

1 **GERAGOS & GERAGOS**

2 A PROFESSIONAL CORPORATION
3 LAWYERS
4 HISTORIC ENGINE CO. NO. 28
5 644 SOUTH FIGUEROA STREET
6 LOS ANGELES, CALIFORNIA 90017-3411
7 TELEPHONE (213) 625-3900
8 FACSIMILE (213) 232-3255
9 GERAGOS@GERAGOS.COM

10 MARK J. GERAGOS SBN 108325
11 BEN J. MEISELAS SBN 277412

12 **LEVI & KORSINSKY LLP**

13 LORI G. FELDMAN (*pro hac vice*)

14 lfeldman@zlk.com

15 30 Broad Street, 24th Floor

16 New York, NY 10004

17 Telephone: (212) 363-7500

18 Facsimile: (212) 363-7171

19 *Counsel for Plaintiffs*
20 *and the [Proposed] Class*

21 [Additional Counsel Appear on Signature Page]

22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA**
24 **WESTERN DIVISION**

25 RACHAEL CRONIN, on Behalf of
26 Herself and All Others Similarly
27 Situated,

28 Plaintiff,

v.

EOS PRODUCTS, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF PROPOSED CLASS
ACTION SETTLEMENT**

Date: December 19, 2016

Time: 8:30 a.m.

Room: 750

Judge: Hon. John A. Kronstadt

**TO THE COURT, ALL PARTIES, AND THEIR RESPECTIVE
ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on December 19, 2016, at 8:30 a.m., or as soon thereafter as this matter may be heard before the Honorable John Kronstadt in Courtroom 750 at the Edward R. Roybal Federal Building, 255 E. Temple Street, Los Angeles, California 90012, plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Samantha Santiago, Amanda Jones, Marylou Gilsleider, Yokie Renee Ivy and Larissa Gannuccelli (“Plaintiffs”), will respectfully move the Court to grant preliminary approval of the proposed settlement (the “Settlement”) of this class action between Plaintiffs, on their own behalf and on behalf of all members of the Settlement Class, as defined below, and defendant EOS Products, LLC (“EOS”). Specifically, Plaintiffs respectfully request that the Court: (a) grant preliminary approval of the proposed Settlement; (b) grant conditional certification of the Settlement Class for settlement purposes only; (c) approve the form of the proposed settlement notices and forms and authorize the service of same to the Settlement Class; (d) enter the Preliminary Approval Order; and (e) schedule a hearing on the final approval of the Settlement.

The Settlement Class is defined as: all persons residing in the United States who purchased EOS lip balm after January 1, 2009 and on or before the time of preliminary approval of the settlement by the Court, excluding EOS, EOS’s officers, directors, employees, and legal representatives, EOS’s subsidiaries, those who purchased the products for purpose of resale, (Ret.) Judge Peter D. Lichtman, the immediate family of Judge Lichtman, the Judges to whom these cases are assigned, the immediate family of the Judges to whom these cases are assigned, and any individuals who timely opt-out of the settlement.

Plaintiffs make this motion on the grounds that the proposed Settlement is

1 within the range of possible final approval, and thus notice should be provided to the
2 conditionally certified Settlement Class Members.

3 This Motion is made following the conference of counsel pursuant to Local
4 Rule 7-3. Defendant EOS does not oppose this Motion.

5 This Motion is based upon this Notice of Motion and Motion for Preliminary
6 Approval of Settlement, Plaintiffs' Memorandum of Points and Authorities in
7 Support Thereof, the Declarations of Ben J. Meiselas and Lori G. Feldman, the
8 Settlement Agreement ("Agreement"), any reply in further support, the declarations
9 of counsel involved in this matter, oral argument of counsel, the complete Court files
10 and record in the above-captioned matter, and such additional matters as the Court
11 may consider. A proposed Preliminary Approval Order is submitted herewith and
12 copies of the proposed notices and forms to be sent to the Settlement Class are
13 attached to the Agreement as Exhibits 1-5.

14 Respectfully submitted,

15 Dated: November 1, 2016

BISNAR | CHASE LLP

16 By: /s/ Jerusalem F. Beligan
17 BRIAN D. CHASE (164109)
bchase@bisnarchase.com
18 JERUSALEM F. BELIGAN (211258)
jbeligan@bisnarchase.com
19 1301 Dove Street, Suite 120
Newport Beach, CA 92660
20 Telephone: 949/752-2999
Facsimile: 949/752-2777

21 **GERAGOS & GERAGOS APC**
22 MARK J. GERAGOS (SBN 108325)
BEN J. MEISELAS (SBN 277412)
23 Historic Engine Co. No. 28
644 South Figueroa Street
24 Los Angeles, CA 90017
Telephone: 213/625-3900
25 Facsimile: 213/232-3255
geragos@geragos.com
26
27
28

LEVI & KORSINSKY LLP
LORI G. FELDMAN (*pro hac vice*)
lfeldman@zlk.com
30 Broad Street, 24th Floor
New York, NY 10004
Telephone: 212/363-7500
Facsimile: 212/363-7171

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**
JANINE L. POLLACK (*pro hac vice*)
pollack@whafh.com
270 Madison Avenue
New York, New York 10016
Telephone: 212/545-4600
Facsimile: 212/545-4653

Attorneys for Plaintiffs

1 **GERAGOS & GERAGOS**

2 A PROFESSIONAL CORPORATION
3 LAWYERS

4 HISTORIC ENGINE CO. NO. 28
5 644 SOUTH FIGUEROA STREET
6 LOS ANGELES, CALIFORNIA 90017-3411
7 TELEPHONE (213) 625-3900
8 FACSIMILE (213) 232-3255
9 GERAGOS@GERAGOS.COM

10 MARK J. GERAGOS SBN 108325
11 BEN J. MEISELAS SBN 277412

12 **LEVI & KORSINSKY LLP**

13 LORI G. FELDMAN (*pro hac vice*)

14 lfeldman@zlk.com

15 30 Broad Street, 24th Floor

16 New York, NY 10004

17 Telephone: (212) 363-7500

18 Facsimile: (212) 363-7171

19 *Counsel for Plaintiffs*
20 *and the [Proposed] Class*

21 [Additional Counsel Appear on Signature Page]

22 **UNITED STATES DISTRICT COURT**
23 **CENTRAL DISTRICT OF CALIFORNIA**
24 **WESTERN DIVISION**

25 RACHAEL CRONIN, on Behalf of
26 Herself and All Others Similarly
27 Situated,

28 Plaintiff,

v.

EOS PRODUCTS, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

**PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION FOR
PRELIMINARY APPROVAL OF
PROPOSED CLASS ACTION
SETTLEMENT**

Date: December 19, 2016

Time: 8:30 a.m.

Room: 750

Judge: Hon. John A. Kronstadt

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
II. BACKGROUND AND SUMMARY OF THE LITIGATION	3
III. MEDIATION AND THE SUBSEQUENT SETTLEMENT EFFORTS.....	7
IV. THE NOTICE PLAN	8
V. THE TERMS OF THE SETTLEMENT	12
VI. REASONS FOR THE PROPOSED SETTLEMENT.....	14
VII. PRELIMINARY APPROVAL SHOULD BE GRANTED.....	14
A. The Settlement is Non-Collusive and the Product of Informed Negotiations by Counsel with Considerable Experience.....	17
B. The Settlement has no Obvious Deficiencies	18
C. The Settlement Does Not Improperly Grant Preferential Treatment to Plaintiffs or any Segment of the Settlement Class.....	19
D. The Settlement Terms Easily Fall Within the Range of Possible Approval.....	20
VIII. THE SETTLEMENT CLASS SHOULD BE CERTIFIED.....	23
A. Requirements Under Rule 23(a)	24
1. Numerosity.....	24
2. Commonality.....	24
3. Typicality	25
4. Adequacy of Representation	26
B. Requirements Under Rule 23(b)	27
1. Predominance.....	28

1	2. Superiority.....	28
2	IX. PRELIMINARY APPROVAL OF FORM AND METHOD OF CLASS	
3	NOTICE	29
4	X. CONCLUSION	30

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

Cases

<i>Acosta v. Trans Union, LLC</i> , 243 F.R.D. 377 (C.D. Cal. 2007)	16
<i>Alberto v. GMRI, Inc.</i> , 252 F.R.D. 652 (E.D. Cal. 2008)	16
<i>Amchem Prods. Inc. v. Windsor</i> , 521 U.S. 591 (1997)	28
<i>Amchem Prods., Inc. v. Windsor</i> , 521 U.S. 591 (1997)	22
<i>Churchill Village LLC v. Gen. Elec.</i> , 361 F.3d 566 (9th Cir. 2004).....	22
<i>Dukes v. Wal-Mart Stores, Inc.</i> , 603 F.3d 571 (9th Cir. 2010).....	25
<i>Gen. Tel. Co. of Sw. v. Falcon</i> , 457 U.S. 147 (1982)	24, 25, 26
<i>Glass v. UBS Fin. Servs., Inc.</i> , No. C-06-4068, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. Jan. 26, 2007).....	17, 20
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998).....	28
<i>Harris v. Palm Springs Alpine Estates, Inc.</i> , 329 F.2d 909 (9th Cir. 1964).....	24
<i>In re Heritage Bond Litig.</i> , No. 02-ML-1475 DT, 2005 U.S. Dist. LEXIS 13555 (C.D. Cal. June 10, 2005).....	14
<i>In re Omnivision Techs., Inc.</i> , 559 F. Supp. 2d 1036 (N.D. Cal. 2007)	21

1	<i>In re Pac. Enters. Sec. Litig.</i> ,	
2	47 F.3d 373 (9th Cir. 1995).....	15
3	<i>In re Tableware Antitrust Litig.</i> ,	
4	484 F. Supp. 2d 1078 (N.D. Cal. 2007)	16
5	<i>Keegan v. Am. Honda Motor Co, Inc.</i> ,	
6	284 F.R.D. 504 (C.D. Cal. 2012)	24
7	<i>Mullane v. Cent. Hanover Bank & Trust Co.</i> ,	
8	339 U.S. 306 (1950)	30
9	<i>Narouz v. Charter Commc'ns, LLC</i> ,	
10	591 F.3d 1261 (9th Cir. 2010).....	23
11	<i>Officers for Justice v. Civil Serv. Comm'n</i> ,	
12	688 F.2d 615 (9th Cir. 1982).....	14
13	<i>Phila. Hous. Auth. v. Am. Radiators & Standard Sanitary Corp.</i> ,	
14	323 F. Supp. 364 (E.D. Pa. 1970)	22
15	<i>Satchell v. Fed. Express Corp.</i> ,	
16	No. C03-2659 SI, 2007 U.S. Dist. LEXIS 99066	
17	(N.D. Cal. Apr. 13, 2007).....	17
18	<i>Silber v. Mabon</i> ,	
19	18 F.3d 1449 (9th Cir. 1994).....	30
20	<i>Staton v. Boeing Co.</i> ,	
21	327 F.3d 938 (9th Cir. 2003).....	15, 20, 23
22	<i>Stearns v. Ticketmaster Corp.</i> ,	
23	655 F.3d 1013 (9th Cir. 2011).....	25, 26
24	<i>Van Bronkhorst v. Safeco Corp.</i> ,	
25	529 F.2d 943 (9th Cir. 1976).....	15
26	<i>Van Vranken v. Atl. Richfield Co.</i> ,	
27	901 F. Supp. 294 (N.D. Cal. 1995).....	20
28	<i>Vinole v. Countrywide Home Loans, Inc.</i> ,	
	571 F.3d 935 (9th Cir. 2009).....	29

1	<i>Vizcaino v. Microsoft Corp.</i> ,	
2	290 F.3d 1043 (9th Cir. 2002).....	21
3	<i>Wal-Mart Stores, Inc. v. Dukes</i> ,	
4	564 U.S. 338 (2011)	23, 24, 26
5	<i>White v. Nat’l Football League</i> ,	
6	41 F.3d 402 (8th Cir. 1994).....	22
7	<i>Williams v. Costco Wholesale Corp.</i> ,	
8	No. 02CV2003 IEG (AJB), 2010 U.S. Dist. LEXIS 19674	
9	(C.D. Cal. Mar. 4, 2010)	16
10	<i>Zinser v. Accufix Research Inst., Inc.</i> ,	
11	253 F.3d 1180 (9th Cir. 2001).....	29
12	<u>Other Authorities</u>	
13	7A Charles Alan Wright and Arthur R. Miller,	
14	FEDERAL PRACTICE & PROCEDURE	
15	§ 1778 (2d ed. 1986).....	28
16	MANUAL FOR COMPLEX LITIGATION (FOURTH)	
17	§§ 21.632-21.634 (2004).....	16
18	<u>Rules</u>	
19	Fed. R. Civ. P.	
20	23(a).....	23, 24, 25, 26
21	Fed. R. Civ. P.	
22	23(b)(3).....	24, 27, 29
23	Fed. R. Civ. P.	
24	23(c)(2)(B).....	22, 29, 30
25	Fed. R. Civ. P.	
26	23(e).....	14
27	Fed. R. Civ. P.	
28	23(g)(1)(A)	26

MEMORANDUM OF POINTS & AUTHORITIES

Plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Samantha Santiago, Amanda Jones, Marylou Gilsleider, Yokie Renee Ivy and Larissa Gannuccelli (“Plaintiffs”) hereby submit this Memorandum of Points and Authorities in support of their unopposed motion for preliminary approval of the proposed settlement (the “Settlement”) of this Action, and entry of the [Proposed] Preliminary Approval Order submitted herewith. Plaintiffs respectfully move the Court to grant preliminary approval of the proposed Settlement of this class action between Plaintiffs, on their own behalf and on behalf of all members of the Settlement Class, as defined below, and Defendant EOS Products, LLC (“EOS” or “Defendant”). The Preliminary Approval Order will, among other things: (i) grant preliminary approval of the proposed Settlement on the terms set forth in the Settlement Agreement dated October 2016¹; (ii) preliminarily certify the proposed Settlement Class for purposes of consummating the Settlement; (iii) approve the form and manner of notice of the proposed Settlement to the Settlement Class; and (iv) schedule a hearing date and time for the Final Approval Hearing and a schedule for various deadlines in connection with the Settlement.

I. INTRODUCTION

This Settlement is the product of extensive, protracted arm’s-length negotiations between experienced and knowledgeable counsel, facilitated by the Honorable Peter D. Lichtman (retired), a highly accomplished and well-respected mediator. *See generally* Declaration of Ben J. Meiselas (“Meiselas Dec.”) and Declaration of Lori G. Feldman (“Feldman Dec.”), submitted herewith.

¹ The “Parties” are Plaintiffs and Defendant. Unless otherwise defined herein, this Memorandum of Points and Authorities incorporates by reference the defined terms set forth in the Settlement Agreement, and all such terms shall have the same meaning herein.

1 The Settlement is a consensual resolution of numerous complaints filed by
 2 Plaintiffs across the country arising from the formulation, manufacture, marketing,
 3 promotion and sale of allegedly defective lip balm products by EOS (the
 4 “Products”).² Following a factual investigation stemming from reports of adverse
 5 skin reactions to the Products such as rashes and other skin irritations, Geragos &
 6 Geragos, APC, proposed Class Counsel (“Class Counsel”) filed the first of numerous
 7 similar lawsuits on January 12, 2016. Thereafter, numerous other related lawsuits
 8 were filed by the other Plaintiffs herein, during which time EOS had agreed to discuss
 9 settlement with Class Counsel and engage in mediation. With the assistance of Judge
 10 Lichtman, the Parties were able to come to an agreement in principle to settle the
 11 cases.

12 As the additional lawsuits were at the same time being filed, however, EOS
 13 continued to work with Class Counsel as well as additional Plaintiffs’ Counsel in the
 14 newly-filed actions to materially improve the value and terms of the Settlement. The
 15 months of hard work by additional Plaintiffs’ Counsel, Class Counsel and EOS was
 16 necessary and productive. The result is an excellent Settlement that meets all of the
 17 requirements for approval of a class action settlement that was achieved without
 18 spending years in protracted litigation.

19 The Settlement consists of both monetary and non-monetary benefits. The
 20 monetary benefits include: (1) \$75 for any Claim with Verified Medical Expenses, as
 21 defined below; or (2) the Claimant’s choice of an award of \$15 or a mail in rebate for
 22 \$20 worth of EOS products for a Claim for a Verified Adverse Reaction Complaint,
 23 as defined below; or (3) a Request for Streamlined Arbitration with a capped award
 24 of \$4,000. There are an enormous number of consumers who purchased EOS’s
 25

26 ² The Products are all “EOS lip balms” which is defined in the Settlement Agreement
 27 as “all lip balms in all flavors made and/or sold by EOS, including Spheres and
 28 Smooth Sticks.” Settlement Agreement, ¶ 36.

Products during the Settlement Class Period with no cap on the total monetary relief to be awarded. The non-monetary benefits include additional disclosures by EOS on certain of the Products and its website stating, among other things, that “Adverse reactions have been reported” and EOS Products should not be shared. Plaintiffs’ Counsel believe that such disclosures are valuable to warn consumers of the potential for adverse reactions from using the Products – the central issue in this litigation.

Based on their well-informed evaluation of the facts and governing legal principles, and their recognition of the substantial risk and expense of continued litigation, Plaintiffs, Class Counsel and all of Plaintiffs’ Counsel believe that the proposed settlement is fair, reasonable and adequate under Federal Rule of Civil Procedure 23.

Accordingly, Plaintiffs respectfully move for preliminary approval of the Settlement and submit this Memorandum of Points and Authorities in support thereof.

II. BACKGROUND AND SUMMARY OF THE LITIGATION

Between January 12, 2016, and February 22, 2016, several proposed class action lawsuits were filed in various jurisdictions against EOS alleging similar claims based on the same underlying conduct. Specifically, on January 12, 2016, plaintiff Rachael Cronin filed a putative class-action lawsuit entitled *Cronin v. EOS Products, LLC*, Case No. 2:16-cv-00235-JAK-JEM (C.D. Cal.).³ On January 19, 2016, plaintiff Nicole Emily Caggiano filed a putative class-action lawsuit entitled *Caggiano v. EOS*

³ Plaintiff Cronin’s Class Action Complaint alleges claims for: (1) Violation of California Civil Code section 1750, *et seq.* (“Consumer Legal Remedies Act”); (2) Violations of California Business and Professions Code section 17200, *et seq.* (“Unfair Business Practices Act”); (3) Breach of Express Warranty; (4) Breach of Implied Warranty; (5) Unjust Enrichment; (6) Fraud (intentional misrepresentation and concealment of fact); and (7) Injunctive Relief.

1 *Products, LLC*, Case No. 1:16-cv-00408-ALC (S.D.N.Y.),⁴ and plaintiff Melissa
2 Menz filed a putative class-action lawsuit entitled *Menz v. EOS Products, LLC*, Case
3 No. 8:16-cv-00128-SDM-JSS (M.D. Fla.).⁵ On January 20, 2016, plaintiff Samantha
4 Tipirneni filed a putative class-action lawsuit entitled *Tipirneni v. EOS Products,*
5 *LLC*, Case No. 2:16-cv-02022-CSB-EIL (C.D. Ill.),⁶ and plaintiff Ashundrae Everett
6 filed a putative class-action lawsuit entitled *Everett v. EOS Products, LLC*, Case No.
7 8:16-cv-00140-JSM-TGW (M.D. Fla.).⁷ On January 22, 2016, plaintiff Carolyn
8 Bevins filed a putative class-action lawsuit entitled *Bevins v. EOS Products, LLC*,
9 Case No. 2:16-cv-00066-GCS-TPK (S.D. Oh.).⁸ On February 4, 2016, plaintiff
10 Amanda Jones filed a putative class-action lawsuit entitled *Jones v. EOS Products,*
11 *LLC*, Case No. 1:16-cv-00321-JKB (D. Md.).⁹ On February 5, 2016, plaintiff

12
13 ⁴ Plaintiff Caggiano's Class Action Complaint alleges claims for: (1) Violation of
14 New York General Business Law sections 349 and 350, *et seq.*; (2) Breach of Express
15 Warranty; (3) Breach of Implied Warranty; (4) Strict Products Liability;
16 (5) Negligence; (6) Negligent Misrepresentation; (7) Fraudulent Misrepresentation;
17 (8) Fraudulent Concealment; (9) Unjust Enrichment; and (10) Injunctive Relief.

18 ⁵ Plaintiff Menz's Class Action Complaint alleges claims for: (1) Violations of
19 Florida's Unfair and Deceptive Practices Act. Fla. section 501.201, *et seq.*; and
20 (2) Negligent Misrepresentation.

21 ⁶ Plaintiff Tipirneni's Class Action Complaint alleges claims for: (1) Violation of
22 Illinois Consumer Fraud and Deceptive Practices Act; (2) Breach of Express
23 Warranty; (3) Breach of Implied Warranty; (4) Unjust Enrichment; (5) Fraud
24 (Intentional Misrepresentation and Concealment of Fact); and (6) Injunctive Relief.

25 ⁷ Plaintiff Everett's Class Action Complaint alleges claims for: (1) Violation of
26 Florida Statutes Section 501.201, *et seq.* (Florida Deceptive and Unfair Trade
27 Practices Act); (2) Breach of Express Warranty; (3) Breach of Implied Warranty;
28 (4) Strict Products Liability; (5) Negligence; (6) Negligent Misrepresentation;
(7) Fraudulent Misrepresentation; (8) Fraudulent Concealment; (9) Unjust
Enrichment; and (10) Injunctive Relief.

⁸ Plaintiff Bevins's Class Action Complaint alleges claims for: (1) Violation of Ohio
Revised Code section 1345.01, *et seq.* (Ohio Consumer Sales Practices Act);
(2) Breach of Express Warranty; (3) Breach of Implied Warranty; (4) Unjust
Enrichment; and (5) Intentional Written Misrepresentation.

⁹ Plaintiff Jones's Class Action Complaint alleges claims for: (1) Violation of
Maryland Code of Commercial Law sections 13-101, *et seq.* ("Maryland Consumer
Protection Act"); (2) Unjust Enrichment; (3) Strict Products Liability; and (4)
Negligence.

1 Samantha Santiago filed a putative class-action lawsuit entitled *Santiago v. EOS*
2 *Products, LLC*, Case No. 3:16-cv-00198-SRU (D. Conn.).¹⁰ On February 17, 2016,
3 plaintiff Maria Del Carmen Ballenilla-Blondett filed a putative class-action lawsuit
4 entitled *Ballenilla-Blondett v. EOS Products, LLC*, Case No. 1:16-cv-01219-ALC
5 (S.D.N.Y.).¹¹ On February 18, 2016, plaintiffs Marylou Gilsleider and Yokie Renee
6 Ivy filed a putative class-action lawsuit entitled *Gilsleider v. EOS Products, LLC*,
7 Case No. 8:16-cv-00283-JAK-JEM (C.D. Cal.).¹² On February 22, 2016, plaintiff
8 Larissa Gannuccelli filed a putative class-action lawsuit entitled *Gannuccelli v. EOS*
9 *Products, LLC*, Case No. 1:16-cv-01358-ALC (S.D.N.Y.).¹³

10 In each of the aforementioned lawsuits (the “Actions”), Plaintiffs allege, *inter*
11 *alia*, that EOS misrepresented the safety and utility of certain of its lip balm products
12 and that these lip balm products purportedly cause adverse reactions in certain users.
13 This Settlement settles all of the Actions.

14 ¹⁰ Plaintiff Santiago’s Class Action Complaint alleges claims for: (1) Violation of
15 Connecticut General Statutes sections 42-110A, *et seq.* (“Connecticut Unfair Trade
Practices Act”); (2) Unjust Enrichment; and (3) Negligence.

16 ¹¹ Plaintiff Ballenilla-Blondett’s Class Action Complaint alleges claims for:
17 (1) Unfair and Deceptive Trade Practices in Violation of New York General Business
18 Law sections 349 and 350, *et seq.*; (2) Breach of Express Warranty; (3) Breach of
19 Implied Warranty; (4) Strict Products Liability; (5) Negligence/Negligent
Design/Negligence Per Se; (6) Negligent Misrepresentation; (7) Fraudulent
Misrepresentation; (8) Fraudulent Concealment; (9) Unjust Enrichment; and (10)
Injunctive Relief.

20 ¹² Plaintiff Gilsleider’s, and Ivy’s Class Action Complaint alleges claims for:
21 (1) Violation of California Civil Code sections 1750, *et seq.* (“California’s Consumer
22 Legal Remedies Act”); (2) Violation of California Business & Professions Code
23 sections 17500, *et seq.* (“California’s False Advertising Law”); (3) Violation of
24 California Business & Professions Code sections 17200, *et seq.* (“California’s Unfair
Competition Law”); (4) Violation of 815 Illinois Compiled Statutes 505/1, *et seq.*
25 (“Illinois Consumer Fraud and Deceptive Practices Act”); (5) Breach of Express
26 Warranty; (6) Breach of Implied Warranty of Merchantability; (7) Unjust
27 Enrichment; (8) Strict Products Liability; and (9) Negligence.

28 ¹³ Plaintiff Gannuccelli’s Class Action Complaint alleges claims for: (1) Violation of
Florida Statute sections 501.201, *et seq.* (“Florida Deceptive and Unfair Trade
Practices Act”); (2) Breach of Express Warranty; (3) Breach of Implied Warranty of
Merchantability; (4) Unjust Enrichment; (5) Strict Products Liability; and
(6) Negligence.

1 Plaintiffs in the *Cronin*, *Caggiano*, *Tipirneni*, *Everett*, and *Bevins* actions are
2 represented by Class Counsel Geragos & Geragos, APC. Plaintiffs in the *Jones*,
3 *Santiago*, *Gilsleider*, and *Gannuccelli* actions are represented by Levi & Korsinsky
4 LLP, Bisnar Chase LLP, and Wolf Haldenstein Adler Freeman & Herz LLP. Plaintiff
5 in the *Menz* action is represented by Eggnatz, Lopatin & Pascucci, LLP. Plaintiff in
6 the *Ballenilla-Blondett* action is represented by Imbesi Law P.C. and Napoli Shkolnik
7 PLLC (all counsel for Plaintiffs in all of the Actions are collectively referred to as
8 “Plaintiffs’ Counsel”).¹⁴

9 On March 25, 2016, Plaintiffs Gilsleider and Ivy filed their Notice of Related
10 Case to the *Cronin* action, and the Court consented to the transfer of the *Gilsleider*
11 action to the *Cronin* action on March 29, 2016. On April 15, 2016, Plaintiffs
12 Gilsleider and Ivy filed their motion for consolidation with the *Cronin* action. While
13 Plaintiff Cronin agreed that the cases were related and similar, she advocated that
14 because there were ongoing settlement discussions, consolidation was premature.¹⁵
15 On June 27, 2016, the Court held a hearing and ruled that it was unnecessary to
16 consolidate the cases at that time given the settlement talks, but ordered the Parties
17 to submit a final agreement or a status report by July 21, 2016. The Parties thereafter
18 requested additional time, which the Court granted by Order dated July 25, 2016, and
19 set November 21, 2016 as the final hearing date should the settlement proceed. On
20 August 19, 2016, the Parties filed a status report informing the Court that they were
21 still diligently working to finalize the terms of a settlement. By Order dated August
22 22, 2016, the Court set October 24, 2016 as the date by which the Parties should file

23 _____
24 ¹⁴ The *Menz* and *Ballenilla-Blondett* plaintiffs had agreed to stays of their cases
25 pending final approval of the nationwide class settlement. However, Plaintiffs in the
26 other cases that had been filed by Gilsleider and Ivy’s counsel continued to report to
those respective courts on the progress of the settlement discussions in periodic status
reports and other communications.

27 ¹⁵ On June 17, 2016, the Parties in *Gilsleider* and *Cronin* submitted their Joint Rule
28 16(b)/26(f) Reports.

1 the preliminary approval motion should there be a settlement. By Order dated
2 October 25, 2016, the Court granted Plaintiffs' motion to extend that deadline to
3 November 1, 2016 and also changed the hearing date on the preliminary approval and
4 consolidation motions to December 19, 2016. The instant motion ensued.

5 Upon preliminary approval of the Settlement, Plaintiffs intend to transfer those
6 Actions pending outside of the Central District of California to this Court pursuant to
7 28 U.S.C. § 1404 and will take steps to formally consolidate the Actions.

8 **III. MEDIATION AND THE SUBSEQUENT SETTLEMENT EFFORTS**

9 Following the filing of the *Cronin* action by Class Counsel, and while Class
10 Counsel was in the process of filing other complaints, EOS and Class Counsel agreed
11 to engage in settlement discussions and a mediation before Judge Lichtman. *See*
12 Meiselas Dec., ¶¶ 4-6. The Parties selected Judge Lichtman because of his vast
13 experience as a Judge and mediator and they relied heavily on such experience in
14 resolving the difficult issues involved in this Settlement. *Id.*, ¶ 6. The Parties
15 submitted mediation briefs to Judge Lichtman on January 21, 2016, which were
16 confidentially exchanged. *Id.*, ¶ 7.

