxxxxxxxxxxx.com](mailto:info@xxxxxxxxxxxxxxxxxx.com).

<p><b>CLAIM FORMS MUST BE RETURNED BY [MONTH DAY, YEAR].</b> <b>QUESTIONS? VISIT <a href="http://www.xxxxxxxxxxxxxxx.com">www.xxxxxxxxxxxxxxx.com</a> OR CALL 1-8XX-XXX-XXXX</b></p>
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# **Exhibit 2**



**Hon. Morton Denlow (Ret.)**

**Hon. Morton Denlow (Ret.)** joins JAMS following 16 years of distinguished service as a Magistrate Judge for the United States District Court for the Northern District of Illinois. During his time on the bench, Judge Denlow presided over thousands of civil and criminal matters in both the pretrial and trial stages. He conducted over 2,000 settlement conferences and tried a number of bench trials in complex commercial cases where the parties consented to his jurisdiction.

Judge Denlow is a nationally recognized expert in settling cases. He is a sought after speaker and writer on mediation and settlement techniques. As a faculty member of the Federal Judicial Center, he taught hundreds of federal judges mediation skills and effective impasse breaking techniques. Judge Denlow is known as a creative problem solver who will not rest until a case is settled. During his first two years at JAMS, he achieved settlements totaling over \$425 million, including 53 settlements of \$1 million or more.

Prior to his appointment to the federal bench on March 1, 1996, Judge Denlow was actively engaged for 24 years as a trial and appellate lawyer in complex commercial litigation, including 10 years as an active arbitrator and mediator. His breadth of experience as an advocate, attorney neutral, and a settlement-focused judge makes him an ideal choice to mediate complex cases.

Request or download "[What Counsel Say About Judge Denlow's Mediation Style and Skills.](#)"

#### **ADR Experience and Qualifications**

As a federal judge, Judge Denlow conducted over 2,000 settlement conferences on the full range of federal cases, including many complex commercial matters. Judge Denlow has handled matters involving the following areas of law:

- **Antitrust:** has experience in trying and settling complex antitrust and Federal Trade Commission (FTC) disputes. Since joining JAMS, Judge Denlow brokered a \$97.5 million settlement in a multidistrict antitrust suit against producers of potash, a natural chemical used in fertilizers and a \$4.8 million settlement involving the containerboard and corrugated paper industry.
- **Arbitration:** has handled multiple arbitrations arising from disputes pertaining to commercial leases and adjudicated many others, including many bench trials in complex commercial disputes. These include a billion dollar Employee Retirement Income Security Act (ERISA) class action case, an \$80 million breach of contract dispute, trademark litigation involving national brands of hot dogs, and a number of covenant not to compete and trade secret cases.
- **Banking:** has settled state court actions for \$2.5 million involving claims that bank officers conspired with a third party to defraud bank customer; settled suits involving loans in default; settled a number of separate claims brought by the FDIC against former officers and directors of closed banks. These settlements involved D&O carriers and/or personal contributions by directors and officers.
- **Business / Commercial:** settled dozens of business/commercial matters since coming to JAMS, including a breach of contract and breach of warranty suit that had been pending for four years involving a municipality and a bus manufacturer, a dispute between a manufacturer and a distributor arising out of alleged breach of a distributorship agreement, and a multi-million dollar civil RICO suit alleging fraudulent business practices.
- **Civil Rights:** settled hundreds of civil rights claims against municipalities and other government entities. At JAMS, Judge Denlow settled the City of Chicago's largest ever single plaintiff action, in addition to several multi-million dollar §1983 claims involving failure to provide medical care following arrest, false imprisonment and sexual harassment by a police officer.
- **Class Actions:** has settled numerous class actions involving the Fair Debt Collection Practices Act (FDCPA), securities fraud, Truth in Lending Act (TILA), Fair Credit Reporting Act (FCRA), Fair Labor Standards Act (FLSA), Telephone Consumer Protection Act (TCPA), antitrust, state law consumer fraud and related attorney fee issues.
- **Employment:** settled hundreds of employment cases involving discrimination claims (age, sex, disability, race, Family and Medical Leave Act (FMLA), and retaliation), breach of employment contracts, class actions, contract disputes, employee benefits and executive compensation,

*"Based on the positive feedback received by the Council, Judge Denlow is clearly held in very high esteem by the active federal bar. Regarding settlement conferences, attorneys had extremely positive views of his ability to settle cases and similarly praised him for the amount of time and effort he puts into settlement conferences."*

*-An Evaluation of the United States Magistrate Judges in Chicago, by The Chicago Council of Lawyers, April 2008*

#### **Case Manager**

Deborah Stewart  
JAMS  
71 S. Wacker Drive  
Suite 3090  
Chicago, IL 60606  
312-655-9192 Phone  
312-655-0644 Fax  
Email:  
dstewart@jamsadr.com

employment-related torts, labor-management disputes, non-competition, and trade secrets. Settled numerous FLSA class actions and union trust fund actions.

- **ERISA:** pre-suit settlement for recovery of pension payments made in error to owner of acquired business, ERISA class actions, disability insurance policy claims under ERISA and union trust fund actions.
- **Federal:** Managed the full docket of federal cases for over 16 years.
- **Insurance:** bad faith, coverage, property damage, reinsurance, and subrogation suits.
- **Intellectual Property:** settled a \$10 million dollar trademark dispute; settled numerous patent cases involving high-tech and low-tech patents; settled trademark cases involving names, logos, packaging, and a full range of copyright infringement cases.
- **Personal Injury/Torts:** auto, truck, train, and railroad accidents; construction and industrial accidents; medical malpractice, wrongful death, product liability, premises liability.
- **Professional Liability:** accountant, architect, directors/officers, legal, and medical malpractice claims and fee disputes.
- **Real Property:** was an active practitioner representing developers and lenders, and involved in a full range of real estate litigation.
- **Securities:** settled a major securities fraud action for \$28 million involving numerous parties and insurance companies, settled 10b-5 class actions, breach of fiduciary duty, fraud, stock options backdating, and stockholder derivative actions and was an active securities law litigator.
- **Special Master:** created the methodology and settled over 400 cases in a Truth in Lending multidistrict litigation (MDL) case and settled a 20-party case, receivership involving numerous claims including U.S. Securities and Exchange Commission (SEC) and U.S. Department of Labor litigation.
- **Training/Teaching:** longtime member of the Federal Judicial Center where he lectured and trained hundreds of federal judges in mediation skills, and he is a regular speaker at local and national bar association programs on mediation and settlement skills.