17 On January 22, 2016, the Parties attended the mediation in a day long session
18 during which both sides presented their positions to Judge Lichtman and met and
19 shared data regarding the product and its use, and evidence from each side. *Id.*, ¶ 8.
20 Although the parties were unable to reach a resolution on that day, they established a
21 framework for negotiating a mediated resolution. *Id.* Judge Lichtman agreed to
22 continue to supervise and follow up with the Parties in their settlement efforts. *Id.*

23 Thereafter, the parties engaged in dozens of phone calls, meetings and
24 conferences between January 22, 2016 and March 10, 2016. At that time, they
25 reached a nationwide settlement in principle through continued discussions with
26 Judge Lichtman. *Id.*, ¶ 9.

1 However, during the time when the Parties were working on the
2 documentation, the other Plaintiffs were filing similar class actions against EOS,
3 including on February 17, 2016, with the *Gilsleider* case. On March 25, 2016, the
4 *Gilsleider* Plaintiffs filed their Notice of Related Case and on April 15, 2016, filed
5 their motion for consolidation with *Cronin*. During this time, *Gilsleider* Plaintiffs’
6 counsel had contacted Class Counsel in an effort to discern the terms of the
7 Settlement which had been publicly announced, including on EOS’s website. *See*
8 Feldman Dec., ¶¶ 13-14. From that time forward, all Plaintiffs’ Counsel worked
9 cooperatively in order to achieve the best possible terms for all Plaintiffs and the
10 Settlement Class. For the next eight months, there were constant communications
11 between and among Class Counsel, *Gilsleider* Plaintiffs’ counsel and Defendant’s
12 counsel which included intense negotiations about virtually every material term of
13 the Settlement. *See id.*, ¶¶ 16, 22-26, 28-29, 34-35. Class Counsel and *Gilsleider*
14 Plaintiffs’ counsel, including by detailed letters discussing all aspects of the
15 Settlement, improved upon the original terms of the Settlement that had come out of
16 the mediation, adding many more Settlement Class Members and additional benefits
17 and including additional EOS lip balm Products. *Id.*, ¶ 34; *see also id.*, ¶¶ 16, 25-26,
18 28-29. These negotiations culminated in the Settlement Agreement and its exhibits.
19 This effort between and among counsel – including the *Gilsleider* Plaintiffs’ counsel
20 and EOS – demonstrates that excellent results can be achieved when counsel work
21 collaboratively.

22 **IV. THE NOTICE PLAN**

23 The Settlement Agreement provides that the Court will appoint a Settlement
24 Administrator, which the Parties have agreed, subject to Court approval, will be
25 Angeion Group, LLC (“Angeion”). Angeion Group is a class action notice and
26 claims administration company formed by an experienced team of executives with
27 more than 60 combined years of experience implementing claims administration and
28

1 notice solutions for class action settlements and judgments. With executives that
2 have had extensive tenures at five other nationally recognized claims administration
3 companies, collectively, the management team at Angeion has overseen more than
4 2,000 class action settlements and distributed over \$10 billion to class members. *See*
5 Settlement Agreement, Exh. 6, Declaration of Steven Weisbrot, Esq. on Adequacy of
6 Notice Plan (the “Weisbrot Dec.”), ¶ 6. Notice Plans created by Angeion have been
7 approved in numerous class action lawsuits. *Id.*, ¶¶ 4-5.

8 The Settlement Agreement provides that as soon as practicable but in no event
9 more than sixty (60) days after the Court has issued an order preliminarily approving
10 the Settlement, the Settlement Administrator will (1) send via e-mail the Court-
11 approved Notice of Settlement and Release of Claims to each Settlement Class
12 Member who appears in EOS’s complaint database as having lodged a complaint
13 relating to a purported Adverse Reaction (defined below) on or before the date of the
14 motion for preliminary approval of the Settlement Agreement and for whom an e-
15 mail address is available through the database; and (2) post the Notice of Settlement
16 and Release of Claims to a website created to host the notice, which will stay active
17 until the Response Deadline, and disseminate notices pursuant to a mutually-agreed
18 upon notice plan (the “Notice Plan”) to raise Settlement Class Members’ awareness
19 of the website and the Settlement. *See id.*, ¶¶ 11, 16-21.

20 For those Settlement Class Members who appear in EOS’s complaint database
21 as having lodged a complaint on or before the date of the motion for preliminary
22 approval of the Settlement Agreement, the Notice shall be sent via e-mail to each
23 person’s last known e-mail address, to the extent such e-mail address is available
24 through the database. *Id.*, ¶ 11. The e-mail and/or notice will include an indication
25 it is a “Court Approved Settlement Notice authorized by the U.S. District Court for
26 the Central District of California” and may also include a bar code. *See* Settlement
27 Agreement, ¶ 60.

1 In addition, the Settlement Agreement provides that the Settlement
2 Administrator will establish a toll-free telephone line at EOS's expense that
3 Settlement Class Members can use to learn more about the Settlement or to change
4 their addresses. *See* Weisbrot Dec., ¶ 8.

5 As discussed in the Weisbrot declaration, the media notice program was
6 designed to deliver notice to 80% of the Settlement Class, with an average frequency
7 of 3.0 times each. *See id.*, ¶ 9. The media notice program will serve approximately
8 21,115,000 display impressions, via the use of highly targeted internet banner ads.
9 *Id.*¹⁶ Further, to satisfy the notice requirements of the California Consumers Legal
10 Remedies Act ("CLRA"), the notice program will incorporate four 1/4 page ads in
11 the California regional edition of *USA Today*, to run on four consecutive weeks. *Id.*
12 While the direct notice via email and publications in the California regional edition
13 of *USA Today* were not used in calculating the reported reach percentage and
14 frequency, both notice methods will nevertheless serve to further apprise potential
15 Settlement Class Members of the Settlement. *Id.* According to the *Judges' Class*
16 *Action Notice and Claims Process Checklist and Plain Language Guide* (the
17 "Checklist"): "The lynchpin in an objective determination of the adequacy of a
18 proposed notice effort is whether all the notice efforts together will reach a high
19 percentage of the class. It is reasonable to reach between 70–95%." That range is
20 satisfied here. *See id.*

21 The Checklist further cautions judges to confirm that the reach calculations are
22 based on accepted methodology. Here, as discussed in the Weisbrot declaration, in
23 order to develop the media plan for the notice program, the Settlement Class was

24 ¹⁶ The Internet banner notice portion of the notice program will be implemented
25 using a 4-week desktop and mobile campaign and utilizing standard IAB sizes
26 (160x600, 300x250, 728x90, 300x600, 320x50 and 300x50). A 3x frequency cap
27 will be imposed and accounted for in the reporting metrics. The banner notice is
28 designed to result in serving approximately 21,115,000 display impressions. *See*
Weisbrot Dec. ¶ 18.

1 profiled using GfK MRI 2015 Doublebase data. *See id.*, ¶ 12.¹⁷ GfK MRI data is
2 used by advertising agencies and other communications professionals in order to
3 understand the socio-economic characteristics, interests and practices of a target
4 group and aids in the proper selection of media to reach that target. *See id.*¹⁸ It is
5 also instrumental in allowing the Court to review the estimated net reach and average
6 frequency of a particular program and is precisely the type of “accepted
7 methodology” that the Checklist cautions should be used in class action notice
8 programs. *See id.*

9 Accordingly, as demonstrated by the Weisbrot declaration, Angeion has
10 created a targeted notice program that is calculated to, and will, reach millions of
11 potential Settlement Class Members to apprise them of the Settlement so that they
12 can choose to participate. The Notice Plan fully satisfies due process and the
13 requirements of Rule 23.

14
15
16 ¹⁷ GfK MRI is a leading supplier of publication readership and product usage data
17 for the communications industry. GfK MRI offers complete demographic, lifestyle,
18 product usage and exposure to all forms of advertising media. As the leading U.S.
19 source of multimedia audience research, GfK MRI provides information to
20 magazines, television and radio networks and stations, Internet sites, other media,
21 leading national advertisers, and over 450 advertising agencies – including 90 of the
22 top 100 in the U.S. MRI’s national syndicated data is widely used by companies as
23 the basis for the majority of the media and marketing plans that are written for
24 advertised brands in the U.S. *See* Weisbrot Dec., ¶ 12 n.1. EOS Lip Balm is
25 specifically measured in MRI. *Id.*, ¶ 12.

26 ¹⁸ Here, the target audience has the following characteristics (Weisbrot Dec., ¶ 13):

- 27 • Women ages 18-44 with a median age of 33;
- 28 • A large percentage (53.6%) are not married;
- 55.5% have a child/children under the age of 17 living in the household;
- 45.5% have a college degree;
- 52.8% live in households with total income above \$75K;
- 70.9% are employed, with most working full time (50.8%).

V. THE TERMS OF THE SETTLEMENT

Non-Monetary Relief for the Settlement Class. EOS has agreed to implement the following disclosures for products sold in the United States, beginning no later than 180 days following the Settlement Effective Date: (1) Smooth Sphere Lip Balm Packages sold in the United States, excluding any EOS Smooth Sphere Lip Balm for which the formula is altered after January 22, 2016 to exclude from its ingredients Sodium Hyaluronate and Ascorbyl Palmitate: “Don’t share your eos. Keep clean and dry. Adverse reactions have been reported”; (2) on the EOS retail website: “Hypoallergenic. Dermatologist tested.” “Don’t share your eos. Keep clean and dry. Adverse reactions have been reported. In the event of an adverse reaction, seek medical attention if necessary. All ingredients in our products are safe and approved for use by the U.S. Food and Drug Administration and the Cosmetic Ingredient Review Board. Many of these same ingredients are found in other cosmetic and food products. For further information, please contact us at info@evolutionofsmooth.com.”

Monetary Benefits to Settlement Class Members. EOS has agreed to the following payment structure for Settlement Class Members who do not opt out and submit valid claims within 60 days of the Settlement Administrator’s e-mailing of the Notice of Settlement and Release of Claims and activation of the designated website hosting the same:

- a) A flat payment of \$75 for any medical expenses incurred on or before the date of the motion for preliminary approval of the Settlement Agreement, regardless of amount, for any Settlement Class Member who submits documented evidence from the time of the visit that (1) shows the Settlement Class Member visited a medical doctor to seek

1 treatment for an Adverse Reaction¹⁹ on or before the date of the motion
2 for preliminary approval of this Agreement; and (2) contains an
3 indication the Adverse Reaction may have resulted from the Settlement
4 Class Member's use of EOS lip balm. The Settlement Class Member
5 must also submit a statement, under penalty of perjury, describing the
6 purpose of the medical visit and that at the time of the visit it related to
7 a suspected Adverse Reaction to EOS lip balm, and a statement that the
8 Settlement Class Member believes EOS lip balm was the cause of the
9 Adverse Reaction ("Claim with Verified Medical Expenses"); or

10 b) An award of \$15, or a mail-in rebate for \$20 worth of EOS products that
11 can be used on-line at evolutionofsmooth.com or in retail stores where
12 EOS products are sold using the mail-in rebate, to Settlement Class
13 Members who had a complaint appearing in EOS's complaint database
14 on or before the date of the motion for preliminary approval of this
15 Agreement about a claimed Adverse Reaction to EOS lip balm, without
16 proof of any medical expenses ("Claim for a Verified Adverse Reaction
17 Complaint"); or

18 c) For those Settlement Class Members claiming extraordinary, verifiable
19 medical expenses and/or verifiable consequential damages as a direct
20 result of the use of EOS lip balm occurring on or before the date of the
21 motion for preliminary approval of this Agreement, a mechanism to
22 invoke a streamlined arbitration option before a jointly-selected
23 arbitrator with a capped award of \$4,000 ("Request for Streamlined
24 Arbitration"). EOS will pay the cost of the arbitration, excluding any
25

26 ¹⁹ "Adverse Reaction" is defined as: "rashes, dryness, bumps, bleeding, blistering,
27 cracking, swelling, peeling, pain, irritation, infection, and/or discoloration."
28 Settlement Agreement, ¶ 21.

attorneys' fees, travel costs or other incidental costs incurred by any arbitration claimant.

VI. REASONS FOR THE PROPOSED SETTLEMENT

Plaintiffs agreed to this Settlement with a solid understanding of the strengths and weaknesses of their claims. This understanding is based upon Plaintiffs' Counsel's careful and diligent investigation of the case and intense mediation efforts of the Parties with the assistance of Judge Lichtman, as described in the Meiselas Declaration, ¶¶ 3-9.

Based on a careful review of all these factors, as well as the substantial expense and length of time necessary to prosecute these Actions through the completion of merits and expert discovery, trial, and appeals, and the considerable uncertainties in predicting the outcome of any complex litigation, Plaintiffs have concluded that substantial risk remains that they might not prevail on all claims or even any claims and the Settlement Class might recover far less than the Settlement provides or nothing at all if the Actions were to continue.

Accordingly, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement.

VII. PRELIMINARY APPROVAL SHOULD BE GRANTED

Rule 23 requires judicial approval of any compromise of claims brought on a class wide basis. *See* Fed. R. Civ. P. 23(e) ("claims . . . of a certified class may be settled . . . only with the court's approval"). "In deciding whether to approve a proposed settlement, the Ninth Circuit has a 'strong judicial policy that favors settlements, particularly where complex class action litigation is concerned.'" *In re Heritage Bond Litig.*, No. 02-ML-1475 DT, 2005 U.S. Dist. LEXIS 13555, at *9 (C.D. Cal. June 10, 2005) (citations omitted); *see also Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982). "[T]here is an overriding public interest in settling and quieting litigation," and this is "particularly true in class action

1 suits.” *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976).

2 Moreover, the Ninth Circuit expressly recognizes that:

3 [I]n making its assessment pursuant to Rule 23(e), the Court’s:
4 “intrusion upon what is otherwise a private consensual agreement
5 negotiated between the parties to a lawsuit must be limited to the extent
6 necessary to reach a reasoned judgment that the agreement is not the
7 product of fraud or overreaching by, or collusion between, the
8 negotiating parties, and that the settlement, taken as a whole, is fair,
9 reasonable and adequate to all concerned.”

10 *Heritage Bond*, 2005 U.S. Dist. LEXIS 13555, at *10 (quoting *Officers for Justice*,
11 688 F.2d at 625). Recognizing that “[p]arties represented by competent counsel are
12 better positioned than courts to produce a settlement that fairly reflects each party’s
13 expected outcome in [the] litigation,” courts favor approval of settlements. *In re Pac.*
14 *Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995).

15 To determine whether a settlement agreement is fair, adequate, and reasonable,
16 “a district court must [ultimately] consider a number of factors, including: the
17 strength of plaintiffs’ case; the risk, expense, complexity, and likely duration of
18 further litigation; the risk of maintaining class action status throughout the trial; the
19 amount offered in settlement; the extent of discovery completed, and the stage of the
20 proceedings; the experience and views of counsel; the presence of a governmental
21 participant; and the reaction of the class members to the proposed settlement.” *Staton*
22 *v. Boeing Co.*, 327 F.3d 938, 959 (9th Cir. 2003) (internal citation and quotation
23 marks omitted). “The relative degree of importance to be attached to any particular
24 factor will depend upon and be dictated by the nature of the claims advanced, the
25 types of relief sought, and the unique facts and circumstances presented by each
26 individual case.” *Officers for Justice*, 688 F.2d at 625. “It is the settlement taken as
27 a whole, rather than the individual component parts, that must be examined for
28

1 overall fairness, and the settlement must stand or fall in its entirety.” *Staton*, 327 F.3d
2 at 960 (quotations, citation and brackets omitted).

3 Review of a proposed settlement typically proceeds in two stages, with
4 preliminary approval followed by a final fairness hearing. *See* MANUAL FOR
5 COMPLEX LITIGATION (FOURTH) §§ 21.632-21.634 (2004). At this preliminary stage,
6 the Court is not required to make a final determination as to whether the proposed
7 Settlement will ultimately be found to be fair, reasonable and adequate. Rather, that
8 evaluation is made only at the final approval stage, after notice of the proposed
9 Settlement has been given to the members of the Settlement Class and Settlement
10 Class Members have had an opportunity to voice their views of the proposed
11 Settlement or exclude themselves from the Settlement Class. “Given that some . . .
12 factors cannot be fully assessed until the Court conducts a Final Approval Hearing,
13 ‘a full fairness analysis is unnecessary at this stage.’” *See Williams v. Costco*
14 *Wholesale Corp.*, No. 02CV2003 IEG (AJB), 2010 U.S. Dist. LEXIS 19674, at *14-
15 15 (C.D. Cal. Mar. 4, 2010) (quotation marks and citation omitted). Because class
16 members will receive an opportunity to be heard on the proposed settlement or
17 request exclusion from the class, “a full fairness analysis is unnecessary” at the
18 preliminary approval stage. *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 665 (E.D. Cal.
19 2008) (quotation marks and citation omitted).

20 Preliminary approval and notice of the Settlement terms to the proposed class
21 are appropriate where, as here, “the proposed settlement appears to be the product of
22 serious, informed, non-collusive negotiations, has no obvious deficiencies, does not
23 improperly grant preferential treatment to class representatives or segments of the
24 class; and falls with the range of *possible* approval.” *In re Tableware Antitrust Litig.*,
25 484 F.Supp.2d 1078, 1079 (N.D. Cal. 2007) (internal quotation marks and citation
26 omitted) (emphasis added); *see also Acosta v. Trans Union, LLC*, 243 F.R.D. 377,
27 386 (C.D. Cal. 2007) (“To determine whether preliminary approval is appropriate,
28

1 the settlement need only be *potentially* fair, as the Court will make a final
2 determination of its adequacy at the hearing on the Final Approval, after such time as
3 any party has had a chance to object and/or opt out.”) (emphasis in original).

4 All these factors convincingly support preliminary approval here.

5 **A. The Settlement is Non-Collusive and the Product of Informed**
6 **Negotiations by Counsel with Considerable Experience**

7 The Settlement is the product of arm’s-length, hard-fought, non-collusive
8 negotiations. Specifically, counsel for the Parties participated in an all-day mediation
9 before a well-respected mediator and former judge who specializes in large and
10 complex class action resolutions. *See* Meiselas Dec., ¶ 6. The mediation brought the
11 parties closer to settling, and they later reached a settlement-in-principle following
12 further negotiations with the assistance of Judge Lichtman, (*id.*, ¶¶ 6-9), which was
13 improved upon thereafter with months of additional work led by the *Gilsleider*
14 Plaintiffs’ Counsel. *Id.*, ¶ 10; *see also* Feldman Dec., ¶¶ 13-35.

15 This factor alone strongly supports preliminary approval of the Settlement. *See*
16 *Glass v. UBS Fin. Servs., Inc.*, No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *15
17 (N.D. Cal. Jan. 26, 2007) (fact that “settlement was negotiated and approved by
18 experienced counsel on both sides of the litigation, with the assistance of a well-
19 respected mediator with substantial experience . . . supports approval of the
20 settlement”); *Satchell v. Fed. Express Corp.*, No. C03-2659 SI, 2007 U.S. Dist.
21 LEXIS 99066, at *17 (N.D. Cal. Apr. 13, 2007) (“assistance of an experienced
22 mediator in the settlement process confirms that the settlement is non-collusive”).
23 The mediator’s role in bringing about the instant Settlement weighs heavily in favor
24 of its approval. *See Glass*, 2007 U.S. Dist. LEXIS 8476, at *15.

25 Indeed, even after Class Counsel had an agreement in principle to settle the
26 case, *Gilsleider* Plaintiffs’ Counsel continued to negotiate with Class Counsel and
27 Defendant in order to improve upon the original terms. These hard-fought
28

1 negotiations continued long after the agreement in principle to settle had been
2 publicly announced in January 2016 through the signing of the final Settlement
3 papers in October 2016 – an additional 9 months. The improvements to the original
4 settlement were significant and anything but collusive.

5 **B. The Settlement has no Obvious Deficiencies**

6 The Settlement has no obvious deficiencies. Indeed, it unquestionably
7 achieves the principal goals of this Action: three different ways to obtain a substantial
8 cash payment to Settlement Class Members and changes in the advertising of EOS
9 lip balms. Both parts of the Settlement have considerable value.

10 The Settlement includes cash payments by Defendant to be distributed to
11 Settlement Class Members who timely submit valid claims. As described above, the
12 three-tiered cash structure provides meaningful monetary relief to an unlimited
13 number of Settlement Class Members who qualify for each tier. Indeed, if a
14 Settlement Class Member chooses to do so, he or she could obtain up to \$4,000.
15 Moreover, even the smallest recovery here – either \$15 in cash or a \$20 rebate on any
16 EOS products – is significant given that the average retail price of EOS lip balm is
17 approximately \$3.99. Thus, whether a Settlement Class Member purchased one or
18 many of the Products, the monetary award is meaningful.

19 The Settlement also includes changes in the advertising for EOS lip balms. As
20 discussed more fully above, the package and website for the Products will make clear
21 that adverse reactions have been reported, thereby putting people on notice of the
22 risk. Such adverse reactions are the centerpiece of this litigation. Accordingly, the
23 non-monetary relief is also meaningful.

24 Together with the value of the prospective relief, the Settlement consideration
25 warrants preliminary approval.

26 While Plaintiffs believe their case has merit, numerous obstacles exist that
27 could prevent them from prevailing at trial and on appeal. For example, there is no
28

1 certainty the Court would require Defendant to return all the money paid for EOS lip
2 balms to Plaintiffs or the proposed class members. In addition, appeals are expensive,
3 inherently risky, and cause inevitable delay.

4 Given all these risks, the Settlement plainly has no obvious deficiencies.

5 **C. The Settlement Does Not Improperly Grant Preferential Treatment**
6 **to Plaintiffs or any Segment of the Settlement Class**

7 No Settlement Class Members, including Plaintiffs, will receive unduly
8 preferential treatment. All their claims (including Plaintiffs' own claims) will be
9 evaluated under the same criteria and will be paid under the same three-tiered rubric.
10 *See* Settlement Agreement, ¶ 48.

11 All Settlement Class Members, including Plaintiffs, are subject to the same
12 notice and claims procedures and are otherwise subject to the same settlement rubric
13 and the same eventual release of claims. The Settlement relief varies only in which
14 tier each Claimant chooses but it does not vary according to any improper variables
15 unrelated to the relative strength of an individual Settlement Class Member's claim
16 and the documentation he/she submits. For example, if the Settlement Class Member
17 had a complaint appearing in EOS's complaint database relating to an Adverse
18 Reaction, but does not have any proof of medical expenses, he/she can choose either
19 an award of \$15 or a rebate for \$20 worth of any EOS products. *See* Settlement
20 Agreement, ¶ 48(b). However, if the Settlement Class Member does have certain
21 documentation regarding medical expenses expended in connection with an Adverse
22 Reaction to EOS Products, he/she can choose the flat \$75 award. *See id.*, ¶ 48(a).
23 Finally, if a Settlement Class Member has extraordinary, verifiable medical expenses
24 and/or consequential damages in excess of \$75 in connection with a medical issue as
25 a result of EOS Products, he/she can choose to go to arbitration for a maximum award
26 of \$4,000. *See id.*, ¶ 48(c) and Exh. 2 (Arbitration Procedures). In addition, EOS
27 will pay the costs associated with the arbitration (excluding attorneys' fees, travel
28

1 costs or other incidental costs) and Class Counsel will provide assistance in
2 submitting the opening and reply briefs to the arbitrator free of charge. *Id.*, ¶ 53.

3 Thus, for whatever tier a Claimant chooses, all Settlement Class Members are
4 treated the same within that tier.

5 **D. The Settlement Terms Easily Fall Within the Range of Possible**
6 **Approval**

7 The key settlement terms easily warrant preliminary approval as well within
8 the realm of reasonableness. *First and foremost*, the Settlement offers not only real
9 cash relief but also a choice of relief depending on the Settlement Class Member's
10 circumstances, as discussed above.

11 *Second*, in addition to real cash dollars, the Settlement achieves a greater
12 awareness for the consuming public that adverse reactions have been reported when
13 using the Products, thereby putting people on notice that if they have sensitivities or
14 otherwise are concerned about such reactions, they should further investigate before
15 using, or refrain altogether from using, the Products.

16 *Third*, Plaintiffs' service compensation awards of \$5,000 each are justified
17 under the case law and the facts of this case.²⁰ Given the modest nature of these
18 awards, especially when compared to the overall settlement results, there is nothing
19 to suggest that the awards are improper or undermine the fairness of the Settlement.
20 The *Van Vranken* factors (risk, notoriety, time spent, duration of litigation and benefit)
21 all support the requested enhancement here. *Van Vranken*, 901 F.Supp. at 299. All
22 Plaintiffs came forward and undertook to represent others who purchased the

23
24 ²⁰ The incentive awards are well within the range of such awards commonly provided
25 in litigation of this nature. *See, e.g., Staton*, 327 F.3d at 977 (incentive awards to
26 named plaintiffs in a class action are permissible and do not render a settlement
27 unfair or unreasonable); *Glass*, 2007 U.S. Dist. LEXIS 8476, at *50-52 (approving
28 incentive payments of \$25,000 to each named plaintiff); *Van Vranken v. Atl.*
Richfield Co., 901 F. Supp. 294, 299-300 (N.D. Cal. 1995) (awarding \$50,000 to
lead plaintiff).

1 Products and some even put pictures of themselves in their complaints of rashes on
2 their faces as a result of using the Products. They generously gave their time and
3 effort, and they did so despite the difficulty of their undertaking and the public
4 attention they were certain to draw.²¹

5 *Fourth*, there is nothing to suggest that Class Counsel will receive excessive
6 fees. Class Counsel will seek a fee and expense award of \$1,850,000 to be paid
7 entirely by EOS separate and apart from the payments it makes to Settlement Class
8 Members.²² Millions of people purchased this product during the Settlement Class
9 Period and there is no cap on the number of people who can claim any of the three
10 tiers of cash awards.

11 The fee request is subject to the Court's plenary review at the final approval
12 stage. Courts consider not only the results achieved and the skill and quality of work
13 – which Class Counsel respectfully submit are of the highest caliber here – but also
14 the risk of litigation and the contingent nature of the fee and the financial burden
15 carried by the plaintiff. *See, e.g., In re Omnivision Techs., Inc.*, 559 F.Supp.2d 1036,
16 1046 (N.D. Cal. 2007) (citing *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-50
17 (9th Cir. 2002)).

18 ²¹ For example, various of the Plaintiffs undertook certain of the following activities
19 in these Actions, which required hours of work and contributed to the early settlement
20 of the case: participated in factual investigation of the Products and the reasons for
21 the reported rashes and other skin irritations; provided photos and other
22 documentation of personal medical information to counsel, some of which were
23 included in the complaints; worked with counsel to prepare their complaints;
24 searched for and provided documentation of their purchases and other evidence
25 related thereto; discussed strategy and settlement with counsel and approved the
26 material terms of the Settlement. Declarations of each Plaintiff discussing the
27 number of hours expended and the specific activities undertaken will be provided to
28 the Court prior to the hearing on preliminary approval, by November 28, 2016.

²² Plaintiffs' expenses will be included as part of the \$1,850,000 to be paid by EOS
and will not be separately requested, as will the Plaintiffs' service awards. Such
expenses can include items such as travel, experts/consultants, photocopying,
computerized legal research, and filing and service fees. Such expenses are routinely
reimbursed by courts and Class Counsel will submit details of these expenses at final
approval.

1 Class Counsel collectively expended hundreds of hours litigating the Action,
2 with a total current lodestar of more than \$1.8 million (which will increase with the
3 filing of the final approval papers, final approval hearing, and any appeals),²³ with no
4 certainty of any payment at all. See Declarations of Plaintiffs' Counsel submitted
5 herewith. Moreover, Class Counsel will assist Settlement Class Members who
6 choose arbitration in preparing their papers. Prior to the hearing on preliminary
7 approval, by November 28, 2016, Class Counsel will furnish a detailed breakdown
8 of all Plaintiffs' Counsel's hours worked and lodestar expended to demonstrate the
9 reasonableness of their fee request.

10 Plaintiffs respectfully submit that the fee request is eminently reasonable under
11 the standards which warrant preliminary approval of the Settlement given the amount
12 of work Class Counsel performed and the excellent results they have achieved.

13 *Fifth*, the proposed notices and forms are more than adequate. Rule 23 requires
14 that the absent class members receive the "best notice that is practicable under the
15 circumstances." See Fed. R. Civ. P. 23(c)(2)(B). The method and the content of the
16 notices should be designed to fairly apprise them of the terms of the proposed
17 settlements and the options available to them. See, e.g., *Phila. Hous. Auth. v. Am.*
18 *Radiators & Standard Sanitary Corp.*, 323 F.Supp. 364, 378 (E.D. Pa. 1970);
19 *Churchill Village LLC v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004). Along these
20 lines, federal courts have made clear that individual mailings to each class member's
21 last known address is a sufficient form of notice. See, e.g., *White v. Nat'l Football*
22 *League*, 41 F.3d 402, 408 (8th Cir. 1994), *abrogated on other grounds*, *Amchem*
23 *Prods., Inc. v. Windsor*, 521 U.S. 591, 618, 620 (1997). The mailed and published

24
25 ²³ The normal hourly rates of the counsel working on these cases is included in each
26 of the Declarations of Ben J. Meiselas, Lori G. Feldman, Janine L. Pollack, Jerusalem
27 F. Beligan, Joshua H. Eggnatz, John R. Climaco, R. Seth Crompton, and Hunter
28 Shkolnik. Such rates have routinely been approved by courts in settlements across
the country. Some of these cases are included in such Declarations and will be further
discussed in Plaintiffs' papers in support of final approval of the Settlement.

1 notices contain all the important details, are clearly written to be understood by the
2 Settlement Class Members, and will be disseminated in ways intended to maximize
3 the chances of receipt. To that end, as described above and in the Weisbrot
4 declaration, the Notice Plan is extensive and comprehensive and will deliver notice
5 to the target audience as determined by scientific methodology proven to be effective
6 in class actions of this type. *See supra* § IV.

7 **VIII. THE SETTLEMENT CLASS SHOULD BE CERTIFIED**

8 At the preliminary approval stage, if the Court is satisfied that the proposed
9 Settlement is within the range of reasonableness, the Court also must certify the class
10 for purposes of considering the Settlement. When conditionally certifying a class for
11 settlement purposes, a court must pay “attention to class certification requirements.”
12 *Staton*, 327 F.3d at 952 (quotations and citation omitted). “To obtain class
13 certification, a class plaintiff has the burden of showing that the requirements of Rule
14 23(a) are met and that the class is maintainable pursuant to Rule 23(b).” *Narouz v.*
15 *Charter Commc’ns, LLC*, 591 F.3d 1261, 1266 (9th Cir. 2010). “Rule 23(a) ensures
16 that the named plaintiffs are appropriate representatives of the class whose claims
17 they wish to litigate.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 (2011).
18 Under Rule 23(a), the party seeking certification must demonstrate, first, that:

19 (1) the class is so numerous that joinder of all members is
20 impracticable, (2) there are questions of law or fact common to
21 the class, (3) the claims or defenses of the representative parties
22 are typical of the claims or defenses of the class, and (4) the
23 representative parties will fairly and adequately protect the
24 interests of the class.

25 *Id.* at 345 (citing Fed. R. Civ. P. 23(a)). “Second, the proposed class must satisfy at
26 least one of the three requirements listed in Rule 23(b).” *Id.* Rule 23(b) is satisfied
27 if:

(3) the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

Fed. R. Civ. P. 23(b)(3).

A. Requirements Under Rule 23(a)

1. Numerosity

Rule 23(a)(1) requires that the class be “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). Classes of more than 40 members are generally numerous enough. *See Keegan v. Am. Honda Motor Co, Inc.*, 284 F.R.D. 504, 522 (C.D. Cal. 2012); *see also Harris v. Palm Springs Alpine Estates, Inc.*, 329 F.2d 909, 913-914 (9th Cir. 1964) (“[I]mpracticability’ does not mean ‘impossibility,’ but only the difficulty or inconvenience of joining all members of the class.”) (internal quotation marks and citation omitted). Here, the Settlement Class includes millions of people across the country who have purchased EOS Products.

Thus, the Court should find that numerosity is satisfied.

2. Commonality

Rule 23(a)(2) requires that “there are questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). “Commonality requires the plaintiff to demonstrate that the class members ‘have suffered the same injury.’” *Dukes*, 564 U.S. at 349-50 (quoting *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 (1982)). “This does not mean merely that they have all suffered a violation of the same provision of law,” but instead that their claim(s) “depend upon a common contention . . . of such a nature that it is capable of classwide resolution – which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims

1 in one stroke.” *Id.* at 350. Although for purposes of Rule 23(a)(2), “even a single
2 common question will do,” *id.* at 359 (internal citation, quotation marks, and brackets
3 omitted), “[w]hat matters to class certification . . . is not the raising of common
4 ‘questions’ – even in droves – but, rather the capacity of a classwide proceeding to
5 generate common *answers* apt to drive the resolution of the litigation.” *Id.* at 351
6 (citation omitted).

7 Here, many important questions of fact and law raised in this litigation are
8 shared by all Settlement Class members such that a “determination of [their] truth or
9 falsity will resolve an issue that is central to the validity of each one of the claims in
10 one stroke.” *Id.* at 350. For example, common legal and factual questions include
11 whether Defendant’s labeling and marketing of the Products were misleading and/or
12 omitted material information; whether such misrepresentations/omissions were
13 material; whether Defendant breached warranties with the Settlement Class
14 Members; whether Settlement Class Members suffered damages and the measure of
15 such damages; and whether equitable relief is warranted.

16 The Court should find that the commonality requirement is satisfied.

17 **3. Typicality**

18 Rule 23(a)(3) requires “the claims or defenses of the representative parties [to
19 be] typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). “The
20 typicality requirement looks to whether the claims of the class representatives are
21 typical of those of the class, and [is] satisfied when each class member’s claim arises
22 from the same course of events, and each class member makes similar legal
23 arguments to prove the defendant’s liability.” *Stearns v. Ticketmaster Corp.*, 655
24 F.3d 1013, 1019 (9th Cir. 2011) (internal citation and quotation marks omitted).
25 “Typicality requires that the named plaintiffs be members of the class they represent.”
26 *Dukes v. Wal-Mart Stores, Inc.*, 603 F.3d 571, 613 (9th Cir. 2010), *rev’d on other*
27 *grounds*, 564 U.S. 338 (citing *Falcon*, 457 U.S. at 156). The commonality, typicality,
28

1 and adequacy-of-representation requirements “tend to merge” with each other.
2 *Dukes*, 564 U.S. at 349 n.5 (citing *Falcon*, 457 U.S. at 157-58 n.13).

3 Here, Plaintiffs paid Defendant the price of the EOS Products, as did all other
4 members of the proposed Settlement Class. Therefore, all Plaintiffs are members of
5 the class they represent. For the same reason, all Plaintiffs were subject to the same
6 misrepresentations that give rise to this litigation as the other members of the
7 Settlement Class. Therefore, Plaintiffs’ claims arise from the same facts and events
8 as those of the other Settlement Class Members, and Plaintiffs would rely on the same
9 legal arguments as the proposed Settlement Class Members to prove Defendant’s
10 liability. See *Stearns*, 655 F.3d at 1019.

11 The Court should find that the typicality requirement is met.

12 **4. Adequacy of Representation**

13 Rule 23(a)(4) permits certification of a class action only if “the representative
14 parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P.
15 23(a)(4). “This factor requires: (1) that the proposed representative plaintiffs do not
16 have conflicts of interest with the proposed class, and (2) that Plaintiffs are
17 represented by qualified and competent counsel.” *Dukes*, 603 F.3d at 614.

18 There are no potential conflicts between Plaintiffs and the other members of
19 the Settlement Class. All bought EOS’ Products and were exposed to the same
20 misrepresentations and/or omissions. Accordingly, all Plaintiffs are adequate class
21 representatives.

22 As to the adequacy of Class Counsel, the Court must consider: (i) the work
23 counsel has done in identifying or investigating potential claims in the action;
24 (ii) counsel’s experience in handling class actions, other complex litigation, and the
25 type of claims assert in the action; (iii) counsel’s knowledge of the applicable law;
26 and (iv) the resources that counsel will commit to representing the class.” Fed. R.
27 Civ. P. 23(g)(1)(A). There can be no dispute that the work done by Class Counsel in
28

1 this Action has been of exceptionally high quality. As discussed in the Meiselas
2 Declaration, Class Counsel spent a great deal of time investigating potential claims
3 upon being contacted by aggrieved consumers and was able to negotiate a Settlement
4 without the expense and time of protracted litigation. In addition, as discussed in the
5 Feldman Declaration, Class Counsel worked closely with Plaintiffs' Counsel in
6 improving the original Settlement and opening it up to more potential Settlement
7 Class Members. Moreover, the experience of Class Counsel in prosecuting consumer
8 class actions is beyond question and demonstrates their well-documented knowledge
9 of applicable law. *See* Meiselas Dec., Exh. A (firm resume). In addition, Class
10 Counsel has more than sufficient resources to prosecute the litigation. The Court
11 should conclude that the adequacy requirements under Rule 23(g) are met and should
12 confirm the appointment of Geragos & Geragos, APC as Class Counsel.

13 **B. Requirements Under Rule 23(b)**

14 In addition to establishing the elements of Rule 23(a), Plaintiffs also must
15 satisfy one of the three elements of Rule 23(b). Plaintiffs seek certification under
16 Rule 23(b)(3), alleging that common questions predominate over any individual
17 issues that may exist in this case. Under Rule 23(b)(3), a class action may be
18 maintained if: “[1] the court finds that the questions of law or fact common to class
19 members *predominate* over any questions affecting only individual members, and
20 [2] that a class action is *superior* to other available methods for fairly and efficiently
21 adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3) (emphasis added). The Court
22 may consider:

23 (A) the class members' interests in individually controlling the
24 prosecution or defense of separate actions; (B) the extent and
25 nature of any litigation concerning the controversy already begun
26 by or against class members; (C) the desirability or undesirability
27 of concentrating the litigation of the claims in the particular
28

forum; and (D) the likely difficulties in managing a class action.

Id.

1. Predominance

As to the predominance factor, the Supreme Court has explained that it “tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation.” *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 623, (1997). “When common questions present a significant aspect of the case and they can be resolved for all members of the class in a single adjudication, there is clear justification for handling the dispute on a representative rather than on an individual basis.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1022 (9th Cir. 1998) (quoting 7A Charles Alan Wright and Arthur R. Miller, *FEDERAL PRACTICE & PROCEDURE* § 1778 (2d ed. 1986)).

Here, common questions of fact and law present a “significant aspect” of the case and are cohesive such that they predominate over individual issues. These important common questions include whether Defendant’s labeling and marketing of the Products were misleading and/or omitted material information; whether such misrepresentations/omissions were material; whether Defendant breached warranties with the Settlement Class Members; whether Settlement Class Members suffered damages and the measure of such damages; and whether equitable relief is warranted. These common questions can be resolved in a single adjudication and clearly justify handling this dispute on a representative, rather than an individual, basis.

Therefore, the Court should find that the predominance requirement is met.

2. Superiority

“The superiority inquiry under Rule 23(b)(3) requires determination of whether the objectives of the particular class action procedure will be achieved in the particular case.” *Hanlon*, 150 F.3d at 1023. “This determination necessarily involves a comparative evaluation of alternative mechanisms of dispute resolution.” *Id.*

1 Here, each member of the Settlement Class pursuing a claim individually
2 would burden the judiciary and run afoul of Rule 23's focus on efficiency and judicial
3 economy. *See Vinole v. Countrywide Home Loans, Inc.*, 571 F.3d 935, 946 (9th Cir.
4 2009) ("The overarching focus remains whether trial by class representation would
5 further the goals of efficiency and judicial economy."). Further, litigation costs
6 would likely "dwarf potential recovery" if each class member litigated individually.
7 *Hanlon*, 150 F.3d at 1023. "[W]here the damages each plaintiff suffered are not that
8 great, this factor weighs in favor of certifying a class action." *Zinser v. Accufix*
9 *Research Inst., Inc.*, 253 F.3d 1180, 1199 n.2 (9th Cir. 2001) (quotation marks and
10 citation omitted).

11 Considering the non-exclusive factors under Rule 23(b)(3)(A)-(D), the Court
12 should find that Settlement Class Members' potential interests in individually
13 controlling the prosecution of separate actions and the potential difficulties in
14 managing the class action do not outweigh the desirability of concentrating this
15 matter in one litigation. *See Fed. R. Civ. P. 23(b)(3)(A), (C).*

16 Finally, Plaintiffs are not aware of any litigation concerning the controversy
17 that has already begun by or against class members. *See Fed. R. Civ. P. 23(b)(3)(B).*

18 Thus, the Court should find that the superiority requirement is met.

19 **IX. PRELIMINARY APPROVAL OF FORM AND METHOD OF CLASS**
20 **NOTICE**

21 For a class certified under Rule 23(b)(3), "the court must direct to class
22 members the best notice that is practicable under the circumstances, including
23 individual notice to all members who can be identified through reasonable effort."
24 Fed. R. Civ. P. 23(c)(2)(B). The Settlement provides that Notice will be sent by email
25 to all members of the Settlement Class who appear in EOS's complaint database.
26 Notice by mail has been found by the Supreme Court to be sufficient if the notice is
27 "reasonably calculated . . . to apprise interested parties of the pendency of the action
28

1 and afford them an opportunity to present their objections.” *Mullane v. Cent.*
2 *Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

3 However, actual notice is not required. *See Silber v. Mabon*, 18 F.3d 1449,
4 1454 (9th Cir. 1994). To provide some notice of the Settlement to Settlement Class
5 Members and anyone else whose rights might be affected by the Settlement, the
6 Settlement Administrator will cause notice of the Settlement to be published on a
7 website set up specifically for purposes of this Settlement.

8 In addition, the Notice Plan filed concurrently herewith describes where and
9 when the Publication Notice will appear. *See supra* at § IV; Weisbrot Dec.

10 The proposed Notice and the Publication Notice are attached as Exhibits 1 and
11 5 to the Settlement Agreement, filed concurrently herewith. Under Rule 23, the
12 notice must include, in a manner that is understandable to potential class members:
13 “(i) the nature of the action; (ii) the definition of the class certified; (iii) the class
14 claims, issues, or defenses; (iv) that a class member may enter an appearance through
15 an attorney if the member so desires; (v) that the court will exclude from the class
16 any member who requests exclusion; (vi) the time and manner for requesting
17 exclusion; and (vii) the binding effect of a class judgment on members under Rule
18 23(c)(3).” Fed. R. Civ. P. 23(c)(2)(B). The proposed notices include this necessary
19 information.

20 **X. CONCLUSION**

21 For the foregoing reasons, the Court should grant the motion for preliminary
22 approval of the proposed Settlement, should conditionally certify the Settlement
23 Class, should appoint Plaintiffs as class representatives and confirm the appointment
24 of Geragos & Geragos, APC as Class Counsel, should appoint Angeion as Settlement
25 Administrator, and should approve the form and method of the Notices.

26 Plaintiffs ask the Court to set the Final Approval Hearing based on the
27 proposed schedule in the preliminary approval order, to determine whether the
28

Settlement should be finally approved as fair, reasonable and adequate to Settlement Class Members. The Court should set deadlines for notice and further briefing in accordance with the date for the Final Approval Hearing.

Respectfully submitted,

Dated: November 1, 2016

BISNAR | CHASE LLP

By: /s/ Jerusalem F. Beligan
BRIAN D. CHASE (164109)
bchase@bisnarchase.com
JERUSALEM F. BELIGAN (211258)
jbeligan@bisnarchase.com
1301 Dove Street, Suite 120
Newport Beach, CA 92660
Telephone: 949/752-2999
Facsimile: 949/752-2777

GERAGOS & GERAGOS APC
MARK J. GERAGOS (SBN 108325)
BEN J. MEISELAS (SBN 277412)
Historic Engine Co. No. 28
644 South Figueroa Street
Los Angeles, CA 90017
Telephone: 213/625-3900
Facsimile: 213/232-3255
geragos@geragos.com

LEVI & KORSINSKY LLP
LORI G. FELDMAN (*pro hac vice*)
lfeldman@zlk.com
30 Broad Street, 24th Floor
New York, NY 10004
Telephone: 212/363-7500
Facsimile: 212/363-7171

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**
JANINE L. POLLACK (*pro hac vice*)
pollack@whafh.com
270 Madison Avenue
New York, New York 10016
Telephone: 212/545-4600
Facsimile: 212/545-4653

Attorneys for Plaintiffs

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
9 WESTERN DIVISION

10 RACHAEL CRONIN, On Behalf of
11 Herself and All Others Similarly
Situated,

12 Plaintiffs,

13 vs.

14 EOS PRODUCTS, LLC, a New York
15 Limited Liability Company, and
DOES 1-10;

16 Defendants.

CASE NO. 2:16-cv-00235-JAK-JEM

CLASS ACTION

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

Date: December 19, 2016

Time: 8:30 a.m.

Place: Courtroom 750

Complaint filed: January 12, 2016

1 The Court conducted a hearing on December 19, 2016 regarding Plaintiff
2 Rachael Cronin's Motion for Preliminary Approval of Class Action Settlement (the
3 "Motion"). Having considered the Settlement Agreement, the Motion, all
4 accompanying declarations and exhibits thereto, and all of the legal authorities and
5 documents submitted in support of the Motion, and **GOOD CAUSE** appearing, **IT**
6 **IS HEREBY ORDERED** that the Motion for Preliminary Approval of Class
7 Action Settlement is **GRANTED**, subject to the following findings and orders:

8 1. The Order incorporates by reference the definitions of the Settlement
9 Agreement, and all terms defined therein shall have the same meaning as set forth in
10 the Settlement Agreement.

11 2. This Court has both subject matter jurisdiction and personal jurisdiction
12 as to this Action and all Parties before it pursuant to 28 U.S.C. § 1332(d)(2).

13 3. The terms of the Settlement Agreement are sufficiently fair, reasonable
14 and adequate to allow dissemination of the class notice. Thus, pending the Final
15 Approval Hearing, the Court preliminarily approves the proposed Settlement
16 Agreement.

17 4. Plaintiff has made a sufficient showing that a Settlement Class, as
18 defined herein, should be certified for settlement purposes only, subject to the Final
19 Approval Hearing. The Court finds that the requirements of Rule 23 of the Federal
20 Rules of Civil Procedure for the preliminary approval of the Settlement and
21 conditional certification of the proposed Settlement Class are met.

22 5. The following settlement class ("Settlement Class") is hereby
23 conditionally certified for purposes of settlement only: All persons residing in the
24 United States who purchased EOS lip balm after January 1, 2009 and on or before
25 the date of this Order, excluding Defendant, Defendant's officers, directors,
26 employees, and legal representatives, Defendant's subsidiaries, those who purchased
27 the products for purpose of resale, (Ret.) Judge Peter D. Lichtman, the immediate
28 family of Judge Lichtman, the Judges to whom the Actions are assigned, the

1 immediate family of the Judges to whom the Actions are assigned, and any
2 individuals who timely opt-out of the settlement.

3 6. This Court finds that: (a) the members of the Settlement Class are so
4 numerous that joinder of all Settlement Class Members is impracticable; (b) there
5 are questions of law and fact common to the Settlement Class which predominate
6 over any individual questions; (c) the claims of the Plaintiffs are typical of the
7 claims of the Settlement Class; (d) Plaintiffs and Class Counsel will fairly and
8 adequately represent and protect the interests of the Settlement Class; and (e) a class
9 action is superior to other available methods for the fair and efficient adjudication of
10 the controversy. The Court also finds that the Parties have provided the Court with
11 enough information about the nature and magnitude of the claims being settled, as
12 well as the impediments to recovery, to make an independent assessment of the
13 reasonableness of the terms to which the Parties have agreed.

14 7. The Court has reviewed the Parties' proposed Settlement Agreement
15 and finds that its terms appear sufficiently fair, reasonable, and adequate to warrant
16 dissemination of notice of the proposed Settlement Agreement to the Settlement
17 Class Members and the scheduling of a formal fairness hearing. The Court finds
18 that the Parties entered into the Settlement in good faith, following arm's-length
19 negotiations between their respective counsel.

20 8. The Court appoints Rachael Cronin, Ashundrae Everett, Samantha
21 Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del
22 Carmen Ballenilla-Blondett, Amanda Jones, Samantha Santiago, Marylou
23 Gilsleider, Yokie Renee Ivy, and Larissa Gannuccelli as representatives of the
24 above-described class.

25 9. The Court appoints Geragos & Geragos, APC as Class Counsel. The
26 Court finds that Class Counsel have demonstrable experience litigating, certifying,
27 and settling class actions, and will serve as adequate counsel for the Class
28 conditionally certified by this Order.

1 10. The Court hereby approves and appoints Angeion Group, LLC
2 (“Angeion”) as the Settlement Administrator.

3 11. The Notice of Settlement and Release of Claims and Summary Notice,
4 described in the Settlement Agreement and attached as exhibits thereto, and
5 provisions for disseminating those materials and information, described in the
6 Settlement Agreement and the Declaration of Steven Weisbrot, Esq., are consistent
7 with Federal Rule of Civil Procedure 23 and are approved. These materials and
8 notice plan (a) provide the best notice practicable under the circumstances; (b) are
9 reasonably calculated, under the circumstances, to apprise the Settlement Class of
10 the pendency of the action, the terms of the proposed Settlement, and their right to
11 seek monetary relief from, exclude themselves from, or object to, the proposed
12 Settlement; (c) are reasonable and constitute due, adequate, and sufficient notice to
13 persons entitled to receive notice; and (d) fully comply with United States law. The
14 Settlement Administrator shall be responsible for providing notice of the proposed
15 Settlement to the Settlement Class in accordance with the provisions of the
16 Settlement Agreement and the notice plan set forth in the Declaration of Steven
17 Weisbrot, Esq. The Parties may, by agreement, change the Notice of Settlement and
18 Release of Claims and Summary Notice to reflect operative hearing and opt-out
19 dates or other presently unknown data without further approval from the Court.

20 12. The Court orders that, no later than 60 days after the date of this Order,
21 the Settlement Administrator shall cause (1) direct notice in the form of the Notice
22 of Settlement and Release of Claims to be sent by email to each Settlement Class
23 Member who appears in EOS’s complaint database as having lodged a complaint
24 relating to a purported Adverse Reaction on or before October 24, 2016, and for
25 whom an email address is available through the database; (2) implement the digital
26 media notice plan, as described in the Declaration of Steven Weisbrot, Esq.; (3)
27 activate the informational case website and toll-free telephone line described in the
28 Declaration of Steven Weisbrot, Esq.; and (4) cause four ¼ page advertisements to

1 be published in the California Regional edition of *USA Today* featuring the
 2 Summary Notice, which will run for four consecutive weeks. The Settlement
 3 Administrator shall be responsible for dissemination of the class notices in the
 4 manner stated above, and pursuant to the terms of the Settlement Agreement and the
 5 notice plan set forth in the Declaration of Steven Weisbrot, Esq. As set forth in the
 6 Settlement Agreement, Defendant shall bear all costs associated with providing
 7 class notice.

8 13. The following deadlines shall govern for purposes of this Settlement:

Deadline	Event
11 Not later than 21 days after the date of 12 this Order granting Plaintiffs' Motion for 13 Preliminary Approval of Class Action 14 Settlement 15 _____, 2016	Last day for Parties to file stipulated motions pursuant to 28 U.S.C. § 1404 to transfer any Action not currently pending before this Court to the United States District Court for the Central District of California for consolidation with the above-captioned matter.
16 Not later than 60 days after Preliminary 17 Approval 18 _____, 2017	Last day for the Settlement Administrator to send direct notices and implement the notice plan and settlement website.
19 Not later than 7 days before the 20 Response Deadline 21 _____, 2017	Last day for Plaintiffs to file a Motion for Attorneys' Fees and Costs and Class Representative Enhancement Payments and Motion for Final Approval of Class Action Settlement.
22 Not later than 60 days after the 23 Settlement Administrator sends direct 24 notices and implements the notice plan 25 and settlement website 26 _____, 2017	Last day for Settlement Class Members to submit claims, requests for exclusion, or objections to the Settlement Agreement ("Response Deadline").

Hearing on Motion for Final Approval of
Class Action Settlement and Motion for
Attorneys' Fees, Costs, and Class
Representative Enhancement Payments.

_____, 2017 at _____

14. This Settlement Agreement shall not be construed as an admission or evidence of either liability or the appropriateness of class certification in the non-settlement context, as more specifically set forth in the Settlement Agreement. Entry of this Order is without prejudice to Defendant to oppose certification of a class in this action should the proposed settlement not be granted final approval.

15. All proceedings in this action other than such as may be necessary to carry out the terms and conditions of the Settlement Agreement or this Order or the responsibilities related or incidental thereto are stayed and suspended until further Order of this Court.

IT IS SO ORDERED

Dated: _____, 2016

Hon. John A. Kronstadt
United States District Judge

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (“Settlement” or “Agreement”) is entered into by and between (i) Plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Samantha Santiago, Amanda Jones, Marylou Gilsleider, Yokie Renee Ivy and Larissa Gannuccelli (“Plaintiffs”), on their own behalf and on behalf of all members of the class, as defined below, on the one hand, and (ii) Defendant, EOS Products, LLC, (“EOS”), on the other hand, with reference to the Recitals set forth below. This Agreement is effective as of its execution by Plaintiffs and EOS (collectively, the “Parties”).

RECITALS

1. On January 12, 2016, plaintiff Rachael Cronin filed a putative class-action lawsuit entitled *Cronin v. EOS Products, LLC*, Case No. 2:16-cv-00235-JAK-JEM (C.D. Cal.) against EOS. Plaintiff’s Class Action Complaint alleges claims for: (1) Violation of California Business and Professions Code Section 1750, *et seq.* (Consumer Legal Remedies Act); (2) Violations of California Business and Professions Code section 17200, *et seq.* (Unfair Business Practices Act); (3) Breach of Express Warranty; (4) Breach of Implied Warranty; (5) Unjust Enrichment; (6) Fraud (intentional misrepresentation and concealment of fact); and (7) Injunctive Relief.

2. On January 19, 2016, plaintiff Nicole Emily Caggiano filed a putative class-action lawsuit entitled *Caggiano v. EOS Products, LLC*, Case No. 1:16-cv-00408-ALC (S.D.N.Y.) against EOS. Plaintiff’s Class Action Complaint alleges claims for: (1) Violation of New York General Business Law Sections 349 and 350, *et seq.*; (2) Breach of Express Warranty; (3) Breach of Implied Warranty; (4) Strict Products Liability; (5) Negligence; (6) Negligent Misrepresentation; (7) Fraudulent Misrepresentation; (8) Fraudulent Concealment; (9) Unjust Enrichment; and (10) Injunctive Relief.

3. On January 20, 2016, plaintiff Samantha Tipirneni filed a putative class-action lawsuit entitled *Tipirneni v. EOS Products, LLC*, Case No. 2:16-cv-02022-CSB-EIL (C.D. Ill.) against EOS. Plaintiff’s Class Action Complaint alleges claims for: (1) Violation of Illinois Consumer Fraud and Deceptive Practices Act; (2) Breach of Express Warranty; (3) Breach of Implied Warranty; (4) Unjust Enrichment; (5) Fraud (Intentional Misrepresentation and Concealment of Fact); and (6) Injunctive Relief.

4. On January 20, 2016, plaintiff Ashundrae Everett filed a putative class-action lawsuit entitled *Everett v. EOS Products, LLC*, Case No. 8:16-cv-00140-JSM-TGW (M.D. Fla.) against EOS. Plaintiff's Class Action Complaint alleges claims for: (1) Violation of Florida Statutes Section 501.201, *et seq.* (Florida Deceptive and Unfair Trade Practices Act); (2) Breach of Express Warranty; (3) Breach of Implied Warranty; (4) Strict Products Liability; (5) Negligence; (6) Negligent Misrepresentation; (7) Fraudulent Misrepresentation; (8) Fraudulent Concealment; (9) Unjust Enrichment; and (10) Injunctive Relief.

5. On January 22, 2016, plaintiff Carolyn Bevins filed a putative class-action lawsuit entitled *Bevins v. EOS Products, LLC*, Case No. 2:16-cv-00066-GCS-TPK (S.D. Oh.) against EOS. Plaintiff's Class Action Complaint alleges claims for: (1) Violation of Ohio Revised Code Section 1345.01, *et seq.* (Ohio Consumer Sales Practices Act); (2) Breach of Express Warranty; (3) Breach of Implied Warranty; (4) Unjust Enrichment; and (5) Intentional Written Misrepresentation.

6. On January 19, 2016, plaintiff Melissa Menz filed a putative class-action lawsuit entitled *Menz v. EOS Products, LLC*, Case No. 8:16-cv-00128-SDM-JSS (M.D. Fla.) against EOS. Plaintiff's Class Action Complaint alleges claims for: (1) Violations of Florida's Unfair and Deceptive Practices Act. Fla. Section 501.201, *et seq.*; and (2) Negligent Misrepresentation.

7. On February 17, 2016, plaintiff Maria Del Carmen Ballenilla-Blondett filed a putative class-action lawsuit entitled *Ballenilla-Blondett v. EOS Products, LLC*, Case No. 1:16-cv-01219-ALC (S.D.N.Y.) against EOS. Plaintiff's Class Action Complaint alleges claims for: (1) Unfair and Deceptive Trade Practices in Violation of New York General Business Law Sections 349 and 350, *et seq.*; (2) Breach of Express Warranty; (3) Breach of Implied Warranty; (4) Strict Products Liability; (5) Negligence/Negligent Design/Negligence Per Se; (6) Negligent Misrepresentation; (7) Fraudulent Misrepresentation; (8) Fraudulent Concealment; (9) Unjust Enrichment; and (10) Injunctive Relief.