#### Honors, Memberships, and Professional Activities

- Recipient, [Edwin A. Rothschild Award for Lifetime Achievement in Civil Rights](#), Lawyers' Committee for Civil Rights Under Law, 2015
- Member, Committee on the Administration of the Magistrate Judges System of the Judicial Conference, 2005-2012
- President, Resolution Systems Institute
- Vice President, Jewish Judges Association of Illinois
- Board of Directors, Federal Bar Association and Chicago Bar Foundation
- Member of Advisory Committee, J.L. Kellogg Graduate School of Management Dispute Resolution Research Center
- Adjunct Professor in Trial Advocacy, Northwestern University School of Law, 1990-1991
- Senior Lecturer in Law, Loyola University School of Law, 1983-1995
- Faculty, National Institute for Trial Advocacy, 1988-1998
- Lecturer, American Bar Association, Chicago Bar Association, Federal Bar Association, Northwestern University Corporation Counsel Institute, National Employment Lawyers Association, and American Intellectual Property Association
- [Judicial Profile](#) published in the *Federal Lawyer*, December 2012
- Recipient, Seymour Simon Justice Award, Jewish Judges Association of Illinois, 2010

#### Author of numerous articles including the following publications:

- [Magistrate Judges' Important Role in Settling Cases](#), *The Federal Lawyer*, May/June 2014
- [Settling the Confusion: Applying Federal Common Law in Settlement Enforcement Proceedings Arising from Federal Claims](#), *Northwestern University Law Review*, published by Northwestern University School of Law, volume 107, No. 1, p. 127-168, 2012
- [Breaking Impasses in Judicial Settlement Conferences: Seven \(More\) Techniques for Resolution](#), *Court Review*, published by the American Judges Association, volume 46 at p. 130, 2011
- [Settlement Conference Techniques: Caucus Dos and Don'ts](#), *The Judges' Journal*, published by the American Bar Association Judicial Division, volume 49 at p. 21, Spring 2010
- [Making Full Use of the Court: Come to Settle First, Litigate Second](#), *Litigation*, the journal of the Section of Litigation of the American Bar Association, volume 35, number 1, at p. 28, Fall 2008
- [What's an Attorney to Do? Ensuring Federal Jurisdiction Over Settlement Agreements in Light of Recent Seventh Circuit Cases](#), *The Circuit Rider*, the journal of the Seventh Circuit Bar Association, condensed version published at p. 24, May 2007
- [Settlement Conference Techniques: A Judge's Opening Statement](#), *The Judges' Journal*, published by the American Bar Association Judicial Division, volume 45 at p. 23, Spring 2006
- [Judicial Settlement Databases: Development and Uses](#), *The Judges' Journal*, published by the American Bar Association Judicial Division, volume 43 at p. 19, Winter 2004
- [The Motion For a Preliminary Injunction: Time For a Uniform Federal Standard](#), *The Review of*

- Litigation*, 22 Rev. Litig. 495, a University of Texas Publication, Summer 2003
- [Federal Jurisdiction in the Enforcement of Settlement Agreements: Kokkonen Revisited](#), *Federal Courts Law Review*, Fed. Cts. L. Rev. 2, March 2003
  - [Concluding a Successful Settlement Conference: It Ain't Over Till It's Over](#), *Court Review*, published by the American Judges Association, volume 39 at p. 14, Fall 2002
  - [Preliminary Injunctions: Look Before You Leap](#), *Litigation*, the journal of the Section of Litigation of the American Bar Association, volume 28, number 4, at p. 8, Summer 2002
  - [Settlement Conference Tips for Judges \(with a Form and a List of Things Lawyers Should NOT Do\)](#), *The Practical Litigator*, ALI CLE, at p. 19, May 2002
  - [Effective Mediation Advocacy: Perspectives Around the Mediation Table](#), co-author, *Alternative Dispute Resolution Practice Handbook*, published by the Illinois Institute for Continuing Legal Education, Chapter 4, 2001
  - [Breaking Impasses in Settlement Conferences: Five Techniques for Resolution](#), *The Judges' Journal*, published by of the American Bar Association Judicial Division, at p. 4, Fall 2000
  - [Justice Should Emphasize People, Not Paper](#), *Judicature*, the journal of the American Judicature Society, vol. 83 at p. 50, September-October 1999
  - [Trial on the Papers: An Alternative to Cross Motions for Summary Judgment](#), *The Federal Lawyer*, published by the Federal Bar Association, vol. 46 at p. 30, August 1999
  - [Steps to an Effective Settlement Conference: At the Table](#), *Pretrial Practice & Discovery Newsletter*, published by the American Bar Association Section of Litigation, at p. 3, Winter 1998
  - [Steps to an Effective Settlement Conference: Before You Come to the Table](#), *Pretrial Practice & Discovery Newsletter*, published by the American Bar Association Section of Litigation, at p. 3, Fall 1997
  - [Mediation of Commercial Disputes: A Useful Tool for Trial Lawyers and Their Clients](#), *Chicago Bar Record*, published by the Chicago Bar Association, at p. 30, September, 1995; and in the *Dispute Resolution Journal*, published by the American Arbitration Association, at page 79, October-December 1995

#### Background and Education

- Magistrate Judge, United States District Court for the Northern District of Illinois, 1996-2012 (Presiding Magistrate Judge, 2004-2008)
- Partner, Dardick & Denlow, 1984-1993
- Partner, Sachnoff & Weaver, Ltd., 1979-1984 (Of Counsel, 1993-1996)
- Director of Professional Services for Chicago Regional Office, JAMS/Endispute, 1995-1996
- Associate, Rosenthal & Schanfield, 1977-1979
- Law Clerk and Associate, D'Ancona & Pflaum, 1971-1977
- J.D., *cum laude*, Northwestern University School of Law, 1972 (Order of the Coif)
- A.B., Economics, *cum laude*, Washington University, 1969

# Exhibit 3



503 DIVISADERO STREET, SAN FRANCISCO, CALIFORNIA 94117-2212  
TELEPHONE (415) 913-7800 FACSIMILE (415) 759-4112

### **MISSION STATEMENT**

The Lexington Law Group is a public interest law firm specializing in consumer protection, antitrust and environmental litigation. We bring creativity and tenacity to plaintiff's public interest litigation in a manner that yields superb results for our clients and the general public. Our cases have resulted in the recovery of millions of dollars for the benefit of consumers and the removal of toxic chemicals from thousands of everyday products.

Our firm is made up of committed people who are passionate about our work. We represent aggrieved individuals, non-profit organizations, and public entities. We are dedicated to our clients and the public interest goals that we set for each case. Our exceptional grasp of complex legal issues enables us to obtain extraordinary results for our clients.

We are aggressive litigators who fight for our clients at every turn, yet we are also professional in our approach and treat all parties with respect. Our goal is to hold corporations accountable and to use the law to forge creative solutions to difficult problems for the benefit of our clients and society.

### **CURRENT CASES**

The following is a list of representative cases we are currently litigating:

- **Out-of-Network UCR Rates Litigation:** Named interim Class Counsel in antitrust case against WellPoint alleging conspiracy to artificially reduce reimbursements on "out of network" claims by policy holders through the use of the fraudulent Ingenix database. (*In Re WellPoint Out-of-Network UCR Rates Litigation*, MDL 2074).
- **Fake Organic Cosmetic Products Litigation:** Class counsel in cases involving misrepresentation of non-organic cosmetic products as organic. (*Brown, et al. v. Hain Celestial Group*, CV-11-03082 LB (N.D. CA); *Golloher, et al. v. Todd Christopher International*, RG 12 653621 (Alameda Sup. Ct.)).
- **Fake "Naturals" Cosmetic Litigation:** Class counsel in case involving false and misleading representations that certain Neutrogena cosmetic products are natural. (*Stephenson, et al. v. Neutrogena Corp.*, C 12-00426 JCS).
- **Lead in Jewelry:** Environmental enforcement action co-litigated with the California Attorney General that has thus far resulted in commitments by hundreds of major retailers, importers and manufacturers of costume jewelry to significantly reduce the levels of lead in their jewelry. This case also lead directly to California's landmark lead in jewelry statute, which was itself a precursor to passage of the federal Consumer Product Safety Improvement Act. (*State of California v. Burlington Coat Factory, et al.*).



## **RESULTS**

The following is a representative list of some of our past successes:

- **Peer-to-Peer (P2P) Interference**: Named Class Counsel in class action against Comcast for alleged breach of contract and false advertising arising from interference with subscribers' use of peer-to-peer file sharing applications. Obtained \$16 million settlement for the class. (*In re: Comcast Peer-to-Peer (P2P) Transmission Contract Litigation*).
- **Blue Shield Mid-Year Cost Increases**: Named Class Counsel in class action alleging breach of contract and false advertising case challenging health insurer Blue Shield of California's mid-year unilateral increase to deductibles and other calendar year costs. Obtained \$2.7 million settlement for the class. (*Dervaes v. Blue Shield of California*).
- **Chase Bank Debt Collection Practices**: Named Class Counsel in class action against Chase Bank alleging violations of Federal Debt Collection Practices Act and California's Rosenthal Fair Debt Collection Practices Act in connection with Chase's credit card collection activities. (*Gardner v. Chase Bank USA, N.A.*).
- **Greenwashing of Consumer Products**: Counsel for non-profit group in private attorney general action resulting in Consent Judgments entered against more than 30 manufacturers and re-sellers requiring compliance with California's marketing and labeling requirements for cosmetic products. Examples of brands which have agreed to Court-ordered compliance with these requirements include Alterna, Aubrey, Beauty Without Cruelty, Blum Naturals, Boots, Curls, Derma E, Episencial, Kiss My Face, Morrocco Method, Nature's Baby, Organic Root Stimulator, Out of Africa, Pacifica, Palmer's, Parnevu, Peter Lamas, Pure & Basic, Shea Moisture, Simply Organic, Suki and Tints of Nature. (*Center for Environmental Health v. Advantage Research et al.*).
- **False Advertising of Anti-Aging Products**: Successfully prosecuted consumer protection action against maker of multi-million dollar "snake oil" product line falsely advertised as anti-aging cancer cure. (*Center for Environmental Health v. Almon Glenn Braswell*).
- **Lead in Diaper Rash Ointment**: Class action and private attorney general case that forced more than twenty-five major manufacturers and retailers of diaper rash ointment to reformulate their products to eliminate actionable levels of lead. Defendants included Bristol-Myers Squibb Co., Johnson & Johnson Consumer Companies, Inc., Pfizer, Inc., Schering-Plough HealthCare Products, Inc., and Warner-Lambert Company. (*Center for Environmental Health v. Bristol-Myers Squibb Co., et al., and Kenneth Johnson et al. v. Bristol-Myers Squibb Co., et al.*).
- **US Airways Lap Child Litigation**: Recovered refunds in a successful consumer class action case alleging that US Airways charged for "lap-children" in breach of its contract of carriage. (*Robins v. US Airways, Inc.*).



- Microsoft Technical Support Litigation: Class action consumer case against Microsoft forcing Microsoft to abandon its unilateral decision to discontinue free technical support for Office 2000 software products. (*Jones v. Microsoft Corporation*).
- Automobile Credit Truth-In-Lending Violations: Plaintiffs' Liaison Counsel in a large multi-party coordinated proceeding against hundreds of automobile dealerships alleging violations of the Truth in Lending Act that resulted in injunctions requiring disclosure of previously undisclosed lease and finance terms in automobile advertising. (*In Re Automobile Advertising Cases*).
- Nursing Home Staffing Litigation: Class action and private attorney general lawsuits against dozens of skilled nursing facilities that resulted in agreements to increase minimum staffing levels as required by California law. (*Foundation Aiding the Elderly v. Covenant Care, et al.*).
- Health Risks From Kava Kava: Represented class of consumers of Kava Kava dietary supplements against more than thirty-five defendants in case about failure to disclose the risk of liver disease from the products. (*In Re: Kava Kava Litigation*).
- Second Hand Smoke: Represented the City of San Jose and a private plaintiff in suit against major tobacco companies regarding failure to warn about second hand smoke in violation of California law. (*In Re Tobacco Cases II*).
- Tobacco Advertising: Represented non-profit group in case against outdoor advertising company defendants alleging violations of California's STAKE Act, which prohibits tobacco advertising within 1,000 feet of public schools, that resulted in the removal of hundreds of tobacco billboards located near schools in California. (*Center For Environmental Health v. Eller Media Corporation, et al.*).

## **ATTORNEY BACKGROUND AND EXPERIENCE**

**Eric S. Somers** specializes in complex consumer, antitrust and environmental public interest litigation. Mr. Somers recently represented a class of consumers in a case against a major paint manufacturer alleging a manufacturing defect that resulted in nationwide relief for aggrieved consumers. He represented a group of plaintiffs in a case against major inkjet printer manufacturers regarding false and misleading print speed representations and he was plaintiff's counsel in a successful class action case alleging violations of the Fair Debt Collection Practices Act against Chase Bank. Mr. Somers was also Liaison Counsel in a complex coordinated proceeding alleging violations of the Truth In Lending Act by California automobile dealers that resulted in industry wide changes in advertising practices.

Mr. Somers also has significant experience enforcing California's landmark Right-to-Know law, Proposition 65, against Fortune 500 companies in the tobacco, pharmaceutical, chemical, cosmetics, water quality, costume jewelry and retail industries. These cases have led to reformulation of thousands of products designed for children to eliminate toxic

chemicals such as lead, arsenic, toluene, di-n-butyl phthalate (DBP) and di-2-ethylhexyl phthalate (DEHP). Examples of consumer products that have been reformulated include children's playsets (arsenic treated wood), water filters (lead and arsenic) and children's jewelry (lead). Many of these private enforcement actions have been co-litigated with the California Attorney General and other public enforcement agencies.

Mr. Somers founded the Lexington Law Group in 1996 and is a principal of the firm. Mr. Somers received his law degree from Hastings College of the Law and received a B.A. from Tulane University. While attending law school, Mr. Somers externed for the Honorable John P. Vukasin, Jr., United States District Court, Northern District of California.