8. On February 4, 2016, plaintiff Amanda Jones filed a putative class-action lawsuit entitled *Jones v. EOS Products, LLC*, Case No. 1:16-cv-00321-JKB (D. Md.) against EOS. Plaintiff's Class Action Complaint alleges claims for: (1) Violation of Maryland Code of Commercial Law Sections 13-101, *et seq.* ("Maryland Consumer Protection Act"); (2) Unjust Enrichment; (3) Strict Products Liability; and (4) Negligence.

9. On February 5, 2016, plaintiff Samantha Santiago filed a putative class-action lawsuit entitled *Santiago v. EOS Products, LLC*, Case No. 3:16-cv-00198-SRU (D. Conn.) against EOS. Plaintiff's Class Action Complaint alleges claims for: (1) Violation of Connecticut General Statutes Sections 42-110A, *et seq.* ("Connecticut Unfair Trade Practices Act"); (2) Unjust Enrichment; and (3) Negligence.

10. On February 18, 2016, plaintiffs Marylou Gilsleider and Yokie Renee Ivy filed a putative class-action lawsuit entitled *Gilsleider v. EOS Products, LLC*, Case No. 8:16-cv-00283-JAK-JEM (C.D. Cal.) against EOS. Plaintiffs' Class Action Complaint alleges claims for: (1) Violation of California Civil Code Sections 1750, *et seq.* ("California's Consumer Legal Remedies Act"); (2) Violation of California Business and Professions Code Sections 17500, *et seq.* ("California's False Advertising Law"); (3) Violation of California Business and Professions Code Sections 17200, *et seq.* ("California's Unfair Competition Law"); (4) Violation of 815 Illinois Compiled Statutes 505/1, *et seq.* ("Illinois Consumer Fraud and Deceptive Practices Act"); (5) Breach of Express Warranty; (6) Breach of Implied Warranty of Merchantability; (7) Unjust Enrichment; (8) Strict Products Liability; and (9) Negligence.

11. On February 22, 2016, plaintiff Larissa Gannuccelli filed a putative class-action lawsuit entitled *Gannuccelli v. EOS Products, LLC*, Case No. 1:16-cv-01358-ALC (S.D.N.Y.) against EOS. Plaintiff's Class Action Complaint alleges claims for: (1) Violation of Florida Statute Sections 501.201, *et seq.* ("Florida Deceptive and Unfair Trade Practices Act"); (2) Breach of Express Warranty; (3) Breach of Implied Warranty of Merchantability; (4) Unjust Enrichment; (5) Strict Products Liability; and (6) Negligence.

12. In each of the aforementioned lawsuits (the "Actions"), Plaintiffs allege *inter alia* that EOS misrepresented the safety and utility of certain of its lip balm products and that these lip balm products purportedly cause adverse reactions in certain users.

13. Plaintiffs in the *Cronin*, *Caggiano*, *Tipirneni*, *Everett*, and *Bevins* actions are represented by counsel from Geragos & Geragos, APC ("Class Counsel"). Plaintiff in the *Menz* action is represented by counsel from Eggnatz, Lopatin & Pascucci, LLP. Plaintiff in the *Ballenilla-Blondett* action is represented by counsel from Imbesi Law P.C. and Napoli Shkolnik PLLC. Plaintiffs in the *Jones*, *Santiago*, *Gilsleider*, and *Gannuccelli* actions are represented by counsel from Levi & Korsinsky LLP, Bisnar Chase LLP, and Wolf Haldenstein Adler Freeman & Herz LLP (collectively, "Plaintiffs' Counsel").

14. The Parties reached a settlement in principle on a class basis following informal discovery and extensive arm's-length negotiations subsequent to a mediation conducted by the Honorable Peter D. Lichtman (Ret.) on January 22, 2016. Subsequent to this initial agreement to a settlement in principle, the parties continued to exchange information and negotiate the terms of the settlement with counsel for plaintiffs Amanda Jones, Samantha Santiago, Marylou Gilsleider, Yokie Renee Ivy, and Larissa Gannuccelli and were ultimately able to arrive at an agreement to include these actions in the settlement. The complete terms of the Parties' settlement are memorialized in this Agreement.

15. The mutual costs, risks and hazards of continuing to prosecute and defend the Actions have led Plaintiffs and EOS to resolve the matter by way of settlement.

16. Class Counsel have conducted a study and investigation of the law and facts relating to the claims that were asserted and that could have been asserted, as well as a study and investigation of the scope and identity of the Settlement Class, and have concluded, taking into account the benefits of this settlement, as defined below, and the risks and delays of further litigation, as well as having evaluated the strengths and weaknesses of Plaintiffs' claims and EOS's defenses, that this settlement is fair, reasonable, and adequate and in the best interests of the Plaintiffs and all members of the class affected by it.

17. EOS has denied and continues to deny each of the claims and contentions Plaintiffs alleged in the Actions. Neither this Agreement, nor any document referred to or contemplated in this Agreement, nor any action taken to carry out this Agreement, is or may be construed or used in the Actions or in any other action, litigation or proceeding as an admission, concession or indication by or against EOS of any fault, wrongdoing, or liability whatsoever.

18. EOS denies it has engaged in any wrongdoing; does not admit or concede any actual or potential fault, wrongdoing, or liability in connection with any facts or claims that have been or could have been alleged against it in the Actions; denies that the claims asserted by Plaintiffs are suitable for class treatment other than for settlement purposes; and denies that it has any liability whatsoever. EOS has entered into this Settlement Agreement because of the substantial expense of litigation, the length of time necessary to resolve the issues presented, the inconvenience involved, and the disruption to its business operations.

19. In light of the above recitals, the Parties understand and agree that the claims asserted here shall be settled, compromised, and released, subject to the approval of the Court, upon and subject to the following terms and conditions:

I. DEFINITIONS

20. “Actions” or “Litigation” means *Cronin v. EOS Products, LLC*, Case No. 2:16-cv-00235-JAK-JEM (C.D. Cal.); *Caggiano v. EOS Products, LLC*, Case No. 1:16-cv-00408-ALC (S.D.N.Y.); *Tipirneni v. EOS Products, LLC*, Case No. 2:16-cv-02022-CSB-EIL (C.D. Ill.); *Everett v. EOS Products, LLC*, Case No. 8:16-cv-00140-JSM-TGW (M.D. Fla.); *Bevins v. EOS Products, LLC*, Case No. 2:16-cv-00066-GCS-TPK (S.D. Oh.); *Menz v. EOS Products, LLC*, Case No. 8:16-cv-00128-SDM-JSS (M.D. Fla.); *Ballenilla-Blondett v. EOS Products, LLC*, Case No. 1:16-cv-01219-ALC (S.D.N.Y.); *Jones v. EOS Products, LLC*, Case No. 1:16-cv-00321-JKB (D. Md.); *Santiago v. EOS Products, LLC*, Case No. 3:16-cv-00198-SRU (D. Conn.); *Gilsleider v. EOS Products, LLC*, Case No. 8:16-cv-00283-JAK-JEM (C.D. Cal.); and *Gannuccelli v. EOS Products, LLC*, Case No. 1:16-cv-01358-ALC (S.D.N.Y.).

21. “Adverse Reaction” means rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration.

22. “Agreement” means this Settlement Agreement between Plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Amanda Jones, Samantha Santiago, Marylou Gilsleider, Yokie Renee Ivy, and Larissa Gannuccelli on their own behalf and on behalf of all members of the Settlement Class, on the one hand, and (ii) Defendant EOS Products, LLC, on the other hand, including, without limitations, all of the exhibits (Exhibits 1 and 2) attached hereto.

23. “Attorneys’ Fees and Costs” means attorneys’ fees approved by the Court for Plaintiffs’ Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Plaintiffs’ Counsel in the Action.

24. “Claim for a Verified Adverse Reaction Complaint” means a complaint appearing in EOS’s complaint database on or before the date of the motion for preliminary approval of this Agreement about a purported Adverse Reaction resulting from EOS lip balm, without proof of any medical expenses, subject to the additional requirements set forth in Paragraphs 48 and 52.

25. “Claim with Verified Medical Expenses” means a claim for \$75 for any medical expenses incurred on or before the date of the motion for preliminary approval of this Agreement, regardless of amount, for any Settlement Class Member who submits documented evidence from the time of the visit that (1) shows the Settlement Class Member visited a medical doctor to seek treatment for an Adverse Reaction on or before the date of the motion for preliminary approval of this Agreement; and (2) contains an indication the Adverse Reaction may have resulted from the Settlement Class Member’s use of EOS lip balm. The Settlement Class Member claimant must also submit a statement, under penalty of perjury, describing the purpose of the medical visit and that at the time of the visit it related to a suspected Adverse Reaction to EOS lip balm, and a statement that the Settlement Class Member claimant believes EOS lip balm was the cause of the Adverse Reaction, and subject to the additional requirements set forth in Paragraphs 48 and 52.

26. “Class Counsel” means the law firm of Geragos & Geragos, APC, which shall seek formal appointment as Class Counsel in the Motion for Preliminary Approval.

27. “Class Representatives,” “Named Plaintiffs,” or “Plaintiffs” means Plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Amanda Jones, Samantha Santiago, Marylou Gilsleider, Yokie Renee Ivy, and Larissa Gannuccelli.

28. “Court” means the U.S. District Court for the Central District of California presiding over this case.

29. “Class Period” means January 1, 2009 through and including the date preliminary approval of this Agreement is granted by the Court.

30. “Defendant” or “EOS” means EOS Products, LLC and its parents, officers, directors, employees, stockholders, agents, attorneys, administrators, successors, reorganized successors, spin-offs, assigns, holding companies, subsidiaries, affiliates, joint-ventures, partners, members, divisions and predecessors, individually, jointly, and severally.

31. “Enhancement Payment” means the amount requested by Class Counsel and approved by the Court to be paid to Plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Amanda Jones, Samantha Santiago, Marylou Gilsleider, Yokie Renee Ivy,

and Larissa Gannuccelli for their services to the Class and for the risks they undertook as named Plaintiffs.

32. “Execution Date” means the date of the last signature to the Agreement.

33. “Final Approval Order” means the Court’s order granting final approval of this settlement.

34. “Final Fairness and Approval Hearing” means the hearing at, or as a result of which, the Court enters the Final Approval Order.

35. “EOS Released Parties” means EOS Products, LLC, and its parents, officers, directors, employees, stockholders, agents, attorneys, administrators, successors, distributors, suppliers, resellers, reorganized successors, spin-offs, assigns, holding companies, subsidiaries, affiliates, joint-ventures, partners, members, divisions and predecessors, individually, jointly, and severally.

36. “EOS lip balm” means all lip balms in all flavors made and/or sold by EOS, including Spheres and Smooth Sticks.

37. “EOS’s complaint database” means a complaint on or through any of EOS’s public forums, including email, Facebook, Twitter, or any of its other social media sites, its website, and complaints received by telephone or U.S. Mail, as recorded in EOS’s complaint database maintained in Salesforce.com’s “Desk” software or as proven with documentary evidence of such complaint directed to EOS by the Settlement Class Member.

38. “Judgment” means a final judgment entered by the Court in the Actions.

39. “Notice of Settlement and Release of Claims” or “Notice” means the document attached as Exhibit 1 jointly drafted and approved by Plaintiffs and Defendant which, subject to Court approval, the Settlement Administrator will (1) send via e-mail to each Settlement Class Member for whom an e-mail address is available through EOS’s complaint database for a purported Adverse Reaction; and (2) post to a website created to host the notice, which will stay active until the Response Deadline, and disseminate notices pursuant to a notice plan mutually agreed upon by counsel for Plaintiffs and counsel for EOS geared toward raising Settlement Class Members’ awareness of the website.

40. “Parties” means Plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen

Ballenilla-Blondett, Amanda Jones, Samantha Santiago, Marylou Gilsleider, Yokie Renee Ivy, and Larissa Gannuccelli, and Defendant, EOS.

41. “Request for Exclusion” means a written notification stating that a person wants to be excluded from the Settlement Class. The notification must contain (a) the name, address, and telephone number of the person requesting exclusion, (b) the name of any/all of these Actions, (c) a clear statement that the person is requesting exclusion from the Settlement Class and does not want to participate in the Settlement, and (d) the signature of the person requesting to be excluded.

42. “Request for Streamlined Arbitration” means for those Settlement Class Members claiming extraordinary, verifiable medical expenses and/or verifiable consequential damages as a direct result of the use of EOS lip balm on or before the date of the motion for preliminary approval of this Agreement, a mechanism to invoke a streamlined arbitration option before a jointly-selected arbitrator with a capped award of \$4,000, subject to the additional requirements set forth in Paragraphs 48 and 53.

43. “Response Deadline” means the deadline by which Settlement Class Members must postmark or electronically submit to the Settlement Administrator valid Claims for a Verified Adverse Reaction Complaint, Claims with Verified Medical Expenses, Requests for Streamlined Arbitration, Requests for Exclusion, or file and serve objections to the Settlement. The Response Deadline will be sixty (60) calendar days from the initial e-mailing of the Notice of Settlement and Release of Claims by the Settlement Administrator and activation of the website containing the same, unless the 60th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

44. “Settlement Administrator” means the third-party class action settlement administrator jointly selected by EOS and Class Counsel, or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court. The Settlement Administrator shall send the Notice of Settlement to all Settlement Class Members for whom an e-mail address is available through EOS's complaint database related to a purported Adverse Reaction; shall maintain the website hosting the Notice of Settlement; shall disseminate notices to gain Settlement Class Members’ awareness of the website pursuant to the mutually-agreed upon notice plan; shall evaluate all requests for an award of \$75 for verifiable medical expenses

incurred on or before the date of the motion for preliminary approval of this Agreement and administer payments to Settlement Class Members with eligible requests pursuant to the requirements set forth in Paragraphs 25, 48 and 52 of this Agreement; shall evaluate all requests for an award of \$15, or \$20 worth of EOS products, for any verifiable complaint to the company about a claimed Adverse Reaction to EOS lip balm and administer payments to Settlement Class Members with eligible requests, pursuant to the requirements set forth in Paragraphs 24, 48 and 52 of this Agreement; and shall accept any request to invoke a streamlined arbitration option from any Settlement Class Member claiming extraordinary, verifiable medical expenses and/or verifiable consequential damages as a direct result of the use of EOS lip balm occurring on or before the date of the motion for preliminary approval of this Agreement and subject to the requirements set forth in Paragraphs 42, 48 and 53 of this Agreement, and relay such requests to EOS's Counsel and Plaintiffs' Counsel. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. All reasonable costs and expenses incurred by the Settlement Administrator will be paid by EOS.

45. "Settlement Class" or "Settlement Class Member(s)" means all persons residing in the United States who purchased EOS lip balm after January 1, 2009 and on or before the time of preliminary approval of the settlement by the Court, excluding EOS, EOS's officers, directors, employees, and legal representatives, EOS's subsidiaries, those who purchased the products for purpose of resale, (Ret.) Judge Peter D. Lichtman, the immediate family of Judge Lichtman, the Judges to whom these cases are assigned, the immediate family of the Judges to whom these cases are assigned, and any individuals who timely opt-out of the settlement.

46. "Settlement Effective Date" means the date on which the settlement embodied in this Agreement shall become effective after all of the following events have occurred: (a) Plaintiffs, Defendant, Class Counsel, and Defendant's counsel have executed this Agreement; (b) the Court has preliminarily approved this Settlement; (c) reasonable notice has been given to Settlement Class Members, including providing them an opportunity to opt out, or object to the settlement; (d) the Court has held a final approval hearing, entered a Final Approval Order and Judgment approving the Settlement; and (e) only if there are written objections filed before the final approval hearing and those objections are not later withdrawn, the last of the following events to occur: (i) if no appeal is filed, then the 31st day after entry of the Final Approval Order

and Judgment, or (ii) if an appeal of the Final Approval Order and Judgment has been timely filed or other judicial review was taken or sought, the date the Final Approval Order and Judgment is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review or the date the appeals or any other judicial review are finally dismissed with no possibility of subsequent appeal or other judicial review or if Class Counsel and EOS agree in writing, "Settlement Effective Date" can occur on any other agreed date. It is the intention of the Parties that the settlement shall not become effective until the Court's Final Approval Order and Judgment has become completely final and until there is no timely recourse by an appellant or objector who seeks to contest the settlement.

II. RELIEF AND BENEFITS

47. Non-Monetary Relief for the Settlement Class. In exchange for the releases and waivers of claims described below, EOS has agreed to implement the following disclosures for products sold in the United States, beginning no later than one hundred and eighty (180) days following the Settlement Effective Date: (1) Smooth Sphere Lip Balm Packages sold in the United States, excluding any EOS Smooth Sphere Lip Balm for which the formula is altered after January 22, 2016 to exclude from its ingredients Sodium Hyaluronate, and Ascorbyl Palmitate: "Don't share your eos. Keep clean and dry. Adverse reactions have been reported"; (2) on the EOS retail website: "Hypoallergenic. Dermatologist tested." "Don't share your eos. Keep clean and dry. Adverse reactions have been reported. In the event of an adverse reaction, seek medical attention if necessary. All ingredients in our products are safe and approved for use by the U.S. Food and Drug Administration and the Cosmetic Ingredient Review Board. Many of these same ingredients are found in other cosmetic and food products. For further information, please contact us at info@evolutionofsmooth.com."

48. Monetary Benefits to Settlement Class Members. In exchange for the releases and waivers of claims described below, EOS agrees to the following payment structure for Settlement Class Members who do not opt out and submit valid claims within sixty (60) days of the Settlement Administrator's e-mailing of the Notice of Settlement and Release of Claims and activation of the designated website hosting the same:

- a) A flat payment of \$75 for any medical expenses incurred on or before the date of the motion for preliminary approval of this Agreement, regardless of amount, for any Settlement Class Member who submits documented evidence from the time of

- the visit that (1) shows the Settlement Class Member visited a medical doctor to seek treatment for an Adverse Reaction on or before the date of the motion for preliminary approval of this Agreement; and (2) contains an indication the Adverse Reaction may have resulted from the Settlement Class Member's use of EOS lip balm. The Settlement Class Member claimant must also submit a statement, under penalty of perjury, describing the purpose of the medical visit and that at the time of the visit it related to a suspected Adverse Reaction to EOS lip balm, and a statement that the Settlement Class Member claimant believes EOS lip balm was the cause of the Adverse Reaction ("Claim with Verified Medical Expenses"); or
- b) An award of \$15, or a mail-in rebate for \$20 worth of EOS products that can be used on-line at evolutionofsmooth.com or in retail stores where EOS products are sold using the mail-in rebate, to Settlement Class Members who had a complaint appearing in EOS's complaint database on or before the date of the motion for preliminary approval of this Agreement about a claimed Adverse Reaction to EOS lip balm, without proof of any medical expenses ("Claim for a Verified Adverse Reaction Complaint"); or
 - c) For those Settlement Class Members claiming extraordinary, verifiable medical expenses and/or verifiable consequential damages as a direct result of the use of EOS lip balm occurring on or before the date of the motion for preliminary approval of this Agreement, a mechanism to invoke a streamlined arbitration option before a jointly-selected arbitrator with a capped award of \$4,000 ("Request for Streamlined Arbitration"). EOS will pay the cost of the arbitration, excluding any attorneys' fees, travel costs or other incidental costs incurred by any arbitration claimant.

49. Attorneys' Fees, Costs and Enhancement Payments to Plaintiffs. Plaintiffs may apply to the Court for an award of attorneys' fees, litigation costs and expenses. Additionally, each Named Plaintiff may apply to the Court for an award of \$5,000 as consideration for her service as a Named Plaintiff and as consideration for the general release she is giving EOS under Paragraph 56 of this Agreement. EOS agrees to pay \$1,850,000 to cover all attorneys' fees, litigation costs, expenses, and any enhancement payments to the Named Plaintiffs. EOS shall have no other payment obligations owed to Plaintiffs or their counsel for any amount,

individually or collectively, directly or indirectly, however denominated or for whatever purpose allegedly incurred.

50. Taxes. The Parties agree the payments to Settlement Class Members are not wages, and that each Settlement Class Member will be solely responsible for correctly characterizing this payment for tax purposes and for paying any taxes owed on this payment. The Settlement Administrator will issue to any Settlement Class Member receiving more than \$600 an IRS Form W-9 for this payment. The Settlement Administrator must receive a Settlement Class Member's Form W-9 before making any payment to that Settlement Class Member. The Parties also agree that the approved Enhancement Payment to Plaintiffs are not wages, and Plaintiffs will be solely responsible for correctly characterizing these payments for tax purposes and for paying any taxes owed on these payments. The Settlement Administrator will issue to Plaintiffs an IRS Form W-9 for these payments. EOS makes no representation as to the taxability of the amounts paid to Settlement Class Members. Settlement Class Members agree to pay federal or state taxes, if any, which are required by law to be paid by Settlement Class Members with respect to this Agreement.

51. Payments to Plaintiffs and Class Counsel. As soon as practicable after the Settlement Effective Date, but in no event later than five (5) business days after the Settlement Effective Date and receipt of IRS Form W-9s for Plaintiffs and Class Counsel, EOS will pay, or cause to be paid: (a) either by check or wire transfer, all Court-approved Attorneys' Fees and Costs to Class Counsel, and (b) by certified check made payable to Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Amanda Jones, Samantha Santiago, Marylou Gilsleider, Yokie Renee Ivy, and Larissa Gannuccelli, the entire amount of their Court-approved Enhancement Payments. Plaintiffs' Enhancement Payment checks will be mailed to the office of Class Counsel.

52. Payments to Settlement Class Members. Within fifteen (15) business days of receipt of a Claim with Verified Medical Expenses or a Claim for a Verified Adverse Reaction Complaint submitted within sixty (60) days of the Settlement Administrator's e-mailing of the Notice of Settlement and Release of Claims and activation of the designated website hosting the same, the Settlement Administrator will communicate to EOS's Counsel and Plaintiffs' Counsel a decision whether the claimant is entitled to the relief sought. Following the Settlement

Administrator's decision that a claimant is entitled to monetary relief, within forty-five (45) business days of the Settlement Effective Date, the Settlement Administrator will send via first-class U.S. mail a check for the amount of relief due. All checks will expire 60 days after they are issued and will state this on their face. If any such payment is returned by the U.S. Postal Service as undeliverable, or is uncashed or not negotiated before it expires, neither EOS nor Class Counsel shall have any further obligations to Plaintiffs or any Settlement Class Member, except that: (a) for any check returned by the U.S. Postal Service with a forwarding address before the check's expiration date, the Settlement Administrator will mail the check to the forwarding address; and (b) if, prior to the check cashing deadline, Plaintiffs or any Settlement Class Member contacts the Settlement Administrator to request a replacement check, the Settlement Administrator will comply with that request by cancelling the initial check and issuing a replacement check.

53. Request for Streamlined Arbitration. To invoke the streamlined arbitration option, a Settlement Class Member must submit a Request for Streamlined Arbitration along with an attestation, signed under penalty of perjury, regarding the claimant's medical expenses and/or consequential damages in an amount exceeding \$75 incurred as a direct result of the use of EOS lip balm on or before the date of the motion for preliminary approval of this Agreement. Any such request must be submitted to the Settlement Administrator within sixty (60) days of the Settlement Administrator's e-mailing of the Notice of Settlement and Release of Claims and activation of the designated website hosting the same. Within fifteen (15) business days of receipt of a Request for Streamlined Arbitration and supporting documentation, the Settlement Administrator will communicate to EOS's Counsel and Class Counsel a decision as to whether the Settlement Class Member has properly invoked the right to streamlined arbitration. Where a Settlement Class Member properly invokes this option, Class Counsel will contact the individual within fifteen (15) business days of the Settlement Effective Date. The arbitration claimant must institute arbitration proceedings within sixty (60) days of the date he or she is first contacted by Class Counsel. The maximum amount that can be awarded through arbitration is \$4,000. A Settlement Class Member may not subrogate his or her arbitration claim. The arbitrator shall not consider subrogated arbitration claims. Any Settlement Class Member who submitted a Claim with Verified Medical Expenses or a Claim for a Verified Adverse Reaction Complaint is not entitled to make an arbitration claim. Each arbitration claim shall be conducted through written

briefing before a single arbitrator mutually agreed to by both Parties, regardless of where the Settlement Class Member resides. If the Parties cannot agree to an arbitrator, the Parties will exchange a list of the names of three arbitrators, each Party will have the right to strike the name of one arbitrator from the opposing Parties' list, and the Settlement Administrator will randomly select an arbitrator from the remaining names on the Parties' lists. Once an arbitrator is selected, the Settlement Class Member will submit and serve an opening brief via email to the arbitrator and EOS, including all documentation, supporting his or her claim within fourteen (14) days after the arbitrator is selected and agrees to act as the arbitrator in this Action. EOS may submit and serve a brief in opposition within seven (7) days after the Settlement Class Member submits his or her opening brief. The Settlement Class Member may submit a reply within five (5) days after EOS submits and serves its opposition, if any. The arbitrator will issue an award within thirty (30) days after the Settlement Class Member submits and serves his or her reply brief. The scope of any arbitration claim shall be limited to: (1) whether the Settlement Class Member incurred any medical expenses; (2) the amount of such expenses, if any; (3) whether the Settlement Class Member suffered any economic or noneconomic damages; (4) the amount of such damages, if any; and (5) whether the Settlement Class Member's use of EOS lip balm was a substantial factor in causing the damages. The term "substantial factor" means that the damages would not have occurred but for use of the EOS lip balm. Neither the arbitration claimant nor EOS may seek discovery as part of the arbitration proceedings except that the arbitration claimant must make his or her medical records and/or evidence of economic and noneconomic damages available to EOS when he or she submits and serves his or her opening brief. Any Settlement Class Member who fails to submit a timely Request for Streamlined Arbitration shall be forever barred from receiving an arbitration award, but shall in all respects be bound by all of the terms of this Agreement and will be barred from bringing any action against any of the Released Parties concerning the Released Claims. EOS will pay the cost of arbitration, excluding any attorneys' fees, or other incidental costs incurred by any arbitration claimant. Class Counsel agrees to assist the Settlement Class Member in preparing the opening brief and reply brief, if necessary, free of cost. The arbitrator's decision shall be final and non-appealable as to EOS and the arbitration claimant. The arbitration claimant must institute arbitration proceedings within sixty (60) days of Class Counsel's first contact with the arbitration claimant. An arbitration claimant who does not institute arbitration proceedings within this time period

shall not be able to arbitrate and will not be entitled to receive any arbitration award, but will otherwise be bound together with all Settlement Class Members by all of the terms of this Agreement and will be barred from bringing any action against any of the Released Parties concerning the Released Claims. Any arbitration claimant awarded any money through arbitration must agree to make the representations and warranties related to Medicare described in Paragraph 89, agree to release any and all claims, demands, actions, damages, debts, liabilities, fees and expenses of any nature whatsoever, and all matters of every kind, whether known or unknown, fixed or contingent, arising out of the loss of any present or future right to Medicare benefits, and agree to waive the right to sue the EOS Released Parties or their insurers under Section 1395y(b)(3)(A) of the Medicare Secondary Payer Act, related to EOS lip balm.

III. ATTORNEYS' FEES AND COSTS AND SETTLEMENT ADMINISTRATION COSTS

54. Plaintiffs' Motion for Attorneys' Fees and Costs. Plaintiffs will seek an order from the Court awarding Plaintiffs' Counsel's attorneys' fees and costs. Upon payment of any approved Attorneys' Fees and Costs to Class Counsel, EOS shall have no other payment obligations to Class Counsel or Plaintiffs' Counsel relating to these Actions for any amount, individually or collectively, directly or indirectly, however denominated or for whatever purpose incurred. Plaintiffs will file the Motion for Attorneys' Fees and Costs and Class Representative Enhancement Payment no later than seven (7) days before the Response Deadline.

IV. RELEASE OF CLAIMS

55. Settlement Class Members' Releases and Waivers of Claims. On the Settlement Effective Date, in consideration for the Settlement benefits described in this Agreement, Plaintiffs and the other Settlement Class Members, on behalf of themselves, their heirs, guardians, assigns, executors, administrators, predecessors, and/or successors, will fully, finally and forever release, relinquish, acquit, and discharge the EOS Released Parties from – and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Settlement Class or on behalf of any other person or entity – any and all manner of claims, actions, causes of action, suits, rights, debts, sums of money, payments, obligations, reckonings, contracts, agreements, executions, promises, damages, liens, judgments and demands of whatever type, kind or nature whatsoever, both at law and in equity, whether past, present or future, mature or not yet mature, known or unknown, suspected or unsuspected, contingent or noncontingent,

whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that Plaintiffs or Settlement Class Members ever had, now have, may have, or hereafter can, shall or may ever have against the EOS Released Parties in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of, connected with, arising from, or in any way whatsoever relating to the purchase of EOS lip balm during the Class Period and the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions, including, but not limited to, communications, disclosures, nondisclosures, representations, statements, claims, omissions, messaging, design, testing, marketing, advertising, promotion, packaging, displays, brochures, studies, manufacture, distribution, operation, performance, functionality, notification, providing, offering, dissemination, replacement, sale and/or resale by the EOS Released Parties of the EOS lip balm; any claims for rescission, restitution or unjust enrichment for all damages of any kind relating to the purchase of EOS lip balm during the Class Period and the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions; violations of any state's deceptive, unlawful, and/or unfair business and/or trade practices, false, misleading or fraudulent advertising, consumer fraud and/or consumer protection statutes relating to the purchase of EOS lip balm during the Class Period and the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions; any violation of the Uniform Commercial Code, any breaches of express, implied, and/or other warranties, any similar federal, state or local statutes, codes, damages, costs, expenses, extra-contractual damages, compensatory damages, exemplary damages, special damages, penalties, punitive damages and/or damage multipliers, disgorgement, declaratory relief, expenses, interest, and/or attorney's fees and costs against the EOS Released Parties pertaining to or relating to the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions relating to the purchase of EOS lip balm during the Class Period, notwithstanding that Plaintiffs and the Settlement Class acknowledge that they may hereafter discover facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions and/or Release herein (the "Released Claims").