**Mark N. Todzo** has devoted his practice of law to the representation of plaintiffs in antitrust, consumer and environmental protection litigation for over fifteen years. In that time, he has represented aggrieved individuals, nonprofit organizations and public entities in litigation that has curbed abusive and illegal corporate practices. Mr. Todzo's varied work has, among other things, helped to remove toxic chemicals from the environment, increased staffing in nursing homes, reformed deceptive advertising practices and recovered millions of dollars for the benefit of consumers. Mr. Todzo has argued cases in state and federal trial courts as well as courts of appeal and the California Supreme Court.

Mr. Todzo has served as class counsel in numerous class action lawsuits as well as liaison counsel in complex coordinated actions. He was recently lead counsel in a MDL case against Comcast on behalf of a class of subscribers who were blocked from using peer-to-peer file sharing programs. Mr. Todzo is currently representing classes of individuals in a variety of different cases, including an antitrust class action against Blue Shield seeking to recover increased health care payments for out of network charges.

Mr. Todzo joined the Lexington Law Group in 1998 and is a principal of the firm. Mr. Todzo received his law degree from Hastings College of the Law in 1993 and received a A.B. from Duke University in 1986.

**Howard Hirsch** has devoted his career to representing plaintiffs in public interest litigation to enforce consumer protections, conserve natural resources, and protect human health from toxic chemicals. After obtaining two years of training and experience at complex litigation with a large commercial law firm, Mr. Hirsch spent five years as a staff attorney at a national, non-profit environmental group representing individuals and other non-profits in citizen suits against polluters under the Clean Water Act, Clean Air Act, and other federal statutes. In that capacity, Mr. Hirsch helped secure the largest penalty ever assessed against a Pennsylvania polluter in a citizens' suit to date.

Mr. Hirsch joined the Lexington Law Group in 2003 and is a principal of the firm. Since joining LLG, Mr. Hirsch's practice has included significant experience litigating class actions against, among others, technology companies, airlines, and health care providers and insurers as well as enforcing California's Proposition 65. These cases have resulted in changes to deceptive business practices, substantial monetary recoveries for the benefit of consumers, and in

significant reductions in human exposures to toxic chemicals,. Mr. Hirsch has also volunteered his legal services to the homeless community of San Francisco and currently serves as a volunteer arbiter for the San Francisco Department of Human Services resolving disputes between homeless shelters and their residents.

Mr. Hirsch graduated from the University of California Berkeley Boalt Hall School of Law in 1996 and from Boston College in 1993.

**Lisa Burger** joined the Lexington Law Group as an associate in the Spring of 2008. Since earning her law degree from the University of Notre Dame Law in 2005, Ms. Burger has devoted her practice of law to exclusively representing plaintiffs in environmental, consumer protection, and civil rights litigation. Her current practice focuses on representing consumers in complex class action matters alleging antitrust and unfair and deceptive business practices.

Before joining Lexington Law Group, Ms. Burger was a litigation fellow with Disability Rights Advocates (DRA), a non-profit law center in Berkeley, California, that specializes in class action litigation on behalf of people with disabilities. As the David Boies / LD Access Fellow, Ms. Burger's practice focused on increasing access to standardized testing for people with learning disabilities and ADHD and involved nearly every aspect of civil litigation in both federal and state court.

# **Exhibit 4**

Minneapolis Office  
80 South 8th Street  
IDS Center, Suite 1650  
Minneapolis, MN 55402

612.605.4098 Phone  
612.605.4099 Fax

Chicago Office  
415 North LaSalle Street  
Suite 502  
Chicago, IL 60654

312.222.0660 Phone  
312.222.1656 Fax

# halunenlaw

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## HALUNEN LAW FIRM RESUME

1. The nationally recognized law firm of Halunen Law was founded in 1998 and has offices in Minneapolis and Chicago.

2. The firm has successfully represented employees, independent contractors, and consumers in a variety of complex litigation and class action matters. Members of the firm have served in lead, management, discovery, and coordinating capacities in numerous collective actions, class actions, MDLs, and other complex litigation matters.

3. Clayton Halunen is Managing Partner of Halunen Law. He practices primarily in the areas of employment and class action litigation on behalf of plaintiffs. He has tried over thirty cases to a verdict and has served in lead, management or coordinating capacities in numerous collective and class actions throughout the United States. Mr. Halunen has been involved in the prosecution of class action employment and consumer matters including, but not limited to:

- a. *Martin et al. v. Cargill, Inc.*, Civil No. 1:14-cv-00218-LEK-BMK (D. Haw.);
- b. *Cruz et al. v. Lawson Software, Inc.*, Court File No.: 08-5900 (MJD/JSM) (D. Minn.);
- c. *Davis et al. v. SOH Distribution Company, Inc.*, Court File No.: 09-cv-237-CCC (M.D. Penn.);
- d. *Richardson v. L'Oreal USA, Inc.*, Court File No. 1:13-cv-00508-JDB (D.D.C.)
- e. *Hale et al. v. ABRA Auto Body and Glass, Inc.*, Court File No.: 07-cv-3367 (PAM/JSM) (D. Minn.);
- f. *In re FedEx Ground Package System, Inc., Employment Practices Litigation*, MDL No.:1700 (N.D. Ind.);

- g. *In re Certainteed Corporation Roofing Shingles Products Liability Class Action*, Court File No. MDL Docket No. 1817 (E.D. Penn.);
- h. *Alcoa Oasis Decking Products Liability Class Action*, Court File No.: 12-cv-10164 (DJC) (D. Mass.);
- i. *Building Products of Canada Shingles Products Liability Class Action*, Court File No.: 12-cv-00016 (JGM) (D. Vermont);
- j. *IKO Roofing Shingles Products Liability Class Action*, Court File No. MDL Docket No.: 2104 (C.D. Ill.);
- k. *James Hardie Siding Products Liability Class Action*, Court File No.:2359 (D. Minn.);
- l. *Owens Corning Shingle Products Liability Class Action*, Court File No.: 09-cv-01567 (W.D. Penn.);
- m. *Groupon Inc. Consumer Class Action*, MDL No.: 2238 (RBB) (S.D. Cal.);
- n. *Living Social Consumer Class Action*, MDL No.: 2254 (D.C.);
- o. *United States of America, et al., ex rel. Tamara Dietzler v. Abbott Labs.*, Civil Action No. 1:09-cv-00051 (W.D. Va.);
- p. *Nowicki v. Natrol, Inc.*, Case No. 1:13-cv-03882 (N.D. Ill.);
- q. *Paolone v. Wal-Mart Stores, Inc.*, Case No. 1:12-cv-1333(NAM/TWD) (N.D.N.Y.);
- r. *Kardovich v. Pfizer, Inc.*, Case No. 13-cv-07378-RRM-JMA (E.D.N.Y.);
- s. *Dang v. Samsung Elec. Co.*, Civil Action No. CV 14-00530 SI (N.D. Cal.);
- t. *Bassett v. Elec. Arts., Inc.*, Civil Action No. 1:13-cv-04208-MKB-SMG (E.D.N.Y.);

- u. *Fisher v. The Blue Buffalo Co.*, No. 14-cv-05937-FMO-SH (C.D. Cal.);
- v. *Barron et al v. Snyder's-Lance, Inc.*, No. 13-cv-62496-JAL (S.D. Fla.);
- w. *Kardovich v. Pfizer, Inc.*, No: 1:13-cv-07378-RRM-JMA (E.D.N.Y.);
- x. *Mosely v. Vitalize Labs, LLC*, No. 1:13-cv-02470-RJD-RLM (E.D.N.Y.);
- y. *Scriortino v. Pepsico, Inc.*, No. 14-cv-00478-EMC (N.D. Cal);
- z. *Jaskulske v. State Farm Mut. Auto. Ins. Co.*, No. 14cv-00869 (D. Minn);
- aa. *Frohberg v. Cumberland Packing Corp.*, No. 1:14-cv-00748-KAM-RLM (E.D.N.Y.).

4. Mr. Halunen was one of the Relators' counsel in case of *United States of America, et al., ex rel. Tamara Dietzler v. Abbott Labs., Civil Action No. 1:09-cv-00051 (W.D. Va.)* where Halunen Law was instrumental in achieving a settlement against Abbott Labs for government fraud in an amount in excess of \$1.5 Billion—one of the largest recoveries under the False Claims Act in United States history.

5. Mr. Halunen is licensed to practice in all courts for the State of Minnesota as well as the United States District Courts for the District of Minnesota and the Northern and Central Districts of Illinois. He is a Minnesota State Bar Association Board Certified Labor and Employment Law Specialist, a member of the National Employment Lawyers Association, and the Minnesota State Bar Association (Governing Council, Labor and Employment). Mr. Halunen is a frequent lecturer, and is regularly named to Who's Who in Minnesota Employment Law. Every year since 2003, he has been named a *Super Lawyer* by Minnesota Law & Politics.

6. Melissa Wolchansky is a Partner with Halunen Law and chairs the consumer class action litigation team. She is licensed to practice in all courts in the State of Minnesota as well as the United States District Court for the District of Minnesota. Ms. Wolchansky graduated

from William Mitchell College of Law in 2007, after which she clerked for the Honorable Lucy Wieland, then Chief Judge of the Hennepin County District Court and the Honorable Gary Larson of the Hennepin County District Court. She began working in private practice in 2009. From 2012 through 2015, Ms. Wolchansky was named as *Super Lawyer* Rising Star by Minnesota Law & Politics and in 2014 named Top 100 Trial Lawyers by the National Trial Lawyers. Ms. Wolchansky has been involved in the prosecution of various consumer class action matters including, but not limited to:

- a. *Richardson v. L'Oreal USA, Inc.*, Court File No. 13-cv-00508-JDB (D.D.C.);
- b. *Paolone v. Wal-Mart Stores, Inc.*, Court File No. 12-cv-01333-NAM/TWD (N.D. New York);
- c. *Alcoa Oasis Decking Prods. Liab. Class Action*, Court File No.: 12-cv-10164-DJC (D. Mass.);
- d. *IKO Roofing Shingles Prods. Liab. Class Action*, MDL No.: 2104 (C.D. Ill.);
- e. *James Hardie Siding Prods. Liab. Class Action*, MDL No.: 2359 (D. Minn.);
- f. *Owens Corning Shingle Prods. Liab. Class Action*, Court File No.: 09-cv-01567 (W.D. Penn.);
- g. *Living Social Consumer Class Action*, MDL No.: 2254 (D.C.);
- h. *Kardovich v. Pfizer, Inc.*, Court File No. 13-cv-07378-RRM-JMA (E.D.N.Y.);
- i. *Dang v. Samsung Elec. Co.*, Court File No. 14-cv-00530 SI (N.D. Cal.);
- j. *Bassett v. Elec. Arts., Inc.*, Court File No. 13-cv-04208-MKB-SMG (E.D.N.Y.);
- k. *Fisher v. The Blue Buffalo Co.*, Court File No. 14-cv-05937-FMO-SH (C.D. Cal.);
- l. *Barron et al v. Snyder's-Lance, Inc.*, Court File No. 13-cv-62496-JAL (S.D. Fla.);
- m. *Kardovich v. Pfizer, Inc.*, Court File No. 13-cv-07378-RRM-JMA (E.D.N.Y.);



- n. *Mosely v. Vitalize Labs, LLC*, Court File No. 13-cv-02470-RJD-RLM (E.D.N.Y.);
- o. *Scriortino v. Pepsico, Inc.*, Court File No. 14-cv-00478-EMC (N.D. Cal);
- p. *Frohberg v. Cumberland Packing Corp.*, Court File No. 14-cv-00748-KAM-RLM (E.D.N.Y.).
- q. *Howerton et al. v. Cargill, Inc.*, Court File No. 14-cv-00218-LEK-BMK (D. Haw.);
- r. *Scott v. Honeywell Int'l Inc.*, Court File No. 14-cv-00157-PAB-CBS (D. Colo.);
- s. *Leach v. Honeywell Int'l Inc.*, Court File No. 14-cv-12245-LTS (D. Mass.);
- t. *Johnsen v. Honeywell Int'l Inc.*, Court File No. 14-cv-00594-AGF (E. D. Mo.);
- u. *Disher et al v. Tamko Building Prods., Inc. et al.* Court File No.14-cv-00740-NJR-SCW (S.D. Ill.);
- v. *Neocleous v. Apple Inc.*, Court File No. 15-cv-00501 (N.D. Cal.).

7. Charles Moore is an Associate with Halunen Law and a member of the consumer class action litigation team. He is licensed to practice in all courts in the State of Minnesota as well as the United States District Court for the District of Minnesota. Mr. Moore graduated from the Hamline University School of Law in 2014, after which he became an Associate with Halunen Law. Throughout his time in law school, Mr. Moore clerked with Halunen Law, as part of their class action litigation team. Mr. Moore is involved in the prosecution of consumer class action matters including, but not limited to:

- a. *Ligon v. L'Oreal USA, Inc.*, Court File No.: CV-12-4585 (N.D. Cal.);
- b. *Richardson v. L'Oreal USA, Inc.*, Court File No. 1:13-cv-00508-JDB (D.D.C.);
- c. *Kardovich v. Pfizer, Inc.*, Case No. 13-cv-07378-RRM-JMA (E.D.N.Y.);
- d. *Dang v. Samsung Elec. Co.*, Civil Action No. CV 14-00530 SI (N.D. Cal.);

- e. *Bassett v. Elec. Arts., Inc.*, Civil Action No. 1:13-cv-04208-MKB-SMG (E.D.N.Y);
- f. *Fisher v. The Blue Buffalo Co.*, No. 14-cv-05937-FMO-SH (C.D. Cal.);
- g. *Kardovich v. Pfizer, Inc.*, No: 1:13-cv-07378-RRM-JMA (E.D.N.Y.);
- h. *Mosely v. Vitalize Labs, LLC*, No. 1:13-cv-02470-RJD-RLM (E.D.N.Y);
- i. *Frohberg v. Cumberland Packing Corp.*, No. 1:14-cv-00748-KAM-RLM (E.D.N.Y.).