56. Named Plaintiffs' Release and Waiver of Claims. In addition to the Released Claims released by Named Plaintiffs and all Settlement Class Members as set forth herein, upon

the Settlement Effective Date, and except as to such rights or claims as may be created by this Agreement, Named Plaintiffs will be deemed to have released and forever discharged the EOS Released Parties, to the fullest extent permitted by law, of and from any and all grievances, charges, complaints, claims, penalties, damages, actions, causes of action, suits, demands, rights to recover under any liabilities, obligations, promises, agreements, controversies, debts, rights, or expenses incurred (including attorneys' fees and/or costs), of any nature whatsoever, known or unknown, suspected or unsuspected, asserted and unasserted, fixed or contingent, from the beginning of time to Execution Date ("Named Plaintiffs' Released Claims"). This includes, but is not limited to, the Named Plaintiffs' full release against the EOS Released Parties of any and all claims, demands, actions, damages, debts, liabilities, fees and expenses of any nature whatsoever, and all matters of every kind, whether known or unknown, fixed or contingent, arising out of the loss of any present or future right to Medicare benefits. Named Plaintiffs also waive the right to sue the EOS Released Parties or their insurers under Section 1395y(b)(3)(A) of the Medicare Secondary Payer Act. Named Plaintiffs expressly waive and relinquish all rights and benefits afforded under any law designed to prevent the waiver of unknown claims, such as Section 1542 of the Civil Code of the State of California, and do so understanding and acknowledging the significance and consequence of such specific code section. Section 1542 provides:

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

Thus, notwithstanding the provisions of Section 1542, or any other law designed to prevent the waiver of unknown claims, and for the purpose of implementing a full and complete release and discharge of all claims against all Released Parties, Named Plaintiffs expressly acknowledge that this Agreement is intended to include in its effect, without limitation, all of the Named Plaintiffs' Released Claims that the Named Plaintiffs do not know or suspect to exist in their favor against the Released Parties, or any of them, at the time of execution hereof, and that this Agreement extinguishes any such claims.

57. EOS's Release and Waiver of Certain Claims. Upon the Settlement Effective Date, EOS, on behalf of itself, and its heirs, executors, predecessors, successors and assigns, and the EOS Released Parties shall be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released, relinquished, and discharged the Named Plaintiffs, Settlement Class Members and Plaintiffs' Counsel from all claims which arise out of, concern, or relate to the institution, prosecution, settlement or dismissal of the Actions (the "Defendant Released Claims"), and shall be permanently enjoined from prosecuting the Defendant Released Claims against the Named Plaintiffs, Settlement Class Members and Plaintiffs' Counsel. EOS and the EOS Released Parties hereby represent and warrant that they are not aware of any claims that they have or may have against the Named Plaintiffs, Settlement Class Members and Plaintiffs' Counsel that are not released by virtue of this Paragraph 57. Nothing contained herein shall, however, bar EOS or any EOS Released Parties from bringing any action or claim to enforce the terms of this Agreement or the Final Approval Order.

58. Prior Releases and Waivers of Claims. EOS agrees that the Settlement Class Members, Plaintiffs, or Class Counsel's receipt of any funds as a result of this settlement or the assertion of any claims in this Action is not a violation of any prior promises, contracts, agreements, waivers, or covenants between EOS and the Settlement Class Members, Plaintiffs, or Class Counsel.

V. NO ADMISSION OF LIABILITY

59. No Admission. The Parties expressly acknowledge and agree that neither the fact of, nor any provision contained in this Agreement, nor the implementing documents or actions taken under them, nor EOS's willingness to enter into this Agreement, nor the content or fact of any negotiations, communications, and discussions associated with the settlement shall constitute or be construed as an admission by or against EOS or any of the EOS Released Parties of the validity of any claim or fact alleged in this Action, or any infirmity of any defenses asserted by EOS in this Action, nor of any other fault, wrongdoing, violation of law, or liability whatsoever.

VI. NOTICE, OPT-OUT, OBJECTIONS AND SETTLEMENT APPROVAL

60. Notice to Settlement Class Members. As soon as practicable but in no event more than sixty (60) days after the Court has issued an order preliminarily approving this Settlement the Settlement Administrator will (1) send via e-mail the Court-approved Notice of Settlement

and Release of Claims (substantially similar to the document attached as Exhibit 1) to each Settlement Class Member who appears in EOS's complaint database as having lodged a complaint relating to a purported Adverse Reaction on or before the date of the motion for preliminary approval of this Agreement and for whom an e-mail address is available through the database; and (2) post the Notice of Settlement and Release of Claims to a website created to host the notice, which will stay active until the Response Deadline, and disseminate notices pursuant to a mutually-agreed upon notice plan to raise Settlement Class Members' awareness of the website. For those Settlement Class Members who appear in EOS's complaint database as having lodged a complaint on or before the date of the motion for preliminary approval of this Agreement, the Notice shall be sent via e-mail to each person's last known e-mail address, to the extent such e-mail address is available through the database. The e-mail and/or notice will include an indication it is a "Court Approved Settlement Notice authorized by the U.S. District Court for the Central District of California" and may also include a bar code.

61. Toll-Free Telephone Line. The Settlement Administrator will establish and staff a toll-free telephone line at EOS's expense that Settlement Class Members can use to contact the Settlement Administrator with questions about the settlement or to change their addresses.

62. Right to Opt Out. All Settlement Class Members will have the right to be excluded from (or "opt out" of) the Settlement Class by submitting a Request for Exclusion. On or before the Response Deadline, each Settlement Class Member who elects to opt out of the settlement must send, by first-class U.S. mail or through the website that will host the Notice, which will stay active until the Response Deadline, a written notice containing (a) the name, address, and telephone number of the person requesting exclusion, (b) the name of one or all of these Actions, (c) a clear statement that the person is requesting exclusion from the Settlement Class and does not want to participate in the Settlement, and (d) the signature of the person requesting to be excluded. Any Settlement Class Member who does not properly and timely (as measured by the postmark on that individual's written notice or the time-stamp for their electronic submission) submit a Request for Exclusion shall remain a member of the Settlement Class and shall be bound by any Orders of the Court about the settlement or the Settlement Class. In no event shall Settlement Class Members who purport to opt-out of the settlement as a group, aggregate, collective, or class involving more than one Settlement Class Member be considered a

successful opt-out. Any Settlement Class Member who fails to timely and validly opt out of the Settlement Class under this Settlement Agreement shall be bound by the terms of this settlement.

63. Objections. Any Settlement Class Member who wishes to object to the settlement must file a timely written statement of objection with the Clerk of Court for the United States District Court for the Central District of California, and mail a copy of that objection with the requisite postmark to Class Counsel and Defense Counsel no later than the Response Deadline. The Notice of Objection must state: (a) the case name and number; (b) the basis for and an explanation of the objection; (c) the name, address, telephone number, and e-mail address of the Settlement Class Member making the objection; and (d) a statement of whether the Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel. In addition, any objection must be personally signed by the Settlement Class Member. Any Settlement Class Member who fails to make objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections, whether by appeal or otherwise, to the settlement. No Settlement Class Member shall be entitled to contest in any way the approval of the terms and conditions of this Agreement or the Court's Final Approval Order and Judgment except by filing and serving written objections in accordance with the provisions of this Settlement Agreement. Any Settlement Class Member who fails to object in the manner prescribed shall be deemed to have waived and shall be foreclosed forever from raising any objections to the settlement.

64. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised Request for Exclusion. If a Class Member responds to a Cure Letter by filing a defective Request for Exclusion, then the Settlement Administrator will have no further obligation to give notice of a need to cure. If the revised Request for Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

65. Preliminary Settlement Approval. As soon as practicable after the Parties execute this Agreement, Plaintiffs will present this Agreement to the Court for preliminary settlement approval and will request by unopposed motion that the Court enter an order preliminarily approving the settlement.

66. Final Fairness Hearing & Final Approval Order and Judgment. The Parties will petition the Court to hold a final fairness hearing and to enter an order finally approving the settlement and entering final judgment. The Parties agree to cooperate to work to schedule a fairness hearing so it shall be held as soon as practicable.

67. Settlement Not Approved. If the Court, the U.S. Court of Appeals, or the U.S. Supreme Court either disapproves or sets aside the Parties' settlement or this Agreement or any material part of either for any reason, or refuses to enter or give effect to the Final Approval Order and Judgment as defined below, or holds that any terms of the settlement or this Agreement or any of the attached exhibits should be modified in any material way, then the Parties may either jointly agree to accept the settlement or this Agreement as judicially modified or, if they do not agree, either Party may appeal that ruling to the extent possible. If an appeal is filed and if the settlement, this Agreement, or the Final Approval Order and Judgment or its equivalent in all material respects are not in effect after the termination of all proceedings arising out of that appeal, then unless the Parties jointly agree otherwise, this Agreement shall become null and void, the Parties will return to the status quo ante, and the Parties will jointly request that the Action proceed.

68. Settlement Modification. This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

69. Class Certification for Settlement Purposes Only. The Parties' settlement and this Agreement are contingent upon the Court's certifying a Rule 23 class for settlement purposes only based upon the class definition set forth in this Agreement, and if the Court does not so certify a Rule 23 class, this Agreement will have no effect and will be null and void. Class certification will in all instances be based on EOS's waiver of certification arguments, but only for purposes of settlement, that may exist to defeat class certification and shall not be construed as an admission by EOS as to the suitability of class treatment. Specifically, EOS denies that a Rule 23 class may be properly certified other than for purposes of this Settlement and reserves its

rights to continue to contest any class-certification motion, and nothing in this Agreement shall be construed as an admission by EOS or any of the EOS Released Parties that these Actions or any similar case is amenable to class certification. Furthermore, nothing in this Agreement shall prevent EOS from continuing to seek decertification of a certified class if the Court does not issue a Final Approval Order and Judgment or if that Order is not upheld on appeal. In addition, the Parties agree that if, for any reason, the settlement is not approved, the settlement class shall be decertified, and that certification or denial of certification shall not be used by any person, a Party, or the Court as a basis for certifying or denying certification of any class for litigation purposes.

VII. COMMUNICATIONS WITH CLASS MEMBERS

70. Communications with Settlement Class Members. The Parties agree that Plaintiffs' Counsel may communicate directly with Settlement Class Members regarding the Settlement Agreement and that the Settlement Administrator shall provide to Class Counsel and/or Defense Counsel the same materials that the Settlement Administrator has reviewed to determine an individual's eligibility for payment following the submission of a timely Claim with Verified Medical Expenses or a Claim for a Verified Adverse Reaction Complaint, or eligibility for arbitration following a Request for Streamlined Arbitration. The Parties also agree that EOS may communicate with its customers, including Settlement Class Members, in the ordinary course of business, and that EOS may respond to questions regarding the Settlement Agreement.

VIII. OTHER PROMISES

71. Agreement Not Evidence. Neither this Agreement nor any related documents, negotiations, statements, or court proceedings may be construed as, received as, used as, or deemed to be evidence or an admission or concession of any liability or wrongdoing whatsoever on the part of any person or entity, including but not limited to EOS, or as a waiver by EOS of any applicable defense to the merits of the claims asserted or to Plaintiffs' ability to maintain these Actions as a class action, except that this Agreement is admissible at hearings necessary to obtain and implement Court approval of the Parties' settlement or in hearings to enforce the terms of this Agreement or any related order of the Court.

72. No Public Statements. Except in connection with any proceeding or court filing, or as expressly provided in the notice plan described in Paragraph 60, above, or in a joint press

release or as otherwise expressly authorized in writing by Defendant or their counsel, Plaintiffs, Class Counsel, and Plaintiffs' Counsel will not initiate communications with any third party, including the media, regarding the Settlement without prior approval of Defendant. If Plaintiffs, Class Counsel or Plaintiffs' Counsel receive an inquiry from any third party, they should refer to the Notice of Settlement and Release of Claims, any relevant Complaint, or the Court file. Plaintiffs, Class Counsel and Plaintiffs' Counsel agree not to make disparaging public statements about Defendant, Defendant's employees, Defendant's products, or Defendant's counsel. Plaintiffs, Class Counsel and Plaintiffs' Counsel are free to respond in a truthful and non-disparaging manner to Settlement Class Member inquiries regarding the Actions and/or the Settlement Agreement. Class Counsel and Plaintiffs' Counsel are free to state they served as legal counsel in this lawsuit and discuss the terms of the Settlement Agreement on their firm websites, biographies, or similar marketing materials, and in connection with speaking engagements and future applications to serve as interim-class or lead counsel, or as otherwise required by law.

Defendant shall be permitted to make any statement regarding the Settlement or the Actions without prior approval from Plaintiffs, Class Counsel or Plaintiffs' Counsel, provided such statements do not disparage Class Counsel, Plaintiffs' Counsel or the value of the Settlement Agreement. The Parties further acknowledge Defendant has legitimate business interests that might prompt it to make additional affirmative statements, or respond to public statements, concerning EOS lip balm, the Actions, or the Settlement Agreement. Defendant agrees not to make disparaging public statements about Plaintiffs, Class Counsel or Plaintiffs' Counsel or about the strength or validity of the Actions in a general or specific manner.

73. No Waiver. A Party's failure to exercise any rights under this Agreement shall not constitute waiver of that Party's right to exercise those rights later, except as expressly provided in this Agreement. No delay by any Party in exercising any power or right under this Agreement will operate as a waiver of that power or right, nor will any single or partial exercise of any power or right under this Agreement preclude other or further exercises of that or any other power or right, except as expressly provided. The waiver by one Party of any breach of this Agreement will not be deemed to be a waiver of any prior or subsequent breach.

74. Authority. The signatories below represent they are fully authorized to enter into this Agreement and to bind the Parties and the Settlement Class Members.

75. Best Reasonable Efforts and Mutual Full Cooperation. The Parties agree to fully cooperate with one other to accomplish the terms of this Agreement, including but not limited to, executing such documents and taking such other actions as may be reasonably necessary to implement the terms of this settlement. The Parties to this Agreement will use their best reasonable efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary or ordered by the Court, or otherwise, to effectuate this Agreement and the terms set forth in it and to ensure that checks are mailed to Settlement Class Members in a timely fashion. As soon as practicable after execution of this Agreement, Class Counsel will, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the Court's final approval of the Parties' settlement.

76. Entire Agreement. This Agreement constitutes the full and entire agreement among the Parties with regard to the subject matter and supersedes all prior representations, agreements, promises, or warranties, written, oral, or otherwise. No Party shall be liable or bound to any other Party for any prior representation, agreement, promise, or warranty, oral or otherwise, except for those that are expressly set forth in or attached to this Agreement.

77. Modification. This Agreement may not be changed, altered, or modified except in a writing signed by the Parties. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

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

79. No Prior Assignments. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or that are rights released or discharged in this settlement except as set forth in this Agreement.

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

81. Construction of Captions and Interpretations. Paragraph titles, captions, or headings in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or any provision in it. Each term of this Agreement is contractual and is not merely a recital.

82. Notices. Unless otherwise specifically provided in this Agreement, should any notices, demands or other communications be required after entry of the Court's Final Approval Order and Judgment, they will be in writing and will be deemed to have been duly given as of the third business day after mailing by U.S. registered or certified mail, return receipt requested, addressed as follows:

If to Plaintiff:

Mark J. Geragos, Esq.
Benjamin J. Meiselas, Esq.
Geragos and Geragos APC
Historic Engine Co. No. 28
644 South Figueroa Street
Los Angeles, CA 90017
Telephone: (213) 625-3900
Facsimile: (213) 232-3255

If to EOS:

Shon Morgan, Esq.
Jack Baumann, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
865 S. Figueroa St., 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

Any communication made in connection with this Agreement shall be deemed to have been served when sent by overnight delivery or registered or certified first-class U.S. mail, postage prepaid, or when delivered in person at the addresses designated above.

83. Class Signatories. The Parties agree that because the Settlement Class Members are so numerous, it is impossible and impracticable to have each Settlement Class Member execute this Agreement. Therefore, the Notice will advise all Settlement Class Members of the binding nature of the release and will have the same force and effect as if this Agreement were executed by each Settlement Class Member.

84. Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart will be deemed an original, and, when taken together with other signed counterparts, will constitute one Agreement, which will be binding upon and effective as to all Parties, subject to the Court's approval.

85. California Law. All questions with respect to the construction of this Agreement and the rights and liabilities of the Parties will be governed by the laws of the State of California applicable to agreements to be wholly performed within the State of California.

86. Severability. Except as otherwise provided in this Agreement, if any covenant, condition, term or other provision in this Agreement is held to be invalid, void or illegal, the same will be deemed severed from the remainder of this Agreement and will in no way affect, impair or invalidate any other covenant, condition, term or other provision in this Agreement. If any covenant, condition, term or other provision in this Agreement is held to be invalid due to its scope or breadth, such covenant, condition, term or other provision will be deemed valid to the extent of the scope or breadth permitted by law.

87. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that Plaintiffs or Plaintiffs' Counsel may appeal any reduction in the Attorneys' Fees and Costs below the amounts requested from the Court, and either party may appeal any court order that materially alters the Settlement Agreement's terms.

88. Acknowledgement of Medicare's Interests. The Parties intend to comply with the Medicare Secondary Payer Act (42 U.S.C. § 1395y) and to protect Medicare's interests, if any, in this Settlement. The Parties understand that as used herein, the term "Medicare" includes Medicare Part A (Hospital Insurance), Medicare Part B (Medical Insurance), Medicare Part C (Medicare Advantage Organizations) and Medicare Part D (Prescription Drug Insurance). This Settlement does not attempt to shift to Medicare the responsibility of primary coverage or payment for any past or future medical treatment, service or item relating to the injuries or medical conditions alleged in the Actions.


89. Named Plaintiffs' Medicare Representations and Warranties. Named Plaintiffs hereby expressly state, warrant, represent, covenant and agree the following with respect to their eligibility for Medicare benefits: (a) Named Plaintiffs have not applied for Medicare benefits; (b) Named Plaintiffs are not, nor have Named Plaintiffs ever been, eligible for Medicare benefits; (c) Named Plaintiffs have never applied for Social Security Disability Benefits; (d) Named Plaintiffs have not been diagnosed with End-Stage Renal Disease (ESRD); (e) Named Plaintiffs have not been diagnosed with amyotrophic lateral sclerosis (ALS); and (f) Named Plaintiffs have provided their accurate Social Security Numbers and dates of birth to Defendant to confirm whether they are eligible for Medicare benefits. Named Plaintiffs further state, warrant, represent, covenant and agree that any and all liens that could be asserted against Defendant including, without limitation, any and all attorney liens, worker's compensation liens, doctor liens, governmental

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October 31, 2016



Rachael Cronin

Dated: October __, 2016

Nicole Emily Caggiano

Dated: October __, 2016

Ashundrae Everett

Dated: October __, 2016

Samantha Tipirneni

Dated: October __, 2016

Carolyn Bevins

Dated: October __, 2016

Melissa Menz

Dated: October __, 2016

Maria Del Carmen Ballenilla-Blondett

Dated: October __, 2016

Amanda Jones

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

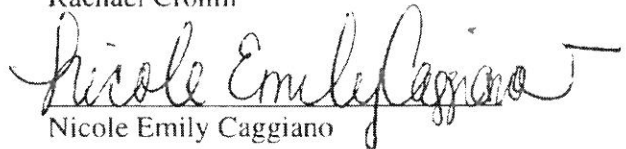
WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October __, 2016

Rachael Cronin

Dated: October 20, 2016



Nicole Emily Caggiano

Dated: October __, 2016

Ashundrae Everett

Dated: October __, 2016

Samantha Tipimene

Dated: October __, 2016

Carolyn Bevins

Dated: October __, 2016

Melissa Menz

Dated: October __, 2016

Maria Del Carmen Ballenilla-Blondett

Dated: October __, 2016

Amanda Jones

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October __, 2016

Rachael Cronin

Dated: October __, 2016

Nicole Emily Caggiano

Dated: October __, 2016



Ashundrae Everett

Dated: October __, 2016

Samantha Tipimani

Dated: October __, 2016

Carolyn Bevins

Dated: October __, 2016

Melissa Menz

Dated: October __, 2016

Maria Del Carmen Ballenilla-Blondett

Dated: October __, 2016

Amanda Jones

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October __, 2016

Rachael Cronin

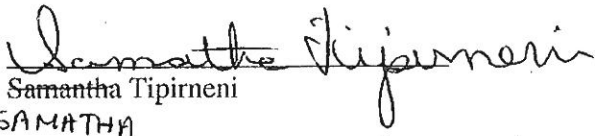
Dated: October __, 2016

Nicole Emily Caggiano

Dated: October __, 2016

Ashundrae Everett

Dated: October 27, 2016


Samantha Tipirneni
SAMATHA

Dated: October __, 2016

Carolyn Bevins

Dated: October __, 2016

Melissa Menz

Dated: October __, 2016

Maria Del Carmen Ballenilla-Blondett

Dated: October __, 2016

Amanda Jones

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October __, 2016

Rachael Cronin

Dated: October __, 2016

Nicole Emily Caggiano

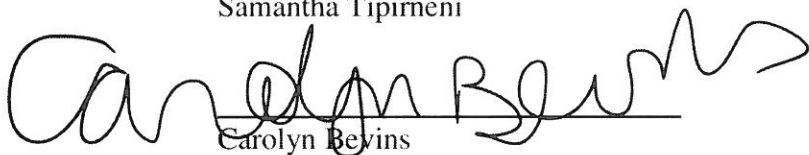
Dated: October __, 2016

Ashundrae Everett

Dated: October __, 2016

Samantha Tipimani

Dated: October __, 2016



Carolyn Bevins

Dated: October __, 2016

Melissa Menz

Dated: October __, 2016

Maria Del Carmen Ballenilla-Blondett

Dated: October __, 2016

Amanda Jones

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October __, 2016

Rachael Cronin

Dated: October __, 2016

Nicole Emily Caggiano

Dated: October __, 2016

Ashundrae Everett

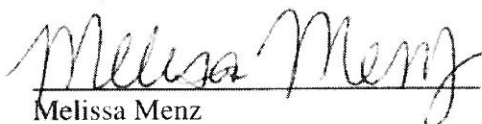
Dated: October __, 2016

Samantha Tipirneni

Dated: October __, 2016

Carolyn Begins

Dated: October 20, 2016



Melissa Menz

Dated: October __, 2016

Maria Del Carmen Ballenilla-Blondett

Dated: October __, 2016

Amanda Jones

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October __, 2016

Rachael Cronin

Dated: October __, 2016

Nicole Emily Caggiano

Dated: October __, 2016

Ashundrae Everett

Dated: October __, 2016

Samantha Tipirneni

Dated: October __, 2016

Carolyn Bevins

Dated: October __, 2016

Melissa Menz

Dated: October 21, 2016


Maria Del Carmen Ballenilla-Blondett

Dated: October __, 2016

Amanda Jones

liens, hospital liens, medical liens, litigation funding liens, litigation supporting liens, Medicaid liens, Medicare Liens, Non-Medicare Beneficiary liens, physician liens and public-aid liens, pertaining in any way to proceeds paid or promised to be paid in connection with this Agreement or to Named Plaintiffs' alleged injuries that were the subject of the Actions are satisfied and extinguished fully, finally and completely as of the Settlement Effective Date.

WHEREFORE, Plaintiffs, on their own behalf and on behalf of the Settlement Class and Defendant, by themselves or their duly authorized representatives, have executed this Agreement as of the dates set forth below.

Plaintiffs and Class Representatives

Dated: October __, 2016

Rachael Cronin

Dated: October __, 2016

Nicole Emily Caggiano

Dated: October __, 2016

Ashundrae Everett

Dated: October __, 2016

Samantha Tipinenti

Dated: October __, 2016

Carolyn Bevins

Dated: October __, 2016

Melissa Menz

Dated: October __, 2016

Mary Del Carmen Ballenilla-Blondett

Dated: October 23, 2016

Amanda Jones

Dated: October 21, 2016


Samantha Santiago

Dated: October __, 2016

Marilyn Gilsleider

Dated: October __, 2016

Yolie Renee Ivy

Dated: October __, 2016

Larissa Gannuccelli

Defendant:

Dated: October __, 2016

EOS Products, LLC

By _____
Its _____

Approval As To Form And Content By Counsel

On Behalf of Plaintiffs
and the Settlement Class Members:

Dated: October __, 2016

GERAGOS AND GERAGOS APC

By _____
Mark J. Geragos

On Behalf of Defendant
EOS Products, LLC

Dated: October __, 2016

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Dated: October __, 2016

Samantha Santiago

Dated: October __, 2016

Marilyn Gilsleider

Dated: October 23, 2016

Yolie Renee Ivy

Dated: October __, 2016

Larissa Gannuccelli

Defendant:

Dated: October __, 2016

EOS Products, LLC

By _____

Its _____

Approval As To Form And Content By Counsel

On Behalf of Plaintiffs
and the Settlement Class Members:

Dated: October __, 2016

GERAGOS AND GERAGOS APC

By _____

Mark J. Geragos

On Behalf of Defendant
EOS Products, LLC

Dated: October __, 2016

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Dated: October __, 2016

Samantha Santiago

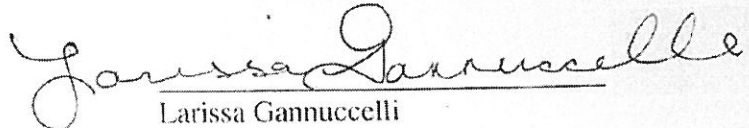
Dated: October __, 2016

Marylou Gilsleider

Dated: October __, 2016

Yokie Renee Ivy

Dated: October 24, 2016



Larissa Gannuccelli

Defendant:

Dated: October __, 2016

EOS Products, LLC

By _____
Its _____

Approval As To Form And Content By Counsel

On Behalf of Plaintiffs
and the Settlement Class Members:

Dated: October __, 2016

GERAGOS AND GERAGOS APC

By _____
Mark J. Geragos

On Behalf of Defendant
EOS Products, LLC

Dated: October __, 2016

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Dated: October __, 2016

Samantha Santiago

Dated: October 24, 2016

Marylou Gilsleider

Dated: October __, 2016

Yokie Renee Ivy

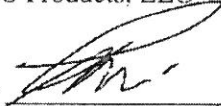
Dated: October __, 2016

Larissa Gannuccelli

Defendant:

Dated: October 20, 2016

EOS Products, LLC

By 
Its CEO

Approval As To Form And Content By Counsel

On Behalf of Plaintiffs
and the Settlement Class Members:

Dated: October __, 2016

GERAGOS AND GERAGOS APC

By _____
Mark J. Geragos

On Behalf of Defendant
EOS Products, LLC

Dated: October 24, 2016

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

Dated: October __, 2016

Samantha Santiago

Dated: October __, 2016

Marylou Gilsleider

Dated: October __, 2016

Yokie Renee Ivy

Dated: October __, 2016

Larissa Gannuccelli

Defendant:

Dated: October __, 2016

EOS Products, LLC

By _____
Its _____

Approval As To Form And Content By Counsel

On Behalf of Plaintiffs
and the Settlement Class Members:

Dated: October __, 2016

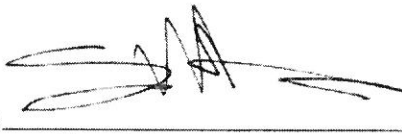
GERAGOS AND GERAGOS APC

By  _____
Mark J. Geragos

On Behalf of Defendant
EOS Products, LLC

Dated: October __, 2016

QUINN EMANUEL URQUHART &
SULLIVAN, LLP


By _____
Shon Morgan

APPENDIX A

Settlement Agreement Exhibit List

EXHIBIT 1.....	Notice of Settlement and Release of Claims
EXHIBIT 2.....	Arbitration Procedures
EXHIBIT 3.....	Claim Form
EXHIBIT 4.....	Request for Exclusion
EXHIBIT 5.....	Summary Notice
EXHIBIT 6.....	Declaration of Steven Weisbrot, Esq. on Adequacy of Notice Plan

EXHIBIT 1

Cronin v. EOS Products, LLC
United States District Court for the Central District of California
Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

YOU ARE NOT BEING SUED. THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY.