Dated: September 25, 2015

/s/Melissa W. Wolchansky  
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11 *Attorneys for Plaintiffs and the Putative Classes*

12  
13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**  
15 **SAN FRANCISCO DIVISION**

16 REBEKAH BAHARESTAN and JENA  
17 MCINTYRE, on behalf of themselves and all  
others similarly situated,

18 Plaintiffs,

19 v.

20 VENUS LABORATORIES, INC., dba EARTH  
21 FRIENDLY PRODUCTS, INC.,

22 Defendant.

Case No. 3:15-cv-03578-EDL

**[PROPOSED] ORDER  
PRELIMINARILY APPROVING  
CLASS SETTLEMENT  
AGREEMENT, CONDITIONALLY  
CERTIFYING THE SETTLEMENT  
CLASS, PROVIDING FOR NOTICE,  
AND SCHEDULING ORDER**

Judge: Hon. Elizabeth D. Laporte

1 WHEREAS, Plaintiffs in the action entitled, *Baharestan, et al. v. Venus Laboratories, Inc.*  
 2 *dba Earth Friendly Products, Inc.*, 3:15-cv-03578 EDL (N.D. Cal.) and Venus Laboratories, Inc.,  
 3 have entered into a Class Action Settlement Agreement<sup>1</sup>, filed \_\_\_\_\_, after  
 4 arm's-length Settlement discussions;

5 WHEREAS, the Court has received and considered the Settlement, including the  
 6 accompanying exhibits;

7 WHEREAS, the Parties have made an application for an Order preliminarily approving the  
 8 Settlement of this Action, and for its dismissal with prejudice upon the terms and conditions set  
 9 forth in the Stipulation;

10 WHEREAS, the Court has reviewed the Parties' application for such Order, and has found  
 11 good cause for same.

12 NOW, THEREFORE, IT IS HEREBY ORDERED:

13 **A. The Settlement Class Is Conditionally Certified**

14 1. Pursuant to Federal Rule of Civil Procedure 23, and for Settlement purposes only,  
 15 the Court hereby certifies the following Class:

16 All persons who, during the Class Period, both resided in the United States and  
 17 purchased in the United States any of the Earth Friendly Products for their  
 18 household use or personal consumption and not for resale. Excluded from the  
 19 Settlement Class are: (a) Venus's board members or executive-level officers,  
 20 including its attorneys; (b) governmental entities; (c) the Court, the Court's  
 21 immediate family, and the Court staff; and (d) any person that timely and properly  
 22 excludes himself or herself from the Settlement Class in accordance with the  
 procedures approved by the Court.

23 2. With respect to the Class and for Settlement purposes only, the Court preliminarily  
 24 finds the prerequisites for a class action under Federal Rules of Civil Procedure 23(a) and (b)(3)  
 25 have been met, including: (a) numerosity; (b) commonality; (c) typicality; (d) adequacy of the  
 26 \_\_\_\_\_

27 <sup>1</sup>All capitalized terms herein shall have the same meanings as set forth in the Agreement unless  
 28 otherwise specifically defined.

1 Class representatives and Class Counsel; (e) predominance of common questions of fact and law  
2 among the Class for purposes of Settlement; and (f) superiority.

3 3. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby appoints the  
4 Plaintiffs in the Action, Rebekah Baharestan and Jena McIntyre the Class representatives.

5 4. Having considered the factors set forth in Federal Rule of Civil Procedure 23(g)(1),  
6 the Court hereby appoints the law firms of Halunen Law and The Lexington Law Group as Class  
7 Counsel.  
8

9 **B. The Settlement Is Preliminarily Approved and Final Approval Schedule Set**

10 5. The Court hereby preliminarily approves the Agreement and the terms and  
11 conditions of Settlement set forth therein, subject to further consideration at the Final Approval  
12 Hearing described below.

13 6. The Court has conducted a preliminary assessment of the fairness, reasonableness,  
14 and adequacy of the Agreement, and hereby finds that the Settlement falls within the range of  
15 reasonableness meriting possible final approval. The Court therefore preliminarily approves the  
16 proposed Settlement as set forth in the Agreement.  
17

18 7. Pursuant to Federal Rule of Civil Procedure 23(e), the Court will hold a Final  
19 Approval Hearing on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m., in the Courtroom of the Honorable Elizabeth D.  
20 Laporte, United States District Court for the Northern District of California, 4450 Golden Gate  
21 Avenue, San Francisco, CA 94102, for the following purposes:

- 22 a. to finally determine whether the Class meets all applicable requirements of Federal  
23 Rule of Civil Procedure 23 and, thus, should be certified for purposes of  
24 effectuating the Settlement;  
25  
26  
27  
28

- b. to determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Agreement is fair, reasonable and adequate and should be finally approved by the Court;
- c. to consider the application of Class Counsel for an award of Attorneys' Fees and Expenses, as provided for under the Agreement;
- d. to consider the applications of Plaintiffs for Class representative incentive awards, as provided for under the Agreement;
- e. to consider whether the Court should enter the [Proposed] Final Settlement Order and Judgment;
- f. to consider whether the release of the Released Claims as set forth in the Agreement should be provided; and
- g. to rule upon such other matters as the Court may deem just and appropriate.

8. The Court may adjourn the Final Approval Hearing and later reconvene such hearing without further notice to Settlement Class Members.

9. The Parties may further modify the Agreement prior to the Final Approval Hearing so long as such modifications do not materially change the terms of the Settlement provided thereunder. The Court may approve the Agreement with such modifications as may be agreed to by the Parties, if appropriate, without further notice to Settlement Class Members.

### **C. The Court Approves the Form and Method of Class Notice**

10. **Class Notice.** The proposed Class Notice, Summary Settlement Notice, the notice methodology described in the Settlement Agreement and in the Affidavit of the Notice Administrator are hereby approved.

1           a. Pursuant to the Settlement Agreement, the Court appoints Dahl  
2 Administration, LLC, to be the Notice Administrator and Settlement Administrator to help  
3 implement the terms of the Settlement Agreement.

4           b. Not later than five (5) days after the entry of the Preliminary Approval  
5 Order, the Notice Administrator shall establish an Internet website that will inform Settlement  
6 Class Members of the terms of the Settlement Agreement, their rights, dates and deadlines, and  
7 related information. The website shall include, in Portable Document Format (“PDF”), materials  
8 agreed upon by the Parties and as further ordered by this Court.

9           c. Not later than five (5) days after the entry of the Preliminary Approval  
10 Order, the Notice Administrator shall establish a toll-free telephone number that will provide  
11 Settlement-related information to Settlement Class Members.