You have received this notice because you may have purchased EOS lip balm on or before [DATE OF THE MOTION FOR PRELIMINARY APPROVAL], and may be **entitled to participate in a proposed settlement** (“Settlement”) of this class action litigation (“Action”). On [DATE OF PRELIMINARY APPROVAL], the Honorable John A. Kronstadt granted preliminary approval of the Settlement and ordered the litigants to notify all Class Members of the Settlement. If you are a member of the Class that is a part of this Settlement, this Notice contains important information about your rights.

In the Action, Plaintiff alleges that EOS Products, LLC (“Defendant”) has violated various laws in connection with its marketing and sale of EOS lip balm, and that EOS lip balm caused adverse reactions for certain users, allegedly resulting in injuries. Defendant denies the allegations and denies that it violated the law in any manner. The parties have agreed to resolve the litigation by a Settlement.

The proposed Settlement provides benefits to the Settlement Class defined below.

1. **Settlement Class:** The Settlement Class consists of all persons residing in the United States who purchased EOS lip balm after January 1, 2009 and on or before [DATE OF PRELIMINARY APPROVAL], excluding Defendant, Defendant’s officers, directors, employees, and legal representatives, Defendant’s subsidiaries, those who purchased the products for purpose of resale, (Ret.) Judge Peter D. Lichtman, the immediate family of Judge Lichtman, Judge John A. Kronstadt, and the immediate family of Judge John A. Kronstadt.
2. If you are a Settlement Class Member, you may be entitled to receive benefits from this Settlement. Please read the following carefully to understand your rights.
3. Your rights and options – and the deadlines to exercise them – are explained in this Notice.

YOUR RIGHTS AND OPTIONS IN THIS SETTLEMENT

Submit a Claim with Verified Medical Expenses to Receive \$75	If you are a Settlement Class Member who incurred verifiable medical expenses on or before [DATE OF MOTION FOR PRELIMINARY APPROVAL] as a direct result of your use of EOS lip balm, if the Court approves the proposed Settlement, you can submit documented evidence from the time of the visit that (1) shows you visited a medical doctor to seek treatment for an Adverse Reaction on or before [DATE OF MOTION FOR PRELIMINARY APPROVAL]; and (2) contains an indication the Adverse Reaction may have resulted from your use of EOS lip balm. You must also submit a statement, under penalty of perjury, describing the purpose of the medical visit and that at the time of the visit it related to a suspected Adverse Reaction to EOS lip balm, and a statement that you believe EOS lip balm was the cause of the Adverse Reaction to receive a check for \$75. You also will be bound by all other terms of the Settlement including the Release. Your claim must be postmarked or time-stamped (if submitted electronically) on or before [RESPONSE DEADLINE].
Submit a Claim for	If you are a Settlement Class Member who appears in Defendant’s

Cronin v. EOS Products, LLC

United States District Court for the Central District of California

Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

a Verified Adverse Reaction Complaint to Receive \$15 or a \$20 mail-in rebate for EOS products	complaint database for a complaint submitted to Defendant about a claimed Adverse Reaction to EOS lip balm on or before [DATE OF MOTION FOR PRELIMINARY APPROVAL], if the Court approves the proposed settlement, you can submit a Claim for a Verified Adverse Reaction Complaint to receive a check for \$15, or \$20 worth of EOS products in the form of a mail-in rebate. The claim form is available at [WEBSITE] and can be submitted electronically via [WEBSITE] or mailed to the Settlement Administrator, whose address is listed below. You also will be bound by all other terms of the Settlement including the Release. Your claim must be postmarked or time-stamped (if submitted electronically) on or before [RESPONSE DEADLINE].
Submit a Request for Streamlined Arbitration	If you are a Settlement Class Member who claims extraordinary, verifiable medical expenses and/or verifiable consequential damages as a direct result of an Adverse Reaction directly resulting from the use of EOS lip balm, which expenses were allegedly incurred before [DATE OF MOTION FOR PRELIMINARY APPROVAL], in an amount exceeding \$75, if the Court approves the proposed settlement, you can submit a Request for Streamlined Arbitration with a signed attestation, under penalty of perjury, verifying you incurred such medical expenses and/or consequential damages. Settlement Class Members who submit a valid request are eligible to participate in a streamlined arbitration proceeding to seek an amount up to \$4,000 for verifiable medical expenses and/or verifiable consequential damages. Defendant will pay for the cost of arbitration, excluding any attorneys' fees or other incidental costs incurred by any arbitration claimant. Class Counsel from Geragos & Geragos, APC agrees to represent any arbitration claimant in preparing the opening brief and reply brief, if necessary, free of cost. The Request for Streamlined Arbitration is available at [WEBSITE] and can be submitted electronically via [WEBSITE] or mailed to the Settlement Administrator, whose address is listed below. The Arbitration Procedures available at [WEBSITE] will apply. You also will be bound by all other terms of the Settlement including the Release. Your request must be postmarked or time-stamped (if submitted electronically) on or before [RESPONSE DEADLINE].
Do Nothing	Many purchasers of EOS lip balm have used and continue to use the products without incident. Any Settlement Class Member who has not had an Adverse Reaction to these products can choose to do nothing. Defendant will implement changes to the disclosures on the packaging for these products and implement disclosures on its website. You also will be bound by all other terms of the Settlement including the Release.
Exclude Yourself	If you do not want to participate in the Settlement, you must submit a written Request for Exclusion on or before [RESPONSE DEADLINE]. If you do so, you will not be bound by the terms of the Settlement

Cronin v. EOS Products, LLC
United States District Court for the Central District of California
Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

	including the Release. Any person who is a Settlement Class Member and who submits a Request for Exclusion will be excluded from the Settlement Class. The Request for Exclusion is available at [WEBSITE] and can be submitted electronically via [WEBSITE] or mailed to the Settlement Administrator, whose address is listed below.
Object to the Settlement	You may object to the Settlement by following the objection procedures set forth in this Notice. A Settlement Class Member who objects to the Settlement remains a part of the Settlement.

1. What Is The Purpose of This Notice?

You either (1) received this notice because Defendant's records indicate that you purchased EOS lip balm and submitted a complaint to Defendant regarding an alleged Adverse Reaction, or (2) are seeing this notice on [WEBSITE]. This Notice applies to you if you reside in the United States and purchased EOS lip balm after January 1, 2009 and on or before [DATE OF PRELIMINARY APPROVAL]. This Notice explains the Action, the Settlement, your legal rights, the benefits that are available from the Settlement, and the procedures to submit a claim, object to or exclude yourself from the Settlement. It contains only a summary of the Settlement Agreement. A full copy of the Settlement Agreement may be reviewed at the office of the Clerk of the United States District Court for the Central District of California. See Section 16, below. You may also contact the Settlement Administrator.

2. What Is This Lawsuit About?

Plaintiff Rachael Cronin ("Plaintiff") filed the Action against Defendant on January 12, 2016 in the United States District Court for the Central District of California. Plaintiff filed the Action on behalf of herself and a class consisting of all persons residing in the United States who purchased EOS lip balm. Following Plaintiff's filing of the action, a number of other plaintiffs filed similar suits, which are included in this settlement. The plaintiffs in these cases allege that Defendant failed to disclose to consumers the potential adverse side effects of its lip balms for certain users and that certain users suffered injuries as a result of their use of the lip balms. The plaintiffs sought compensatory damages, punitive damages, restitution, disgorgement, declaratory and injunctive relief, and attorneys' fees and costs.

Defendant disputes the allegations and claims and denies all liability to Plaintiff and the Settlement Class. No court has found that Defendant violated the law in any way or that Plaintiff or Settlement Class Members could recover any amount in the Action. Although the Court has authorized notice to be given of the proposed Settlement, this Notice does not express the opinion of the Court on the merits of Plaintiff's claims or Defendant's defenses and affirmative defenses.

3. Why Is This Case A Class Action?

Class actions are lawsuits in which the claims and rights of many people are decided in a single proceeding. In a class action, one or more representative plaintiffs seek to assert claims on behalf of all members of a class or classes of similarly situated people. The Court is the guardian of the class's interests and supervises the prosecution of the class's claims by the attorneys appointed to represent the class to assure that the representation is adequate.

Cronin v. EOS Products, LLC
United States District Court for the Central District of California
Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

The Court has appointed Plaintiffs Rachael Cronin, Ashundrae Everett, Samantha Tipirneni, Nicole Emily Caggiano, Carolyn Bevins, Melissa Menz, Maria Del Carmen Ballenilla-Blondett, Samantha Santiago, Amanda Jones, Marylou Gilsleider, Yokie Renee Ivy and Larissa Gannuccelli to act as the Class Representatives for purposes of this Settlement. The Court has appointed Geragos & Geragos, APC as Class Counsel. (For more information, see Section 12 of this Notice.) Settlement Class Members are not responsible for the costs or fees of Class Counsel, which are subject to the Court's approval and award.

4. Why Is There A Settlement Of This Action?

The Court did not decide this Action in favor of Plaintiff or Defendant. Class Counsel investigated the facts and applicable law regarding Plaintiff's claims and Defendant's defenses and affirmative defenses. Following a mediation before a retired judge on January 22, 2016, the parties engaged in lengthy and arm's length negotiations to resolve this dispute and thereafter reached preliminary agreement. After evaluating additional information provided by Defendant and further negotiations, Plaintiffs and Defendant reached a final Settlement that was submitted to the Court for initial review and authorization to provide a notice to the Settlement Class.

The Class Representatives and Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class. Both sides want to settle now to avoid the uncertainties and expense of further litigation. Defendant is not admitting any liability or fault by entering into the Settlement.

5. How Do I Know If I Am Part Of The Settlement?

You are part of this settlement and a Settlement Class Member if you reside in the United States and purchased EOS lip balm after January 1, 2009 and on or before [DATE OF PRELIMINARY APPROVAL].

If you are not certain whether you are a Settlement Class Member, you may contact the Settlement Administrator to find out.

6. What Benefits Does The Settlement Provide?

If you are a Settlement Class Member, you may be eligible to (1) submit a Claim with Verified Medical Expenses for \$75, (2) submit a Claim for Verified Adverse Reaction Complaint for \$15 or a mail-in rebate for \$20 worth of EOS products, or (3) submit a Request for Streamlined Arbitration through which you may seek an amount up to \$4,000.

Additionally, as a result of this settlement, Defendant has agreed to implement additional disclosures for certain Smooth Sphere Lip Balm Packages sold in the United States, and additional disclosures on its website.

Defendant is also paying all the costs of notice and administration related to the settlement.

7. When Will Settlement Benefits Be Paid?

The Court will hold a Final Fairness and Approval Hearing on _____, 2016, at _____ a.m. in the United States District Court for the Central District of California, Western Division, located 255 East Temple Street, Los Angeles, CA 90012-3332, to decide whether to approve the Settlement. If the Settlement is approved, there may be an appeal. Payments to Participating Settlement Class Members will be made only if

06577-00003/8432406.1 **Questions? Contact the Settlement Administrator toll free at 1-***-***-******

Cronin v. EOS Products, LLC
United States District Court for the Central District of California
Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

the Settlement is finally approved and not subject to any further appeal. This may take some time. Please be patient.

8. What Will I Give Up To Get A Settlement Benefit?

Upon the Court's approval of the Settlement, Participating Settlement Class Members (that is, those who do not exclude themselves from the Settlement) on behalf of themselves, their heirs, guardians, assigns, executors, administrators, predecessors, and/or successors, will fully, finally and forever release, relinquish, acquit, and discharge the EOS Released Parties from – and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Settlement Class or on behalf of any other person or entity – any and all manner of claims, actions, causes of action, suits, rights, debts, sums of money, payments, obligations, reckonings, contracts, agreements, executions, promises, damages, liens, judgments and demands of whatever type, kind or nature whatsoever, both at law and in equity, whether past, present or future, mature or not yet mature, known or unknown, suspected or unsuspected, contingent or noncontingent, whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that Plaintiffs or Settlement Class Members ever had, now have, may have, or hereafter can, shall or may ever have against the EOS Released Parties in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of, connected with, arising from, or in any way whatsoever relating to the purchase of EOS lip balm during the class period and the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions, including, but not limited to, communications, disclosures, nondisclosures, representations, statements, claims, omissions, messaging, design, testing, marketing, advertising, promotion, packaging, displays, brochures, studies, manufacture, distribution, operation, performance, functionality, notification, providing, offering, dissemination, replacement, sale and/or resale by the EOS Released Parties of the EOS lip balm; any claims for rescission, restitution or unjust enrichment for all damages of any kind relating to the purchase of EOS lip balm during the Class Period and the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions; violations of any state's deceptive, unlawful, and/or unfair business and/or trade practices, false, misleading or fraudulent advertising, consumer fraud and/or consumer protection statutes relating to the purchase of EOS lip balm during the Class Period and the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions; any violation of the Uniform Commercial Code, any breaches of express, implied, and/or other warranties, any similar federal, state or local statutes, codes, damages, costs, expenses, extra-contractual damages, compensatory damages, exemplary damages, special damages, penalties, punitive damages and/or damage multipliers, disgorgement, declaratory relief, expenses, interest, and/or attorney's fees and costs against the EOS Released Parties pertaining to or relating to the claims alleged or that could have been alleged in the complaints (amended or otherwise) in the Actions relating to the purchase of EOS lip balm during the Class Period, notwithstanding that Plaintiffs and the Settlement Class acknowledge that they may hereafter discover facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Actions and/or Release herein.

The full terms of the release and the covenant not to sue are contained in the Settlement Agreement. (See Section 16 of this Notice for more information.)

Cronin v. EOS Products, LLC
United States District Court for the Central District of California
Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

9. How Do I Get Out Of The Settlement?

If you choose to be excluded from the Settlement, you will not be eligible to submit a claim for relief and will not be bound by any judgment or other final disposition of the Action. You will retain any claims against Defendant that you might have arising from your purchase of EOS lip balm.

To request exclusion from the Settlement, you must submit a Request for Exclusion either (1) electronically via **[WEBSITE]** time-stamped on or before **[RESPONSE DEADLINE]** or (2) by first class mail, postmarked on or before **[RESPONSE DEADLINE]**, addressed to:

Cronin v. EOS Products, LLC's Settlement Administrator
c/o **[REDACTED]**
[REDACTED] PO Box [Insert Number]
[REDACTED] [Insert City, State, Zip Code]

The Request for Exclusion must contain (1) your name, address, and telephone number, (2) the name of this Action, (3) a clear statement that you are requesting exclusion from the Settlement Class and do not want to participate in the Settlement, and (4) your signature.

10. If I Remain In The Settlement, May I Sue Defendant Later For The Claims That Will Be Released?

No. If you remain in the Settlement, you give up your right to sue Defendant for the claims that this Settlement releases.

11. If I Exclude Myself From The Settlement, May I Submit a Claim with Verified Medical Expenses, Claim for Verified Adverse Reaction Complaint, or Request for Streamlined Arbitration?

No. If you submit a valid and timely Request for Exclusion to the Settlement Administrator, you will not be entitled to submit a Claim with Verified Medical Expenses, Claim for Verified Adverse Reaction Complaint, or Request for Streamlined Arbitration. You will not be part of the Settlement.

12. Do I Have A Lawyer Representing Me In This Case?

Yes. The Court has appointed Geragos & Geragos, APC as Class Counsel to represent the interests of the Settlement Class Members. The specific attorneys and their address, telephone number and facsimile number are:

Mark Geragos, Esq.
Ben Meiselas, Esq.
Geragos & Geragos, APC
Historic Engine Co. No. 28
644 S. Figueroa Street
Los Angeles, CA 90017
Telephone: (213) 625-3900
info@**[WEBSITE]**

You may hire your own attorney to advise you, but if you do, you will be responsible for paying that attorney's fees.

06577-00003/8432406.1 **Questions? Contact the Settlement Administrator toll free at 1-***-***-******

Cronin v. EOS Products, LLC
United States District Court for the Central District of California
Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

13. How Will Class Counsel Be Paid?

Class Counsel, who is litigating this case on a pure contingency basis, intends to apply to the Court for an award of attorneys' fees and costs in a total amount not to exceed \$1,850,000. From this amount, Class Counsel will seek an enhancement payment for each of the Class Representatives in an amount not to exceed \$5000.

14. How Can I Object To The Settlement?

You may object to any aspect of the proposed Settlement by filing and serving a written objection. Your written objection must include: (1) a statement under penalty of perjury that you reside in the United States and purchased EOS lip balm after January 1, 2009 and on or before [DATE OF PRELIMINARY APPROVAL]; (2) a statement of the basis for each of your objections; (3) a detailed description of the facts and legal authorities underlying each of your objections; (4) a list of any witnesses that you may rely on to support your objections; and (5) a list of any documents that you may rely upon to support your objections. If you intend to appear at the Final Fairness and Approval Hearing, which will be held on [Insert Hearing Date], at ____ a.m. in Courtroom 750 of the United States District Court for the Central District of California, Western Division, located at 255 East Temple Street, Los Angeles, CA 90012-3332, you must notify the Court in writing of that intention when you file and serve your objection.

You must file any objection with the Clerk of the Court at the address below by [RESPONSE DEADLINE]:

United States District Court for the Central District of California
255 East Temple Street, Room 750
Los Angeles, CA 90012-3332
File: *Cronin v. EOS Products, LLC*, Case No. 2:16-cv-00235-JAK-JEM.

You must also send your objection by first class United States mail, postmarked on or before [RESPONSE DEADLINE] to Class Counsel and Defendant's Attorneys. These documents should be mailed to Class Counsel at:

Ben Meiselas, Esq.
Geragos & Geragos, APC
Historic Engine Co. No. 28
644 S. Figueroa Street
Los Angeles, CA 90017

and to Defendant's Attorneys at:

Jack Baumann
Quinn Emanuel Urquhart & Sullivan, LLP
865 S. Figueroa St., 10th Floor
Los Angeles, California 90017
Los Angeles, CA 90067

Any Settlement Class Member who does not file and serve an objection in the time and manner described above will not be permitted to raise that objection later.

Cronin v. EOS Products, LLC

United States District Court for the Central District of California

Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

15. Where And When Will The Court Decide Whether To Approve The Settlement?

There will be a Final Fairness and Approval Hearing to consider approval of the proposed Settlement at [Insert Hearing Date] at ____ a.m., in Courtroom 750 of the United States District Court for the Central District of California, Western Division, located at 255 East Temple Street, Los Angeles, CA 90012-3332. The Hearing may be postponed to a later date without further notice. The purpose of the Hearing is to determine whether the terms of the proposed Settlement are fair, reasonable, and adequate and in the best interests of the Settlement Class and whether an order and final judgment should be entered approving the proposed Settlement. The Court also will consider Class Counsel's application for an award of attorneys' fees and expenses and for enhancement payments for the Class Representative and the Settlement Administrator's application to approve its fees and expenses.

You do not need to attend the Final Fairness and Approval Hearing. Class Counsel will represent you at the Hearing, unless you choose to enter an appearance in person or through your own attorney. The appearance of your own attorney is not necessary to participate in the Hearing.

If you filed and served a valid, timely objection, you do not have to come to court to speak about the objection. The Court will consider it.

If you want to speak at the Final Fairness and Approval Hearing, you must ask the Court for permission to do so by sending with your objection a notice of intention to appear at the Hearing as described in Section 14, above. If you have excluded yourself from the Settlement, you may not speak at the Final Fairness and Approval Hearing.

16. How Do I Get More Information About The Settlement?

This Notice is only a summary of the proposed Settlement.

For a more detailed statement of the matters involved in the Action or the proposed Settlement, including, among other documents, the Settlement Agreement, you may refer to the papers filed in this Action during regular business hours at the office of the Clerk of the Court, United States District Court for the Central District of California, Western Division, located at 255 East Temple Street, Los Angeles, CA 90012-3332, Case File: *Cronin v. EOS Products, LLC*, Case No. 2:16-cv-00235-JAK-JEM. You also may contact the Settlement Administrator.

PLEASE DO NOT CALL OR CONTACT THE COURT FOR INFORMATION ABOUT THE SETTLEMENT.

EXHIBIT 2

ARBITRATION PROCEDURES

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION – LOS ANGELES, CASE NO. 2:16-CV-00235-JAK-JEM

RACHAEL CRONIN, on behalf of herself and all others similarly situated, Plaintiff,
vs.
EOS PRODUCTS LLC, Defendant.

As provided in the Settlement Agreement, Settlement Class members claiming extraordinary, verifiable medical expenses and/or consequential damages as a direct result of an Adverse Reaction directly resulting from the use of EOS lip balm, which expenses were incurred on or before [DATE OF THE MOTION FOR PRELIMINARY APPROVAL], may opt to invoke a streamlined arbitration option.

You are receiving these Arbitration Procedures because you submitted a valid Request for Streamlined Arbitration to the Settlement Administrator. **You must institute arbitration proceedings, as explained in procedure 2 below, within 60 days of the date you are first contacted by counsel from Geragos & Geragos, APC (“Class Counsel”).**

General Requirements

- These procedures govern the arbitration between you ("Arbitration Claimant") and EOS Products, LLC ("Defendant") as provided by the Settlement.
- The decisions of the arbitrator (the "Arbitration Award") shall be final and non-appealable as to the Arbitration Claimant and Defendant.
- Each arbitration claim shall be conducted through written briefing before a single arbitrator mutually agreed to by both Parties.
- The arbitrator will be selected by the Parties from the list of neutrals available through JAMS. If the Parties cannot agree to an arbitrator, they will exchange a list of the names of three arbitrators from the list of neutrals available through JAMS, each Party will have the right to strike the name of one arbitrator from the opposing Party's list, and the Settlement Administrator will randomly select an arbitrator from the remaining names on the Parties' lists.
- The maximum amount that can be awarded through arbitration is \$4,000.
- The scope of any Arbitration Claims shall be limited to: (1) whether the Arbitration Claimant incurred any medical expenses on or before [DATE OF THE MOTION FOR PRELIMINARY APPROVAL]; (2) the amount of such expenses, if any; (3) whether the Arbitration Claimant suffered any economic or noneconomic damages before [DATE OF THE MOTION FOR PRELIMINARY APPROVAL]; (4) the amount of such damages, if any; and (5) whether the Settlement Class Member's use of EOS lip balm was a substantial factor in causing the damages. The term "substantial factor" means that the damages would not have occurred but for use of the EOS lip balm.

- An Arbitration Claimant and/or Defendant may be represented by counsel in preparing the arbitration briefs described below. However, an Arbitration Claimant and Defendant shall be responsible for their own attorney's fees in relation to the arbitration proceedings. Class Counsel agrees to assist the Arbitration Claimant in preparing the opening brief and reply brief, if necessary, free of cost.
- Neither the Arbitration Claimant nor Defendant may seek discovery as part of the arbitration proceedings except that the Arbitration Claimant must make his or her medical records and/or evidence of economic and noneconomic damages available to EOS when he or she submits and serves his or her opening brief.
- The arbitrator shall have sole authority to determine whether an Arbitration Claimant has made his or her medical records available to Defendant in satisfaction of this requirement. If the arbitrator determines that an Arbitration Claimant has not made his or her medical records available to Defendant in satisfaction of this requirement, the arbitrator shall have sole authority to determine the appropriate sanction, up to and including dismissal of the Arbitration Claimant's claim.
- Defendant will pay the cost of the arbitration, excluding any attorneys' fees or other incidental costs incurred by any Arbitration Claimant.
- A Settlement Class Member may not subrogate his or her arbitration claim. The arbitrator shall not consider subrogated arbitration claims.
- An Arbitration Claimant who does not institute arbitration proceedings within sixty (60) days of the date he or she is first contacted by Class Counsel shall not be able to arbitrate and will not be entitled to receive any arbitration award, but will otherwise be bound by all of the terms of the Settlement Agreement.
- Any Arbitration Claimant awarded any money through arbitration must agree to make the representations and warranties related to Medicare described in Paragraph 89 of the Settlement Agreement, agree to release any and all claims, demands, actions, damages, debts, liabilities, fees and expenses of any nature whatsoever, and all matters of every kind, whether known or unknown, fixed or contingent, arising out of the loss of any present or future right to Medicare benefits, and agree to waive the right to sue the EOS Released Parties or their insurers under Section 1395y(b)(3)(A) of the Medicare Secondary Payer Act.
- All references to "day" mean a calendar day unless specified otherwise. If the last day of a period is a Saturday, Sunday, or federal holiday the next business day shall be considered the last day of the period.

Procedures

1. Where a Settlement Class Member has properly invoked the right to streamlined arbitration, within fifteen (15) days of the Settlement Effective Date, Class Counsel will contact the Settlement Class Member and inform the Settlement Class Member of the decision.

2. No later than sixty (60) days after the Arbitration Claimant is first contacted by Class Counsel, the Arbitration Claimant must institute arbitration proceedings by mutually selecting an arbitrator with Defendant from the list of neutrals available through JAMS. If the Parties cannot agree to an arbitrator, they will exchange a list of the names of three arbitrators from the list of neutrals available through JAMS, each Party will have the right to strike the name of one arbitrator from the opposing Party's list, and the Settlement Administrator will randomly select an arbitrator from the remaining names on the Parties' lists.
3. No later than fourteen (14) days after the date an arbitrator is selected and has agreed to act as the arbitrator in the action, the Arbitration Claimant will submit an opening brief, including all documentation supporting his or her claim, to the arbitrator and serve a copy on Defendant at the address provided below. Within seven (7) days of receipt of the opening brief and supporting documentation, Defendant will submit its opposition brief to the arbitrator and serve a copy on the Arbitration Claimant and/or Class Counsel.
 - 3.1 The opening and opposition arbitration briefs shall conform to the format and length requirements of procedure no. 4.
 - 3.2 The Arbitration Claimant must include his or her medical records and/or evidence of economic and noneconomic damages with his or her opening brief.
 - 3.3 Defendant may attach supporting documentation to its opposition brief.
 - 3.4 The Arbitration Claimant's opening brief must specify the relief that the Arbitration Claimant requests.
4. All opening and opposition arbitration briefs shall conform to the following formatting and length requirements.
 - 4.1 All briefs shall be no longer than 20 pages.
 - 4.2 All briefs shall be on standard size 8 1/2" x 11" paper.
 - 4.3 All briefs shall be plainly typed or written on one side with 1" margins on each side, not less than one and one-half spaces between lines except for quoted material, and properly paginated at the bottom of each page.
 - 4.4 All briefs shall include the name of the Arbitration Claimant and Defendant at the top of the first page.
 - 4.5 All briefs should identify the party on whose behalf it is submitted and the title of the brief on the first page.
 - 4.6 All briefs shall include a signature block with the name, address, telephone number, facsimile telephone number, and e-mail address of all counsel for the party. If a party is submitting the brief without the assistance of counsel, the party shall sign and provide his or her own information.
5. The Arbitration Claimant may serve a reply brief no later than five (5) days after Defendant serves its opposition.
 - 5.1 A reply brief shall conform to the format and length requirements of procedure no. 6.

- 5.2 No new evidence shall be attached or included with a reply brief.
 - 5.3 To the extent any supporting documentation is included with the reply brief, such documentation shall be limited to addressing points Defendant has raised in its opposition.
 - 5.4 A reply brief will be limited to addressing the arguments raised in the Arbitration Claimant's opening brief and/or the Defendant's opposition brief, and shall not raise any new issues or evidence not addressed in the opening or opposition briefs.
6. The Arbitration Claimant's reply brief shall conform to the following formatting and length requirements.
- 6.1 A reply brief shall be no longer than 10 pages.
 - 6.2 A reply brief shall be on standard size 8 1/2" x 11" paper.
 - 6.3 A reply brief shall be plainly typed or written on one side with 1" margins on each side, not less than one and one-half spaces between lines except for quoted material, and properly paginated at the bottom of each page.
 - 6.4 A reply brief shall include the name of the Arbitration Claimant and Defendant at the top of the first page.
 - 6.5 A reply brief shall identify the party on whose behalf it is submitted and the title of the brief on the first page.
 - 6.6 A reply brief shall include a signature block with the name, address, telephone number, facsimile telephone number, and e-mail address of all counsel for the party. If a party is submitting the brief without the assistance of counsel, the party shall sign and provide his or her own information.
7. No additional briefing will be accepted following the receipt of the Arbitration Claimant's reply brief.
8. The arbitrator shall render a written decision (the "Arbitration Award") within 30 days of receipt of the Arbitration Claimant's reply brief or, if no reply brief is filed, within 42 days of receipt of the Arbitration Claimant's opening brief. The Arbitration Award, if any, will not exceed \$4,000.
- 8.1 The arbitrator shall serve copies of the Arbitration Award on the Arbitration Claimant and Defendant.
 - 8.2 If the Arbitration Award makes a monetary award in favor of an Arbitration Claimant, Defendant shall pay the amount of the monetary award to the Arbitration Claimant within 20 business days of being served with the Arbitration Award.