12           d. Beginning not later than twenty-one (21) days after the entry of the  
13 Preliminary Approval Order, and subject to the requirements of the Preliminary Approval Order,  
14 the Settlement Agreement, and the Affidavit of the Notice Administrator, the Notice  
15 Administrator shall commence sending the Class Notice by U.S. mail to each reasonably  
16 identifiable Settlement Class Member’s last known address, reasonably obtainable from Venus,  
17 which addresses shall be provided to the Notice Administrator by Venus, no later than ten (10)  
18 business day after the day of entry of the Preliminary Approval Order, subject to the existence of  
19 such information. The Notice Administrator shall: (a) re-mail any Class Notices returned by the  
20 U.S. Postal Service with a forwarding address that are received by the Notice Administrator within  
21 ten (10) days of receipt of the returned Class Notices that contain a forwarding address, and (b) by  
22 itself or using one or more address research firms, as soon as practicable following receipt of any  
23 returned Class Notices that do not include a forwarding address, research any such returned mail  
24 for better addresses and promptly mail copies of the Class Notices to the addresses so found.

1 e. During the Claim Period, the Notice Administrator shall also publish the  
 2 Summary Settlement Notice as described in the Affidavit of the Notice Administrator and in such  
 3 additional newspapers, magazines, and/or other media outlets as shall be agreed upon by the  
 4 Parties.

5 f. The Notice Administrator shall timely disseminate any remaining notice, as  
 6 stated in the Settlement Agreement and/or the Affidavit of the Notice Administrator.

7 g. Not later than ten (10) calendar days before the date of the Fairness  
 8 Hearing, the Notice Administrator shall file with the Court: (a) a list of those persons who have  
 9 opted out or excluded themselves from the Settlement; (b) the details outlining the scope,  
 10 methods, and results of the notice program; and (c) compliance with the obligation to give notice  
 11 to each appropriate State and Federal official, as specified in 28 U.S.C. § 1715, and any other  
 12 applicable statute, law or rule, including, but not limited to, the Due Process Clause of the United  
 13 States Constitution.  
 14

15 11. **Findings Concerning Notice.** The Court finds that the form, content, and method  
 16 of giving notice to the Class as described in Paragraph 10 of this Order: (a) will constitute the best  
 17 practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the  
 18 Settlement Class Members of the pendency of the Action, the terms of the Proposed Settlement,  
 19 and their rights under the Proposed Settlement, including but not limited to their rights to object to  
 20 or exclude themselves from the Proposed Settlement and other rights under the terms of the  
 21 Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all  
 22 Settlement Class Members and other persons entitled to receive notice; and (d) meet all applicable  
 23 requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the  
 24 Due Process Clause(s) of the United States Constitution. The Court further finds that all of the  
 25 notices are written in simple terminology, are readily understandable by Settlement Class  
 26  
 27  
 28



1 Members, and are materially consistent with the Federal Judicial Center's illustrative class action  
2 notices.

3 12. **Participation in Settlement.** The Court approves the Parties' proposed Claim  
4 Form. Any Class Member who wishes to participate in the settlement shall complete a Claim  
5 Form in accordance with the instructions contained therein and submit it to the Claim  
6 Administrator no later than [ ] days prior to the date of the Final Approval Hearing, which date  
7 will be specifically identified in the Claim Form. Such deadline may be further extended without  
8 notice to the Class by written agreement of the Parties.

9 13. The Claim Administrator shall have the authority to accept or reject claims in  
10 accordance with the Stipulation, including the Claims Administration Protocols.

11 14. Any Class Member may enter an appearance in the Action, at his or her own  
12 expense, individually or through counsel who is qualified to appear in the jurisdiction. All Class  
13 Members who do not enter an appearance will be represented by Class Counsel.

14 15. **Exclusion from Settlement Class.** Any Settlement Class Member who wishes to  
15 be excluded from the Class may elect to opt out of the monetary portion of the Class Settlement,  
16 relinquishing his or her rights to monetary compensation under this Agreement. Settlement Class  
17 Members who opt out of the Settlement will not release their claims for damages that accrued  
18 during the Class Period. Settlement Class Members wishing to opt out of the Settlement must  
19 send to the Class Action Settlement Administrator by U.S. mail a personally signed letter  
20 including their name and address and providing a clear statement communicating that they elect to  
21 be excluded from the Settlement Class. Any request for exclusion or opt-out must be postmarked  
22 on or before the opt-out deadline specified in this Preliminary Approval Order. The date of the  
23 postmark on the return-mailing envelope shall be the exclusive means used to determine whether a  
24 request for exclusion has been timely submitted. The Class Action Settlement Administrator shall  
25 forward copies of any written requests for exclusion to Class Counsel and Venus's Counsel. The  
26 Class Action Settlement Administrator shall file a list reflecting all requests for exclusion with the  
27 Court no later than ten (10) calendar days before the Fairness Hearing. Any potential Settlement  
28

1 Class Member who does not file a timely written request for exclusion shall be bound by all  
 2 subsequent proceedings, orders, and judgments, including, but not limited to, the release in the  
 3 Settlement Agreement, even if he or she has litigation pending or subsequently initiates litigation  
 4 against Venus relating to the claims and transactions released in this Action.

5 15. **Objections and Appearances.** Any Settlement Class Member or counsel hired at  
 6 any Settlement Class Member's own expense who complies with the requirements of this  
 7 paragraph may object to any aspect of the Proposed Settlement. Settlement Class Members may  
 8 object either on their own or through an attorney retained at their own expense. Any Settlement  
 9 Class Member filing an objection may be required to sit for deposition regarding the objection.  
 10 Any Settlement Class Member who fails to comply with the provisions of this paragraph 13 shall  
 11 waive and forfeit any and all rights he or she may have to object, and shall be bound by all terms  
 12 of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments, including,  
 13 but not limited to, the release in the Settlement Agreement in the Action.

14 a. Any Settlement Class Member who has not filed a timely written request  
 15 for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of the  
 16 Settlement Agreement, the proposed Settlement, the award of Attorneys' Fees and Expenses, or  
 17 the Incentive Awards to Plaintiffs, must (i) file the objection with the Court, no later than [30 days  
 18 before the Fairness Hearing] \_\_\_\_\_, or as the Court may otherwise direct; and (ii)  
 19 deliver a copy of the objection to the Class Counsel and Venus's Counsel and to the Settlement  
 20 Administrator identified in the Class Notice.

21 b. The written objection must be in writing, signed by the Settlement Class  
 22 Member (and his or her attorney, if individually represented) and shall contain information,  
 23 including but not limited to, address and phone number, sufficient to identify and contact the  
 24 objecting Settlement Class Member (or his or her individually-hired attorney, if any), as well as a  
 25 clear and concise statement of the Settlement Class Member's objection, the facts supporting the  
 26 objection, and the legal grounds on which the objection is based. Any objection shall include  
 27 documents sufficient to establish the basis for the objector's standing as a Settlement Class  
 28

1 Member, such as (i) a declaration signed by the objector under penalty of perjury, with language  
 2 similar to that included in the Claim Form that the Settlement Class Member purchased at least  
 3 one Earth Friendly Product during the Class Period of January 23, 2011 to the date of Preliminary  
 4 Approval; or (ii) receipt(s) reflecting such purchase(s). Class Counsel and Venus shall have the  
 5 right to obtain reasonable discovery from any objecting class member.