Addresses

Settlement Administrator

TBA

Defendant

Shon Morgan
Quinn Emanuel Urquhart & Sullivan,
LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

EXHIBIT 3

CLAIM FORM – Five Steps to Make a Claim
Cronin v. EOS Products, LLC, Case No. 2:16-cv-00235-JAK-JEM (C.D. Cal.)

THIS CLAIM FORM MUST BE SUBMITTED BY [RESPONSE DEADLINE].

[1] Please enter your information in the spaces below:

First Name:																					
Last Name:																					
Address 1:																					
Address 2:																					
City:																			State:		
Zip Code:																					

[2] (Optional) - Please provide your email address:

Email:																				
--------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

If you choose to provide your email address, EOS will contact you about the settlement by email. If not, EOS will contact you about the settlement at the postal address above.

[3] Indicate the Claim You Are Submitting (Choose One), and, Where Required, Enclose The Necessary Documents

☐ I AM SUBMITTING A CLAIM WITH VERIFIED MEDICAL EXPENSES TO RECEIVE \$75.

I declare, under penalty of perjury under the laws of the United States of America:

- I visited a medical doctor on the following date: _____.
- I visited the medical doctor to seek treatment for rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration related to my use of EOS lip balm.
- I believe EOS lip balm was the cause of my rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration for which I sought medical treatment.

Signature: _____ Date: _____

Documentation: Enclose documented evidence from the time of your medical visit that (1) shows you visited a medical doctor to seek treatment for rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration on or before [DATE OF MOTION FOR PRELIMINARY APPROVAL]; and (2) contains an indication the rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration may have resulted from your use of EOS lip balm.

☐ I AM SUBMITTING A CLAIM FOR A VERIFIED ADVERSE REACTION COMPLAINT TO RECEIVE \$15 OR A MAIL-IN REBATE FOR \$20 WORTH OF EOS PRODUCTS

If you submitted a complaint to EOS about rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration related to your use of EOS lip balm on or before [DATE OF MOTION FOR PRELIMINARY APPROVAL] and appear in EOS's complaint database, you can choose one of the following.

I choose to receive (choose one):

- ☐ A check for \$15.
- ☐ A mail-in rebate redeemable for \$20 worth of EOS products. The rebate form will be sent to you separately.

☐ I AM SUBMITTING A REQUEST FOR STREAMLINED ARBITRATION

I declare under penalty of perjury under the laws of the United States of America:

- As a direct result of my use of EOS lip balm on or before [DATE OF MOTION FOR PRELIMINARY APPROVAL] I had rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration.
- I incurred verifiable medical expenses and/or consequential damages **in an amount exceeding \$75** as a direct result of the rashes, dryness, bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection, and/or discoloration directly resulting from my use of EOS lip balm on or before [DATE OF MOTION FOR PRELIMINARY APPROVAL].

Signature: _____ Date: _____

Next Steps: If you submit a valid request for streamlined arbitration, you will be contacted by Class Counsel. The arbitration procedures available at [WEBSITE] will apply. Your claim will be decided by an arbitrator based on written briefing and evidence submitted by you and EOS. The maximum amount that can be awarded through arbitration is \$4,000.

[4] Sign & Date

The information on this form is true and correct to the best of my knowledge. I agree to participate in the settlement, including the release.

Signature: _____ Date: _____

[5] Submit: Email the completed form and the documentation to [email address] or mail it to [postal mail address]

EXHIBIT 4

REQUEST FOR EXCLUSION

Cronin v. EOS Products, LLC, Case No. 2:16-cv-00235-JAK-JEM (C.D. Cal.)

THIS FORM MUST BE SUBMITTED BY [RESPONSE DEADLINE].

[1] Please enter your information in the spaces below:

First Name:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Last Name:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Address 1:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Address 2:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
City:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	State:	<input type="text"/>	<input type="text"/>
Zip Code:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

[2] (Optional) - Please provide your email address:

Email:	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
--------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

[3] If you do not want to participate in the Settlement, you must submit this Request for Exclusion on or before [RESPONSE DEADLINE]. If you do so, you will not be bound by the terms of the Settlement including the Release.

☐ I REQUEST TO BE EXCLUDED FROM THE SETTLEMENT.

Signature: _____ Date: _____

[4] Submit: Email this completed form to [email address] or mail it to [postal mail address]

EXHIBIT 5

Cronin v. EOS Products, LLC

United States District Court for the Central District of California

Case No. 2:16-cv-00235-JAK-JEM

NOTICE OF CLASS ACTION SETTLEMENT

YOU ARE NOT BEING SUED. THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY.

Plaintiffs filed a class action lawsuit regarding EOS lip balm products, alleging these products caused adverse reactions for certain users. EOS Products, LLC (“Defendant”) denies the allegations and denies it violated the law in any manner. The parties have agreed to avoid the costs and risks of litigation through a settlement.

You are a member of the Settlement Class if you reside in the United States and purchased EOS lip balm after January 1, 2009 and on or before [DATE OF PRELIMINARY APPROVAL]. Certain Settlement Class members may be entitled to receive monetary relief upon submission of a valid claim, or entitled to initiate a streamlined arbitration procedure.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the Settlement Agreement available at [WEBSITE] or by visiting the office of the Clerk of the Court, United States District Court for the Central District of California, Western Division, located at 255 East Temple Street, Los Angeles, CA 90012-3332, Case File: *Cronin v. EOS Products, LLC*, Case No. 2:16-cv-00235-JAK-JEM, Monday through Friday, between 9:00 a.m. and 4:00 p.m., excluding Court holidays.

PLEASE DO NOT CALL OR CONTACT THE COURT FOR INFORMATION ABOUT THE SETTLEMENT.

EXHIBIT 6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

RACHAEL CRONIN, On Behalf of
Herself and All Others Similarly
Situating,

Plaintiff,

v.

EOS PRODUCTS, LLC, a New York
Limited Liability Company, and DOES
1-10;

Defendants.

Case No.: 2-16-cv-00235-JAK-JEM

**DECLARATION OF STEVEN
WEISBROT, ESQ. ON
ADEQUACY OF NOTICE PLAN**

Judge: Hon. John A. Kronstadt

Courtroom: 750

DECLARATION OF STEVEN WEISBROT, ESQ.

STEVEN WEISBROT, ESQ., of full age, hereby declares under penalty of perjury as follows:

1. I am Executive Vice President of Notice & Strategy at the class action notice and Settlement Administration firm, Angeion Group, LLC (“Angeion”). I am fully familiar with the facts contained herein based upon my personal knowledge.

2. I have been responsible in whole or in part for the design and implementation of more than one hundred class action administration plans and have taught numerous Accredited Continuing Legal Education courses on the Ethics of Legal Notification in Class Action Settlements, using Digital Media in Class Action Notice Programs, as well as Class Action Claims Administration, generally. Additionally, I am the author of frequent articles on Class Action Notice, Digital Media, Class Action Claims Administration and Notice Design in publications such as *Bloomberg*, *BNA Class Action Litigation Report*, *Law360*, the ABA Class Action and Derivative Section Newsletter and private law firm publications.

3. Prior to joining Angeion’s executive team, I was employed as Director of Class Action services at Kurtzman Carson Consultants (“KCC”), a nationally recognized class action notice and settlement administrator. Prior to my notice and claims administration experience, I was employed in private law practice and I am currently an attorney in good standing in the State of New Jersey and the Commonwealth of Pennsylvania.

4. My work comprises a wide range of class actions that includes product defect, false advertising, employment, antitrust, tobacco, banking, insurance, and bankruptcy cases. Likewise, I have been instrumental in infusing digital and social media, as well as big data and advanced targeting into class action notice programs. For example, the Honorable Sarah Vance stated in her December 31, 2014 Order in *In Re: Pool Products Distribution Market Antitrust Litigation*, MDL No. 2328:

To make up for the lack of individual notice to the remainder of the class, the parties propose a print and web-based plan for publicizing notice. The Court welcomes the inclusion of web-based forms of communication in the plan....The Court finds that the proposed method of notice satisfies the requirements of Rule 23(c)(2)(B) and due process.

1 The direct emailing of notice to those potential class members for whom Hayward
2 and Zodiac have a valid email address, along with publication of notice in print
3 and on the web, is reasonably calculated to apprise class members of the
4 settlement. Moreover, the plan to combine notice for the Zodiac and Hayward
5 settlements should streamline the process and avoid confusion that might
6 otherwise be caused by a proliferation of notices for different settlements.
7 Therefore, the Court approves the proposed notice forms and the plan of notice.

8 *In re: Pool Prods. Distrib. Market Antitrust Litig.*, MDL No. 2328 (E.D. La. Dec. 31, 2014) (ECF
9 No. 551, at 43-44).

10 5. As detailed below, courts have repeatedly recognized my work in the design of
11 class action notice programs:

12 (a) For example, on May 11, 2016 in his Order granting preliminary approval
13 of the settlement in *In Re Whirlpool Corp. Front Loading Washer Products Liability Litigation*
14 (MDL No. 2001), the Honorable Christopher A. Boyko stated:

15 The Court, having reviewed the proposed Summary Notices, the proposed FAQ,
16 the proposed Publication Notice, the proposed Claim Form, and the proposed plan
17 for distributing and disseminating each of them, finds and concludes that the
18 proposed plan for distributing and disseminating each of them will provide the best
19 notice practicable under the circumstances and satisfies all requirements of federal
20 and state laws and due process.

21 *In re: Whirlpool Corp. Front-Loading Washer Prods. Liability Litig.*, 1:08-wp-65000, MDL No.
22 2001 (N.D. Ohio May 11, 2016) (ECF NO. 551, at 10).

23 (b) In *Sateriale, et al. v R.J. Reynolds Tobacco Co.*, Case No. CV 09 08394 CAS
24 (C.D. Cal.), the Honorable Christina A. Snyder stated:

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

34 *Sateriale, et al. v R.J. Reynolds Tobacco Co.*, Case No. CV 09 08394 CAS (C.D. Cal. May 3,
35 2016) (ECF NO. 233, ¶ 5).

(c) In *Barron et al. v. Snyder's-Lance, Inc.*, Case No. 0:13-cv-62496 (S.D. Fla.), the Honorable Joan A. Lenard stated:

The Court approves, as to form and content, the Long-Form Notice and Short-Form Publication Notice attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits 1 and 2 to the Stipulation of Settlement. The Court also approves the procedure for disseminating notice of the proposed settlement to the Settlement Class and the Claim Form, as set forth in the Notice and Media Plan attached to the Memorandum in Support of Motion for Preliminary Approval of Class Action Settlement as Exhibits G. The Court finds that the notice to be given constitutes the best notice practicable under the circumstances, and constitutes valid, due, and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.

Barron v. Snyder's-Lance, Inc., Case No. 0:13-cv-62496 (S.D. Fla. Feb. 12, 2016) (ECF No. 202, ¶ 7).

6. By way of background, Angeion Group is a class action notice and claims administration company formed by an experienced team of executives with more than 60 combined years of experience implementing claims administration and notice solutions for class action settlements and judgments. With executives that have had extensive tenures at five other nationally recognized claims administration companies, collectively, the management team at Angeion has overseen more than 2,000 class action settlements and distributed over \$10 billion to class members.

7. This declaration will describe the notice program that Angeion suggests using in this matter, including the considerations that informed the development of the plan and why it will meet the expressed requirements of Rule 23 and provide Due Process of Law to the class members.

SUMMARY OF NOTICE PROGRAM

8. The notice program is the best notice that is practicable under the circumstances, combining direct notice via email, state-of-the-art internet banner ad notice and traditional print publication notice. The notice program also includes an informational website and toll-free telephone line, both of which will further apprise potential Settlement Class Members of their rights and options in the settlement.

9. The media notice program was designed to deliver notice to 80% of the class, with

1 an average frequency of 3.0 times each. The media notice program will serve approximately
2 21,115,000 display impressions, via the use of highly targeted internet banner ads. Further, to
3 satisfy the notice requirements of the California Consumers Legal Remedies Act (“CLRA”), the
4 notice program will incorporate four 1/4 page ads in the California regional edition of *USA*
5 *Today*, to run on four consecutive weeks. While the direct notice via email and publications in
6 the California regional edition of *USA Today* were not used in calculating the reported reach
7 percentage and frequency, both notice methods will nevertheless serve to further apprise potential
8 Class Members of the Settlement. According to the *Judges’ Class Action Notice and Claims*
9 *Process Checklist and Plain Language Guide* (“The Checklist”): “The lynchpin in an objective
10 determination of the adequacy of a proposed notice effort is whether all the notice efforts together
11 will reach a high percentage of the class. It is reasonable to reach between 70–95%.” The
12 checklist further cautions Judges to confirm that the reach calculations are based on accepted
13 methodology.

14 **CLASS DEFINITION**

15 10. The “Settlement Class” includes all persons residing in the United States who
16 purchased EOS lip balm after January 1, 2009 and on or before the time of preliminary approval
17 of the settlement by the Court, excluding EOS, EOS’s officers, directors, employees, and legal
18 representatives, EOS’s subsidiaries, those who purchased the products for purpose of resale,
19 (Ret.) Judge Peter D. Lichtman, the immediate family of Judge Lichtman, the Judges to whom
20 these cases are assigned, the immediate family of the Judges to whom these cases are assigned,
21 and any individuals who timely opt-out of the settlement. “EOS lip balm” means all lip balms in
22 all flavors made and/or sold by EOS, including Spheres and Smooth Sticks.

23 **DIRECT NOTICE**

24 11. The direct notice effort in this matter will consist of emailing notice of the
25 settlement to each Settlement Class Member who appears in EOS’s complaint database as having
26 lodged a complaint relating to a purported Adverse Reaction on or before the date of the motion
27 for preliminary approval of this Agreement and for whom an email address is available through
28 the database. Counsel has informed Angeion that there are approximately 3,500 individuals with

1 email addresses that will be sent notice via email.

2 **MEDIA NOTICE TARGET AUDIENCE**

3 12. In order to develop the media plan for the notice program, the Class was profiled
4 using GfK MRI 2015 Doublebase data¹. GfK MRI data is used by advertising agencies and other
5 communications professionals in order to understand the socio-economic characteristics, interests
6 and practices of a target group and aids in the proper selection of media to reach that target. It is
7 also instrumental in allowing the court to review the estimated net reach and average frequency of
8 a particular program and is precisely the type of “accepted methodology” that the Checklist
9 cautions should be used in class action notice programs. EOS Lip Balm is specifically measured
10 in MRI.

11 13. Utilizing syndicated data like MRI aids in understanding the socio-economic
12 characteristics, interests and practices of a target group which guides the proper selection of
13 media to reach that target. Here, the target audience has the following characteristics:

- 14
- 15 • Women ages 18-44 with a median age of 33
 - 16 • A large percentage (53.6%) are not married
 - 17 • 55.5% have a child/children under the age of 17 living in the household
 - 18 • 45.5% have a college degree
 - 19 • 52.8% live in households with total income above \$75K
 - 20 • 70.9% are employed, with most working full time (50.8%)

21 14. In order to identify the best vehicles to deliver messaging to the target audience,
22 Angeion also reviewed the media quintiles, which measure the degree to which an audience uses
23 media relative to the general population. Here, the data indicates that our target audience spends a
24 heavy amount of time on the internet compared to the general population, averaging 21 hours per
25 week on the internet and reads about 6 newspaper issues a month. The data also indicated that this

26 ¹ GfK MRI is a leading supplier of publication readership and product usage data for the
27 communications industry. GfK MRI offers complete demographic, lifestyle, product usage and exposure
28 to all forms of advertising media. As the leading U.S. source of multimedia audience research, GfK MRI
provides information to magazines, television and radio networks and stations, internet sites, other media,
leading national advertisers, and over 450 advertising agencies – including 90 of the top 100 in the U.S.
MRI’s national syndicated data is widely used by companies as the basis for the majority of the media and
marketing plans that are written for advertised brands in the U.S.

audience watched less TV than the national average.

15. In light of this data, Angeion recommends using a media plan comprised of advanced digital tactics to reach our audience, which will be the most cost effective means to generate the reach required to notify potential Class Members of their rights and options in this litigation. The digital media notice plan will be augmented with the direct notice efforts described above, as well as publication in the California regional edition of *USA Today*, which in addition to satisfying the notice requirements of the CLRA, will further serve to apprise potential Class Members of their rights and options in this litigation.

INTERNET BANNER NOTICE

16. The notice program utilizes a programmatic approach to purchasing internet media advertisements, which will enable the Notice Plan to target potential Class Members with tailored communications. Purchasing display and mobile inventory programmatically provides the highest reach for internet publication, allows for multiple targeting layers, and causes banner advertisements to be systematically shown to persons most likely to be Class Members.

17. The internet campaign will implement multiple targeting layers to ensure that notice is delivered to the persons most likely to be members of the class, inclusive of search targeting, demographic targeting, category contextual targeting, keyword contextual targeting, site retargeting, and purchase data targeting. This enables Angeion to utilize, for example, search terms that an individual has entered into web browsers (like Google), to deliver banner ads to individuals most likely to be Class Members. Search terms, relevant to women's makeup and beauty products, EOS products, EOS branding, and competitor products, will also be incorporated into the campaign parameters to drive relevant traffic. The digital media plan will further target users who are currently browsing or have recently browsed content in categories such as Beauty, Health Products, Makeup and EOS Items, which will also help qualify impressions to ensure messaging is served to the most relevant audience. A focus will be placed on purchase data targeting EOS specifically. The purpose of such targeting is to ensure that likely Class Members are exposed to the notice documents while simultaneously minimizing the chance that notice is misdirected to individuals who are unlikely to be members of the class.

18. The internet banner notice portion of the notice program will be implemented using a 4-week desktop and mobile campaign and utilizing standard IAB sizes (160x600, 300x250, 728x90, 300x600, 320x50 and 300x50). A 3x frequency cap will be imposed and accounted for in the reporting metrics. The banner notice is designed to result in serving approximately 21,115,000 display impressions.

PUBLICATION NOTICE

19. In order to satisfy the notice requirements of the CLRA, the notice program will utilize four 1/4 page ads in the California regional edition of *USA Today*. These ads will feature the Summary Notice and will run for four consecutive weeks.

RESPONSE MECHANISMS

20. The notice plan will implement the creation of a case website, where Class Members will have the ability to file a claim online, view general information about the Settlement, review relevant Court documents and view important dates and deadlines pertinent to the Settlement. The settlement website will also have a “Contact Us” page whereby Class Members can send an email with any additional questions to a dedicated email address.

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

REACH AND FREQUENCY

22. The notice program is designed to deliver an 80% reach with an average frequency of 3.0 times each. The 80% reach does not include the direct notice, nor print Publication, which are standalone efforts. Therefore, the overall reach of the integrated notice program, including direct notice via email and publication of four ads in the California regional edition of *USA Today* will surpass the 80% reach percentage achieved via the internet banner notice program alone. Similarly, the informational website and toll-free hotline are not calculable in the reach percentage but will nonetheless aid in the informing the class members of their rights and options

1 under the settlement.

2 **CONCLUSION**

3 23. The notice program outlined above includes an integrated media notice effort that
4 incorporates state of the art internet banner notice and traditional print publication notice. The
5 media portion of the internet portion of the notice program is designed to reach 80% of the class
6 on average 3.0 times each. This effort is supplemented with a direct notice email campaign and
7 traditional print publication notice in the California regional edition of *USA Today*. These efforts
8 combine to provide the class the best notice practicable under the circumstances.

9 24. Courts systematically rely upon reach and frequency evidence in reviewing class
10 action notice programs for adequacy. The reach percentage and the number of exposure
11 opportunities here meet or exceed the guidelines as set forth in the Federal Judicial Center's
12 *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide*.

13 25. It is my opinion that the Notice Program is fully compliant with Rule 23 of the
14 Federal Rules of Civil Procedure, provides Due Process of Law and is the best notice that is
15 practicable under the circumstances, including giving individual notice as described herein.

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

17 
18 STEVEN WEISBROT

19 Dated: October 21, 2016
20
21
22
23
24
25
26
27
28

1 **LEVI & KORSINSKY LLP**
LORI G. FELDMAN (*pro hac vice*)
2 lfeldman@zlk.com
30 Broad Street, 24th Floor
3 New York, NY 10004
Telephone: (212) 363-7500
4 Facsimile: (212) 363-7171

5 *Counsel for Plaintiffs Marylou Gilsleider,*
6 *Yokie Renee Ivy, Samantha Santiago,*
Amanda Jones, and Larissa Gannuccelli

7
8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12 RACHAEL CRONIN, on Behalf of
13 Herself and All Others Similarly
Situating,

14 Plaintiff,

15 v.

16 EOS PRODUCTS, LLC,

17 Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

18 **DECLARATION OF LORI G.**
19 **FELDMAN IN SUPPORT OF**
20 **PLAINTIFFS' MOTION FOR**
21 **PRELIMINARY APPROVAL OF**
22 **PROPOSED CLASS ACTION**
23 **SETTLEMENT**

24 Date: December 19, 2016

25 Time: 8:30 a.m.

26 Room: 750

27 Judge: Hon. John A. Kronstadt
28

1 I, Lori G. Feldman, declare:

2 1. I am a partner with the law firm of Levi & Korsinsky LLP, counsel to
3 plaintiffs Marylou Gilsleider, Yokie Renee Ivy, Samantha Santiago, Amanda Jones,
4 and Larissa Gannuccelli (collectively, “Gilsleider Plaintiffs”). I make this declaration
5 in support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.
6 I have personal knowledge of the facts set forth in this declaration and, if called as a
7 witness, I could and would testify competently thereto.

8 2. The proposed Settlement of claims against Defendant EOS Products,
9 LLC (“EOS”) provides significant monetary and non-monetary benefits. The
10 monetary benefits include: (1) \$75 for any a Claim with Verified Medical Expenses;¹
11 or (2) the Claimant’s choice of an award of \$15 or a mail in rebate for \$20 worth of
12 EOS products for a Claim for a Verified Adverse Reaction Complaint; or (3) a Request
13 for Streamlined Arbitration with a capped award of \$4,000. Significantly, there is no
14 ceiling on the total monetary relief to be awarded. Additionally, EOS has agreed to
15 implement certain disclosures for products sold in the United States, beginning no
16 later than 180 days following the Settlement Effective Date.

17 3. The proposed Settlement is the culmination of approximately eight
18 months of hard-fought negotiations, as well as collaboration among various plaintiffs’
19 counsel. I and my co-counsel, Brian Chase of Bisnar Chase and Janine Pollack of
20 Wolf Haldenstein Adler Freeman & Herz LLP, worked diligently with the other
21 Plaintiffs’ Counsel to ensure the best possible Settlement terms for the Settlement
22 Class. It evidences the ability and willingness that different groups of plaintiffs’
23 counsel demonstrated in working together cooperatively to achieve results benefiting
24 the putative Settlement Class.

25 4. On February 4, 2016, Levi & Korsinsky filed a putative class-action

26 _____
27 ¹ Unless otherwise defined herein, all capitalized terms have the meaning set forth
28 in the Settlement Agreement.

lawsuit on behalf of plaintiff Amanda Jones entitled *Jones v. EOS Products, LLC*, Case No. 1:16-cv-00321-JKB (D. Md.), asserting claims for (1) Violation of Maryland Code of Commercial Law sections 13-101, *et seq.* (“Maryland Consumer Protection Act”); (2) Unjust Enrichment; (3) Strict Products Liability; and (4) Negligence.

5. On February 5, 2016, Levi & Korsinsky filed a putative class-action lawsuit on behalf of plaintiff Samantha Santiago entitled *Santiago v. EOS Products, LLC*, Case No. 3:16-cv-00198-SRU (D. Conn.), asserting claims for (1) Violation of Connecticut General Statutes sections 42-110A, *et seq.* (“Connecticut Unfair Trade Practices Act”); (2) Unjust Enrichment; and (3) Negligence.

6. On February 18, 2016, Levi & Korsinsky, along with our co-counsel, filed a putative class-action lawsuit on behalf of plaintiffs Marylou Gilsleider and Yokie Renee Ivy entitled *Gilsleider, et al. v. EOS Products, LLC*, Case No. 8:16-cv-00283-JAK-JEM (C.D. Cal.), asserting claims for (1) Violation of California Civil Code sections 1750, *et seq.* (“California’s Consumer Legal Remedies Act”); (2) Violation of California Business & Professions Code sections 17500, *et seq.* (“California’s False Advertising Law”); (3) Violation of California Business & Professions Code sections 17200, *et seq.* (“California’s Unfair Competition Law”); (4) Violation of 815 Illinois Compiled Statutes 505/1, *et seq.* (“Illinois Consumer Fraud and Deceptive Practices Act”); (5) Breach of Express Warranty; (6) Breach of Implied Warranty of Merchantability; (7) Unjust Enrichment; (8) Strict Products Liability; and (9) Negligence.

7. On February 22, 2016, Levi & Korsinsky filed a putative class-action lawsuit on behalf of plaintiff Larissa Gannuccelli entitled *Gannuccelli v. EOS Products, LLC*, Case No. 1:16-cv-01358-ALC (S.D.N.Y.), asserting claims for (1) Violation of Florida Statute sections 501.201, *et seq.* (“Florida Deceptive and Unfair Trade Practices Act”); (2) Breach of Express Warranty; (3) Breach of Implied Warranty of Merchantability; (4) Unjust Enrichment; (5) Strict Products Liability; and

1 (6) Negligence.

2 8. Gilsleider Plaintiffs' complaints are among several filed in various
3 jurisdictions against EOS asserting similar claims based on the same alleged
4 underlying conduct.

5 9. Two actions, the *Gilsleider* action and the action entitled *Cronin v. EOS*
6 *Products, LLC*, Case No. 2:16-cv-00235-JAK-JEM (C.D. Cal.), filed January 12,
7 2016, by Geragos & Geragos, APC ("Class Counsel"), are now pending before this
8 Court. In addition to the *Cronin* action, Class Counsel has filed similar actions in the
9 Southern District of New York, the Middle District of Florida, the Central District of
10 Illinois, and the Southern District of Ohio. Other plaintiffs' counsel have filed similar
11 cases in the Middle District of Florida and the Southern District of New York
12 (collectively, the "Actions").

13 10. Plaintiffs in the Actions allege, *inter alia*, that Defendant's EOS lip balm
14 products have caused a range of adverse reactions in users, including rashes, dryness,
15 bumps, bleeding, blistering, cracking, swelling, peeling, pain, irritation, infection,
16 and/or discoloration.

17 11. On March 25, 2016, plaintiffs in the *Gilsleider* action filed a notice of
18 related case citing the *Cronin* action, noting that pursuant to Local Rule 83-1.3.1, the
19 two cases are related as they both (1) arise from the same or a closely related
20 transaction, happening, or event; (2) call for determination of the same or substantially
21 related or similar questions of law and fact; and (3) would entail substantial
22 duplication of labor if heard by different judges.

23 12. On March 29, 2016, the *Gilsleider* action was transferred to this Court
24 on that basis.

25 13. By that time, my co-counsel and I had contacted Class Counsel in an
26 effort to discern the terms of a proposed settlement, which had been publicly
27 announced, including on EOS's website. We sought to engage in meaningful
28

1 discussions with Class Counsel and counsel for EOS to coordinate our actions and
2 discuss the proposed settlement terms.

3 14. At our request, on March 22, 2016, counsel for EOS provided a draft of
4 the then current proposed settlement agreement.

5 15. My co-counsel and I reviewed the draft settlement agreement in detail.

6 16. On March 25, 2016, I sent a detailed letter to Class Counsel setting out
7 certain questions raised by the proposed settlement terms and on March 31, 2016, I
8 forwarded my correspondence to counsel for EOS in an effort to initiate discussions
9 regarding, in particular, the extent of relief afforded to proposed class members.

10 17. On April 5, 2016, my co-counsel, Brian Chase of Bisnar Chase, spoke
11 with Class Counsel, attorney Mark Geragos, to discuss whether he would stipulate to
12 consolidate the *Cronin* and *Gilsleider* actions and to discuss the concerns laid out in
13 the March 25 letter.

14 18. On April 12, 2016, I received a phone call from defendant EOS's
15 counsel, John Baumann of Quinn Emanuel Urquhart & Sullivan, LLP, during which
16 we discussed the Gilsleider Plaintiffs' intent to seek to consolidate the *Cronin* and
17 *Gilsleider* actions.

18 19. Given the status of the settlement negotiations, the parties were unable to
19 reach an agreement to stipulate to consolidation at that time.

20 20. Due to the impending scheduling conference in the *Gilsleider* action set
21 for May 16, the deadlines related thereto, and the as yet unaddressed concerns related
22 to the earlier announced settlement, the Gilsleider Plaintiffs felt it necessary to proceed
23 with filing the motion for consolidation without further delay.

24 21. Accordingly, on April 15, 2016, plaintiffs in the *Gilsleider* action moved
25 to consolidate their action with the *Cronin* action on the grounds that the two actions
26 present numerous common questions of law and fact and consolidation would further
27 the interests of the proposed class and progress the litigation efficiently.