6 c. Any Settlement Class Member, including Settlement Class Members who  
 7 file and serve a written objection, as described above, may appear at the Fairness Hearing, either  
 8 in person or through personal counsel hired at the Settlement Class Member's expense, to object  
 9 to or comment on the fairness, reasonableness, or adequacy of the Settlement Agreement or  
 10 proposed Settlement, or to the award of Attorneys' Fees and Expenses or the Incentive Awards to  
 11 the Plaintiffs. Settlement Class Members who intend to make an appearance at the Fairness  
 12 Hearing must file a Notice of Intention to Appear with the Court, listing the name, address and  
 13 phone number of the attorney, if any who will appear, no later than [15 days before the Fairness  
 14 Hearing] \_\_\_\_\_, or as the Court may otherwise direct.

15 d. Class Counsel and Venus shall have the right to respond to any objection no  
 16 later [than seven (7) days prior to the Fairness Hearing] \_\_\_\_\_, or as the Court may  
 17 otherwise direct. The Party so responding shall file a copy of the response with the Court, and  
 18 shall serve a copy, by regular mail, hand or overnight delivery, to the objecting Settlement Class  
 19 Member or to the individually-hired attorney for the objecting Settlement Class Member; to all  
 20 Class Counsel; and to Venus's Counsel.

21 16. **Disclosures.** The Settlement Administrator, Venus's Counsel, and Class Counsel  
 22 shall promptly furnish to each other copies of any and all objections or written requests for  
 23 exclusion that might come into their possession.

24 17. **Termination of Settlement.** This Order shall become null and void and shall not  
 25 prejudice the rights of the Parties, all of whom shall be restored to their respective positions  
 26 existing immediately before this Court entered this Order, if: (a) the Settlement is not finally  
 27 approved by the Court, or does not become final, pursuant to the terms of the Settlement  
 28

1 Agreement; (b) the Settlement is terminated in accordance with the Settlement Agreement; or (c)  
 2 the Settlement does not become effective as required by the terms of the Settlement Agreement for  
 3 any other reason. In such event, the Settlement and Settlement Agreement shall become null and  
 4 void and be of no further force and effect, and neither the Settlement Agreement nor the Court's  
 5 orders, including this Order, relating to the Settlement shall be used or referred to for any purpose.

6 18. **Effect of Settlement Agreement and Order.** Plaintiffs' Counsel, on behalf of the  
 7 Settlement Class, and Venus entered into the Settlement Agreement solely for the purpose of  
 8 compromising and settling disputed claims. This Order shall be of no force or effect if the  
 9 Settlement does not become final and shall not be construed or used as an admission, concession,  
 10 or declaration by or against Venus of any fault, wrongdoing, breach, or liability. The Settlement  
 11 Agreement, the documents relating to the Settlement Agreement, and this Order are not, and  
 12 should not in any event be (a) construed, deemed, offered or received as evidence of a  
 13 presumption, concession or admission on the part of Plaintiffs, Venus, any member of the  
 14 Settlement Class or any other person; or (b) offered or received as evidence of a presumption,  
 15 concession or admission by any person of any liability, fault, or wrongdoing, or that the claims in  
 16 the Action lack merit or that the relief requested is inappropriate, improper, or unavailable for any  
 17 purpose in any judicial or administrative proceeding, whether in law or in equity.

18 19. **Stay of Deadlines.** Effective immediately, any deadlines, except any matters  
 19 necessary to implement, advance, or further approval of the Settlement Agreement or settlement  
 20 process, are stayed pending the final Fairness Hearing and the issuance of a final order and  
 21 judgment in this Action,

22 20. In addition, pending the final Fairness Hearing and the issuance of a final order and  
 23 judgment in this Action, all members of the Settlement Class and their legally authorized  
 24 representatives are hereby preliminarily enjoined from filing, commencing, prosecuting,  
 25 maintaining, intervening in, participating in (as class members or otherwise), or receiving any  
 26 benefits from any other lawsuit, arbitration, or administrative, regulatory, or other proceeding or  
 27

1 order in any jurisdiction arising out of or relating to the Earth Friendly Products or the facts and  
2 circumstances at issue in the Action.

3 21. Additionally, pending the final Fairness Hearing and issuance of a final order and  
4 judgment in this Action, all members of the Settlement Class and their legally authorized  
5 representatives are hereby preliminary enjoined from filing, commencing, prosecuting, or  
6 maintaining any other lawsuit as a class action (including by seeking to amend a pending  
7 complaint to include class allegations, or by seeking class certification in a pending action in any  
8 jurisdiction), on behalf of members of the Settlement Class, if such other class action is based on  
9 or relates to Earth Friendly Products.

10 22. **Continuance of Hearing.** The Court reserves the right to adjourn or continue the  
11 Fairness Hearing without further written notice.

12 23. The Court sets the following schedule for the Fairness Hearing and the actions  
13 which must precede it:

14 a. Plaintiffs shall file their Motion for Final Approval of the Settlement by no  
15 later than [44 days before Fairness Hearing] \_\_\_\_\_.

16 b. Plaintiffs shall file their Motion for Attorneys' Fees, Costs and Expenses,  
17 and Motion for Incentive Awards by no later than [44 days before Fairness Hearing]  
18 \_\_\_\_\_.

19 c. Settlement Class Members must file any objections to the Settlement and  
20 the Motion for Attorneys' Fees, Costs, and Expenses, and/or the Motion for Incentive Awards by  
21 no later than [30 days before Fairness Hearing] \_\_\_\_\_.

22 d. Settlement Class Members must exclude themselves, or opt-out, from the  
23 Settlement by no later than [30 days before Fairness Hearing]  
24 \_\_\_\_\_.

25 e. Settlement Class Members who intend to appear at the Final Fairness  
26 Hearing must file a Notice of Intention to Appear at the Final Fairness Hearing by no later than  
27 [15 days before Fairness Hearing] \_\_\_\_\_.

1 f. The Notice Administrator shall file: (a) a list of those persons who have  
2 opted out or excluded themselves from the Settlement; (b) the details outlining the scope,  
3 methods, and results of the notice program; and (c) compliance with the obligation to give notice  
4 to each appropriate State and Federal official, as specified in 28 U.S.C. § 1715, and any other  
5 applicable statute, law or rule, including, but not limited to, the Due Process Clause of the United  
6 States Constitution by no later than [10 days before Fairness Hearing]  
7 \_\_\_\_\_.

8 g. Class Counsel and Venus shall have the right to respond to any objection no  
9 later than [seven (7) days prior to the Fairness Hearing] \_\_\_\_\_.

10 h. The Fairness Hearing will take place on [100 days from date of Preliminary  
11 Approval] \_\_\_\_\_ at \_\_:\_\_ .m. at the United States District Court for the  
12 Northern District of California, in Courtroom \_\_\_\_.

13  
14  
15 **IT IS SO ORDERED:**

16  
17  
18 DATED: \_\_\_\_\_

19 THE HONORABLE ELIZABETH D. LAPORTE  
20 UNITED STATES MAGISTRATE JUDGE  
21  
22  
23  
24  
25  
26  
27  
28