1 22. After filing the motion for consolidation, my co-counsel and I continued
2 to reach out to Class Counsel and counsel for EOS to coordinate our actions and to
3 engage in meaningful discussions of the proposed terms of the previously announced
4 settlement.

5 23. In particular, on April 21, 2016, my co-counsel Janine Pollack and my
6 partner Nancy Kulesa met and conferred by telephone with defense counsel to discuss
7 case management deadlines and coordination of the various Actions. Again, on April
8 28, 2016, my partner Nancy Kulesa met and conferred by telephone with defense
9 counsel. During the April 28 call EOS requested clarification of our position
10 concerning certain points noted in my March 25 letter and expressed an intent to send
11 a further response outlining EOS's position on the issues raised in the March 25 letter.

12 24. On May 9, 2016, EOS sent email correspondence, setting forth its
13 position on certain issues raised in the March 25 letter.

14 25. On May 24, 2016, my co-counsel and I again sent a detailed, multi-page
15 letter to EOS responding to the questions EOS raised during the April 28 call and
16 addressing EOS's May 9 email. We also set forth a number of specific proposals for
17 certain substantive changes to the settlement as it then stood.

18 26. Over the following weeks, numerous further communications were
19 exchanged among me, my co-counsel, Class Counsel, and counsel for EOS, including
20 correspondence exchanged on June 1 and June 3, 2016. Through these
21 communications, the parties engaged in vigorous discussion concerning possible
22 enhancements to the settlement terms, in particular, expanding the scope of the
23 settlement to increase the number of potential settlement class members eligible for
24 monetary relief.

25 27. On June 27, 2016, the Court held a hearing on the *Gilsleider* motion for
26 consolidation. The Court continued the motion to July 25, 2016, on the basis that the
27 parties would engage in continued discussions in an effort to finalize the terms of a
28

1 global settlement.

2 28. Subsequent to the hearing on consolidation, on June 27, 2016, Gilsleider
3 Plaintiffs' counsel had a lengthy in-person meeting with Class Counsel to further
4 discuss ways to improve upon the settlement terms. In the subsequent weeks, I, my
5 co-counsel, and Class Counsel worked diligently to accomplish that goal, proposing
6 additional and/or alternative terms to improve the substance and scope of the
7 agreement.

8 29. In the following months, all Plaintiffs' counsel worked cooperatively in
9 order to make the settlement more expansive and achieve the best possible terms for
10 all Plaintiffs and the Settlement Class. In the following four months, there continued
11 to be constant communications between and among Class Counsel, Gilsleider
12 Plaintiffs' counsel, and Defendant's counsel which included intense negotiations
13 about virtually every material term of the Settlement. My co-counsel, Janine Pollack,
14 exchanged dozens of emails with counsel for EOS working out the details of the
15 Settlement Agreement and exhibits and the other settlement-related documents.

16 30. On July 21, 2016, the parties to the *Gilsleider* action filed a status report
17 informing the Court that they were close to reaching an agreement on all material
18 terms of a nationwide class settlement and were working to finalize the written
19 agreement.

20 31. In light of the July 21 status report, on July 25, 2016, the Court, *inter*
21 *alia*, further continued the consolidation motion to August 29, 2016.

22 32. On August 19, 2016, the parties to the *Gilsleider* action filed a status
23 report informing the Court that the parties in the *Gilsleider* and *Cronin* actions had
24 reached agreement on nearly all material terms of a nationwide class settlement and
25 were working to resolve a few outstanding issues to finalize the agreement.

26 33. In addition, our firm continued to file status reports in the *Jones*,
27 *Santiago*, and *Gannuccelli* actions, advising those courts of the progress of our
28

1 negotiations.

2 34. Class Counsel and Gilsleider Plaintiffs' counsel worked together to
3 improve upon the original terms of the Settlement, expanding the number of
4 Settlement Class Members eligible for monetary relief, adding additional benefits, and
5 including additional EOS lip balm products.

6 35. As a result of the extensive negotiations, the parties reached the proposed
7 Settlement Agreement. The material terms of the proposed Settlement Agreement
8 were only realized after many months of negotiations, commencing in January 2016
9 and continuing through October 2016, with numerous letters, telephonic conferences,
10 and e-mail exchanges between counsel for the parties.

11 36. After reaching agreement on the substantive terms of the settlement for
12 the Settlement Class Members' relief, the parties then reached agreement on
13 appropriate counsel fees.

14 37. The Settlement Agreement was fully executed in October 2016.

15 38. Levi & Korsinsky LLP regularly engages in major complex litigation and
16 has extensive experience in class action lawsuits that are similar in size, scope, and
17 complexity to the present case. Prior to and throughout the duration of this litigation,
18 Levi & Korsinsky dedicated substantial resources to the investigation of the claims at
19 issue in these matters, and successfully negotiated enhancements to the settlement of
20 the Actions to the benefit of the proposed class. Although Plaintiffs are confident in
21 the strength of their claims and believe that they would ultimately prevail at trial, they
22 also recognize that litigation is inherently risky.

23 39. Based on my experience, and taking into consideration the risks of
24 continued litigation, including appeals, versus the certain and substantial relief
25 afforded by the Settlement, it is my opinion that the Settlement is fair, adequate, and
26 reasonable, in the best interest of the Settlement Class and merits preliminary approval
27 by this Court.

28

1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct to the best of my knowledge. Executed
3 this 1st day of November 2016 at New York, New York.

4
5 /s/ Lori G. Feldman

6 Lori G. Feldman
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **LEVI & KORSINSKY LLP**
2 LORI G. FELDMAN (*pro hac vice*)
3 lfeldman@zlk.com
4 30 Broad Street, 24th Floor
5 New York, NY 10004
6 Telephone: (212) 363-7500
7 Facsimile: (212) 363-7171

8
9 *Counsel for Plaintiffs Marylou Gilsleider,*
10 *Yokie Renee Ivy, Samantha Santiago,*
11 *Amanda Jones, and Larissa Gannuccelli*

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

RACHAEL CRONIN, on Behalf of
Herself and All Others Similarly
Situating,

Plaintiff,

v.

EOS PRODUCTS, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

**DECLARATION OF LORI G.
FELDMAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
PROPOSED CLASS ACTION
SETTLEMENT**

Date: December 19, 2016
Time: 8:30 a.m.
Room: 750
Judge: Hon. John A. Kronstadt

1 I, Lori G. Feldman, declare as follows:

2 1. I am a partner of the law firm Levi & Korsinsky LLP, counsel for
3 plaintiffs Marylou Gilsleider, Yokie Renee Ivy, Samantha Santiago, Amanda Jones,
4 and Larissa Gannuccelli in these Actions. I have personal knowledge of the matters
5 stated herein and, if called upon, I could and would competently testify thereto. I
6 submit this declaration in support of the contemporaneously filed Plaintiffs' Motion
7 for Preliminary Approval of Proposed Class Action Settlement (the "Motion").¹

8 2. The schedule below indicates the attorneys, paralegals and other
9 professionals of my firm who performed work in this litigation through October 31,
10 2016. The schedule includes the name of people who worked on the case, hourly
11 billing rates, and the number of hours expended. The backgrounds and qualifications
12 of the attorneys who worked on the matter are set forth in the Firm Resumé attached
13 hereto as Exhibit A. The lodestar calculation is based on my firm's current billing
14 rates, including for attorneys and employees no longer employed by the firm, at the
15 firm's customary hourly rates charged to our fee-paying clients, and which have been
16 accepted as reasonable by this District and other district courts in numerous other class
17 action litigations. *See, e.g., City of Providence v. Aeropostale, Inc.*, No. 11 CIV. 7132
18 CM GWG, 2014 WL 1883494, at *13 (S.D.N.Y. May 9, 2014), *aff'd sub nom.*
19 *Arbuthnot v. Pierson*, 607 F. App'x 73 (2d Cir. 2015) (approving billing rates of
20 attorneys in New York firms ranging from \$335 to \$875 per hour).

21 3. The total number of hours expended on this litigation by Levi &
22 Korsinsky LLP from inception through October 31, 2016 is 717.75 hours. The total
23 lodestar for those hours for Levi & Korsinsky LLP is \$453,541.25. Levi & Korsinsky
24 LLP will submit an updated declaration, conformed to the Court's Exhibit G of its
25 Standing Order with Plaintiffs' Motion for Final Approval of Class Action Settlement

26 ¹ All capitalized terms have the same meaning as set forth in the Settlement
27 Agreement.
28

detailing its hours expended in the litigation.

NAME	HOURS	RATE	LODESTAR
Lori G. Feldman (Partner)	199.00	\$875	\$174,125.00
Donald J. Enright (Partner)	23.25	\$875	\$20,343.75
Nancy A. Kulesa (Partner)	83.25	\$765	\$78,686.25
	20.00	\$750	
Andrea Clisura (Associate)	310.75	\$475	\$147,606.25
Courtney Maccarone (Associate)	44.75	\$475	\$21,256.25
Stephanie Bartone (Associate)	3.75	\$475	\$1,781.25
Brian Stewart (Associate)	4.75	\$475	\$2,256.25
Judy Bennett (Paralegal)	22.00	\$265	\$5,830.00
Adam Rosen (Paralegal)	2.50	\$265	\$662.50
Samantha Halliday (Paralegal)	3.75	\$265	\$993.75
TOTAL	717.75		\$453,541.25

4. Levi & Korsinsky LLP's lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter are being separately reimbursed by Defendant and are included in the sum of \$1,850,000 being requested by Plaintiffs' Counsel for their fees and expenses. Levi & Korsinsky LLP will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its expenses. Such expenses may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct to the best of my knowledge. Executed
3 this 1st day of November, 2016 at New York, New York.

4 /s/ Lori G. Feldman

5 Lori G. Feldman
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

LEVI&KORSINSKY LLP

New York 30 Broad Street
24th Floor
New York, NY 10004
Toll Free 877-363-5972
T. 212-363-7500
F. 212-363-7171

Washington, D.C. 1101 30th Street NW
Suite 115
Washington, D.C. 20007
T. 202-524-4290
F. 202-333-2121

New Jersey 235 Main Street
Hackensack, NJ 07601
T. 973-265-1600

Connecticut 733 Summer Street
Suite 304
Stamford, CT 06901
T. 203-992-4523

California 445 South Figueroa Street
31st Floor
Los Angeles, CA 90071
T. 213-985-7290

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

ABOUT THE FIRM

Levi & Korsinsky LLP is a national law firm with decades of combined experience litigating complex securities, class, and consumer actions in state and federal courts throughout the country. Our main office is located in New York City and we also maintain offices in New Jersey, Connecticut, California, and Washington, D.C.

We represent the interests of aggrieved shareholders in class action and derivative litigation through the vigorous prosecution of corporations that have committed securities fraud and boards of directors who have breached their fiduciary duties. We have served as Lead and Co-Lead Counsel in many precedent-setting litigations, recovered millions of dollars for shareholders via securities fraud lawsuits, and obtained fair value, multi-billion dollar settlements in merger transactions.

We also represent clients in high-stakes consumer class actions against some of the largest corporations in America. Our legal team has a long and successful track record of litigating high-stakes, resource-intensive cases and consistently achieving results for our clients.

Our attorneys bring a vast breadth of knowledge and skill to the table and, as a result, are frequently appointed Lead Counsel in complex shareholder and consumer litigations in various jurisdictions. We have the ability to allocate substantial resources to each case. Our attorneys are supported by additional professionals including financial experts, in-house investigators, and administrative staff, as well as a cutting-edge proprietary e-discovery system customized to the discovery needs of any given litigation. We do not shy away from uphill battles – indeed, we routinely take on complex and challenging cases, and we prosecute them with integrity, determination, and professionalism.

“[P]laintiff’s [counsel] went the distance... did real work... took on real contingency risk and...obtained an injunction...”

– Vice Chancellor J. Travis Laster in *Steinhardt v. Occam Networks, Inc.* C.A. No. 5878-VCL (Del. Ch. 2010)

PRACTICE AREAS

Mergers & Acquisitions

We have achieved an impressive record in obtaining injunctive relief for shareholders and are one of the premier law firms engaged in mergers & acquisitions and takeover litigation, where we strive to maximize shareholder value. In these cases, we regularly fight to obtain settlements that enable the submission of competing buyout bid proposals, thereby increasing consideration for shareholders.

We have litigated landmark cases that have altered the landscape of mergers & acquisitions law and resulted in multi-million dollar awards to aggrieved shareholders.

In *In re NCS Healthcare, Inc. Securities Litigation*, C.A. No. 19786 (Del. Ch. 2002), one of the most historically significant cases in the Delaware courts involving mergers and acquisitions law, one of our founding partners, as Co-Lead Counsel, created a more than \$100 million cash benefit for shareholders and revolutionized the way bidders and target companies design and implement lockup mechanisms to protect a deal.

In *In re Great Wolf Resorts, Inc. Shareholder Litigation*, C.A. No. 7328-VCN (Del. Ch. 2012), we achieved tremendous results for shareholders, including partial responsibility for a \$93 million (57%) increase in merger

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

consideration and the waiver of several “don’t-ask-don’t-waive” standstill agreements that were restricting certain potential bidders from making a topping bid for the company.

In *In re CNX Gas Corp. Shareholder Litigation*, 4 A.3d 397 (Del. Ch. 2010), as Plaintiffs’ Executive Committee counsel, we obtained a landmark ruling from the Delaware Chancery Court that set forth a unified standard for assessing the rights of shareholders in the context of freeze-out transactions and ultimately led to a common fund recovery of over \$42.7 million for the company’s shareholders.

In *In re Talecris Biotherapeutics Holdings Shareholder Litigation*, C.A. No. 5614-VCL (Del. Ch. 2010), we served as counsel for one of the Lead Plaintiffs, achieving a settlement that increased the merger consideration to Talecris shareholders by an additional 500,000 shares of the acquiring company’s stock and providing shareholders with appraisal rights.

In *In re Minerva Group LP v. Mod-Pac Corp.*, Index No. 800621/2013 (N.Y. Sup. Ct. Erie Cty. 2013), we obtained a settlement in which defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share, representing a recovery of \$2.4 million for shareholders.

In *Stephen J. Dannis v. J.D. Nichols*, C.A. No. 13-CI-00452 (Ky. Cir. Ct. Jefferson Cty. 2014), as Co-Lead Counsel, we obtained a 23% increase in the merger consideration (from \$7.50 to \$9.25 per unit) for shareholders of NTS Realty Holdings Limited Partnership. The total benefit of \$7.4 million was achieved after two years of hard-fought litigation, challenging the fairness of the going-private, squeeze-out merger by NTS’s controlling unitholder and Chairman, Defendant Jack Nichols. The unitholders bringing the action alleged that Nichols’ proposed transaction grossly undervalued NTS’s units. The 23% increase in consideration was a remarkable result given that on October 18, 2013, the Special Committee appointed by the Board of Directors had terminated the existing merger agreement with Nichols. Through counsel’s tenacious efforts the transaction was resurrected and improved.

In *In re Craftmade International, Inc. Shareholders Litigation*, C.A. No. 6950-VCL (Del. Ch. 2011), we served as Co-Lead Counsel and successfully obtained an injunction requiring numerous corrective disclosures and a “Fort Howard” release announcing that the Craftmade Board of Directors was free to conduct discussions with any other potential bidders for the company.

In *Dias v. Purches*, C.A. No. 7199-VCG (Del. Ch. 2012), Vice Chancellor Sam Glasscock, III of the Delaware Chancery Court partially granted shareholders’ motion for preliminary injunction and ordered that defendants correct a material misrepresentation in the proxy statement related to the acquisition of Parlux Fragrances, Inc. by Perfumania Holding, Inc.

In *Forgo v. Health Grades, Inc.*, C.A. No. 5716-VCS (Del. Ch. 2010), as Co-Lead Counsel, our attorneys established that defendants had likely breached their fiduciary duties to Health Grades’ shareholders by failing to maximize value as required under *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173 (Del. 1986). We secured an agreement with defendants to take numerous steps to seek a superior offer for the company, including making key modifications to the merger agreement, creating an independent committee to evaluate potential offers, extending the tender offer period, and issuing a “Fort Howard” release affirmatively stating that the company would participate in good faith discussions with any party making a bona fide acquisition proposal.

In *Steinhardt v. Occam Networks, Inc.*, C.A. No 5878-VCL (Del. Ch. 2010), we represented shareholders in challenging the merger between Occam Networks, Inc. and Calix, Inc., obtaining a preliminary injunction against the merger after showing that the proxy statement by which the shareholders were solicited to vote for the merger was materially false and misleading.

In *In re Pamrapo Bancorp Shareholder Litigation*, Docket C-89-09 (N.J. Ch. Hudson Cty. 2011) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), we defeated defendants’ motion to dismiss shareholders’ class action claims for money damages and a motion for summary judgment, ultimately securing a settlement recovering \$1.95 million for the Class plus the Class’s legal fees and expenses up to \$1 million (representing

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

an increase in consideration of 15-23% for the members of the Class). The case stemmed from the sale of Pamrapo Bancorp to BCB Bancorp at an allegedly unfair price through an unfair process. In addition to obtaining this recovery, the Court also found that our efforts substantially benefited the shareholders by obtaining supplemental disclosures for shareholders ahead of the merger vote.

In *In re Complete Genomics, Inc. Shareholder Litigation*, C.A. No. 7888-VCL (Del. Ch. 2012), we obtained preliminary injunctions of corporate merger and acquisition transactions, and Plaintiffs successfully enjoined a “don’t-ask-don’t-waive” standstill agreement.

In *In re Integrated Silicon Solution, Inc. Stockholder Litigation*, Lead Case No. 115CV279142 (Super. Ct. Santa Clara, CA 2015), we won an injunction requiring corrective disclosures concerning “don’t-ask-don’t-waive” standstill agreements and certain financial advisor conflicts of interests, and contributed to the integrity of a post-agreement bidding contest that led to an increase in consideration from \$19.25 to \$23 per share, a bump of almost 25 percent.

In *In re Bluegreen Corp. Shareholder Litigation*, Case No. 502011CA018111 (Cir. Ct. for Palm Beach Cty., FL), as Co-Lead Counsel, we achieved a common fund recovery of \$36.5 million for minority shareholders in connection with a management-led buyout, increasing gross consideration to shareholders in connection with the transaction by 25% after three years of intense litigation.

Derivative, Corporate Governance & Executive Compensation

We protect shareholders by enforcing the obligations of corporate fiduciaries. We are a leader in achieving important corporate governance reforms for the benefit of shareholders. Our efforts include the prosecution of derivative actions in courts around the country, making pre-litigation demands on corporate boards to investigate misconduct and taking remedial action for the benefit of shareholders. In situations where a company’s board responds to a demand by commencing its own investigation, we frequently work with the board’s counsel to assist with and monitor the investigation, ensuring that the investigation is thorough and conducted in an appropriate manner.

We also have successfully prosecuted derivative and class action cases to hold corporate executives and board members accountable for various abuses and to help preserve corporate assets through long-lasting and meaningful corporate governance changes, thus ensuring that prior misconduct does not reoccur. We have extensive experience challenging executive compensation, recapturing assets for the benefit of companies and their shareholders. In addition, we have secured corporate governance changes to ensure that executive compensation is consistent with shareholder-approved compensation plans, company performance, and federal securities laws.

In *MacCormack v. Groupon, Inc.*, C.A. No. 13-940-GMS (D. Del. 2013), we caused the cancellation of \$2.3 million worth of restricted stock units granted to a company executive in violation of a shareholder-approved plan, as well as the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan; we also obtained additional material disclosures to shareholders in connection with a shareholder vote on amendments to the plan.

In *Scherer v. Lu*, (Diodes Incorporated), (D. Del. 2014), we secured the cancellation of \$4.9 million worth of stock options granted to the company’s CEO in violation of a shareholder-approved plan, and obtained additional disclosures to enable shareholders to cast a fully-informed vote on the adoption of a new compensation plan at the company’s annual meeting.

In *Edwards v. Benson*, (Headwaters Incorporated), (D. Utah 2014), we caused the cancellation of \$3.2 million worth of stock appreciation rights granted to the company’s CEO in violation of a shareholder-approved plan and the adoption of enhanced corporate governance procedures designed to ensure that the board of directors complies with the terms of the plan.

In *Pfeiffer v. Begley*, (DeVry, Inc.), (Cir. Ct. DuPage Cty., Ill. 2012), we secured the cancellation of \$2.1 million worth of stock options granted to the company's CEO in 2008-2012 in violation of a shareholder-approved incentive plan.

In *Basch v. Healy* (D. Del. 2014), we obtained a cash payment to the company to compensate for equity awards issued to officers in violation of the company's compensation plan and caused significant changes in the company's compensation policies and procedures designed to ensure that future compensation decisions are made consistent with the company's plans, charters and policies. We also impacted the board's creation of a new compensation plan and obtained additional disclosures to stockholders concerning the board's administration of the company's plan and the excess compensation.

In *Pfeiffer v. Toll* (Toll Brothers Derivative Litigation), C.A. No. 4140-VCL (Del. Ch. 2010), we prevailed in defeating defendants' motion to dismiss in a case seeking disgorgement of profits that company insiders reaped through a pattern of insider-trading. After extensive discovery, we secured a settlement returning \$16.25 million in cash to the company, including a significant contribution from the individuals who traded on inside information.

In *Kleba v. Dees*, C.A. 3-1-13 (Tenn. Cir. Ct. Knox Cty. 2014), we recovered approximately \$9 million in excess compensation given to insiders and the cancellation of millions of shares of stock options issued in violation of a shareholder-approved compensation plan. In addition, we obtained the adoption of formal corporate governance procedures designed to ensure that future compensation decisions are made independently and consistent with the plan.

In *Lopez v. Nudelman*, (CTI BioPharma Corp.), 14-2-18941-9 SEA (Wash. Super. Ct. King Cnty. 2015), we recovered approximately \$3.5 million in excess compensation given to directors and obtained the adoption of a cap on director compensation, as well as other formal corporate governance procedures designed to implement best practices with regard to director and executive compensation.

"I think you've done a superb job and I really appreciate the way this case was handled."

— Judge Ronald B. Rubin in *Teoh v. Ferrantino*, C.A. No. 356627 (Cir. Ct. for Montgomery Cty., MD 2012).

In *In re i2 Technologies, Inc. Shareholder Litigation*, C.A. No. 4003-CC (Del. Ch. 2008), as Counsel for the Lead Plaintiff, we challenged the fairness of certain asset sales made by the company and secured a \$4 million recovery.

In *In re Activision, Inc. Shareholder Derivative Litigation*, No. 06-cv-04771-MRP (JTLX) (C.D. Cal. 2008), we were Co-Lead Counsel and challenged executive compensation related to the dating of options. This effort resulted in the recovery of more than \$24 million in excessive compensation and expenses, as well as the implementation of substantial corporate governance changes.

In *In re Corinthian Colleges, Inc. Shareholder Derivative Litigation*, 8:06cv777-AHS (C.D. Cal. 2006), we were Co-Lead Counsel and achieved a \$2 million benefit for the company, resulting in the re-pricing of executive stock options and the establishment of extensive corporate governance changes.

In *Pfeiffer v. Alpert (Beazer Homes Derivative Litigation)*, C.A. No. 10-cv-1063-PD (D. Del. 2010), we successfully challenged certain aspects of the company's executive compensation structure, ultimately forcing the company to improve its compensation practices.

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

In *In re Cincinnati Bell, Inc., Derivative Litigation*, Case No. A1105305 (Ohio, Hamilton Cty. 2012), we achieved significant corporate governance changes and enhancements related to the company's compensation policies and practices in order to better align executive compensation with company performance. Reforms included the formation of an entirely independent compensation committee with staggered terms and term limits for service.

In *Woodford v. Mizel (M.D.C. Holdings, Inc.)*, 1:2011cv00879 (D. Del. 2012), we challenged excessive executive compensation, ultimately obtaining millions of dollars in reductions of that compensation, as well as corporate governance enhancements designed to implement best practices with regard to executive compensation and increased shareholder input.

In *Bader v. Goldman Sachs Group, Inc.*, No. 10-4364-cv, 2011 WL 6318037 (2d Cir. Dec. 19, 2011), we persuaded the Second Circuit Court of Appeals to reverse the District Court's dismissal of derivative claims seeking to recover excessive compensation granted to officers and directors of Goldman Sachs.

In *In re Google Inc. Class C Shareholder Litigation*, C.A. No. 7469-CS (Del. Ch. 2012), we challenged a stock recapitalization transaction to create a new class of nonvoting shares and strengthen the corporate control of the Google founders. We helped achieve an agreement that provided an adjustment payment to shareholders in the event of certain discounts in the price of Google stock, and provided enhanced board scrutiny of the Google founders' ability to transfer stock, including the implementation of a new procedure for a waiver or modification of the founders' Transfer Restriction Agreement.

Securities Fraud Class Actions

We prosecute claims on behalf of investors to recover losses suffered as a result of securities fraud, including the manipulation of a company's stock price by its executives, officers, directors, and advisors such as underwriters and accountants, through the issuance of false and misleading information. Our firm has been appointed Lead Counsel in numerous class actions filed in both federal and state courts across the country.

In *E-Trade Financial Corp. Securities Litigation*, No. 07-cv-8538 (S.D.N.Y. 2007), we were selected from a crowded field as Co-Lead Counsel for a landmark securities fraud class action that arose out of the mortgage crisis. Our successful prosecution of the case resulted in a \$79 million recovery for the shareholder class.

We have been appointed Lead or Co-Lead Counsel in the following securities class actions:

- *Magro v. Freeport-McMoran Inc.*, 2:16-cv-00186-DJH (D. Ariz. Aug. 19, 2016)
- *Margolis v. Fly Leasing Ltd.*, 1:16 cv-02220-WHP (S.D.N.Y. July 20, 2016)
- *Gormley v. magicJack VocalTec Ltd.*, 1:16-cv-01869-VM (S.D.N.Y. July 12, 2016)
- *Dillard v. Platform Specialty Products Corp.*, 9:16-cv-80490-DMM (S.D. Fla. June 29, 2016)
- *Plumley v. Semptra Energy*, 3:16-cv-00512-BEN-RBB (S.D. Cal. June 6, 2016)
- *In re Vital Therapies, Inc. Sec. Litig.*, 3:15-cv-02700-JLS-NLS (S.D. Cal. May 2, 2016)
- *De Vito v. Liquid Holdings Group, Inc.*, 2:15-cv-06969-KM-JBC (D.N.J. Apr. 7, 2016)
- *Cortina v. Anavex Life Sciences Corp.*, 1:15-cv-10162-JMF (S.D.N.Y. Apr. 5, 2016)
- *Ford v. Natural Health Trends Corp.*, 2:16-cv-00255-TJH-AFM (C.D. Cal. Mar. 29, 2016)
- *Bai v. TCP International Holdings Ltd.*, 1:16-cv-00102-DCN (N.D. Ohio Mar. 18, 2016)
- *Meier v. Checkpoint Systems, Inc.*, 1:15-cv-08007 (D.N.J.) (Jan. 1, 2016)
- *Messner v. USA Technologies, Inc.*, 2:15-cv-05427-MAK (E.D. Pa. Dec. 15, 2015)
- *Levin v. Resource Capital Corp.*, 1:15-cv-07081-LLS (S.D.N.Y. Nov. 24, 2015)

- *Stephens v. Uranium Energy Corp.*, 4:15-cv-01862 (S.D. Tex.) (Oct. 15, 2015)
- *Messerli v. Root 9B Technologies, Inc.*, 1:15-cv-02152-WYD (D. Colo.) (Oct. 14, 2015)
- *Martin v. Altisource Residential Corp.*, 1:15-cv-00024 (D.V.I.) (Oct. 7, 2015)
- *Paggos v. Resonant, Inc.*, 2:15-cv-01970 SJO (VBKx) (C.D. Cal.) (Aug. 7, 2015)
- *Fragala v. 500.com Ltd.*, 2:15-cv-01463-MMM (C.D. Cal.) (July 7, 2015)
- *Stevens v. Quiksilver Inc.*, 8:15-cv-00516-JVS-JCGx. (C.D. Cal.) (June 26, 2015)
- *In re Ocean Power Technologies, Inc. Sec. Litig.*, 14-3799 (FLW) (LHG) (D.N.J.) (Mar. 17, 2015)
- *In re Energy Recovery Inc. Sec. Litig.*, 3:15-cv-00265 (N.D. Cal.) (Jan. 20, 2015)
- *Fialkov v. Alcobra Ltd.*, 1:14-cv-09906 (S.D.N.Y.) (Dec. 16, 2014)
- *Klein v. TD Ameritrade Holding Corp.*, 3:14-cv-05738 (D. Neb.) (Dec. 2, 2014)
- *Hyatt v. Vivint Solar Inc.*, 1:14-cv-09283 (S.D.N.Y.) (Nov. 21, 2014)
- *In re China Commercial Credit Sec. Litig.*, 1:15-cv-00557 (ALC) (D.N.J.) (Oct. 31, 2014)
- *In re Violin Memory, Inc. Sec. Litig.*, 4:13-cv-05486-YGR (N.D. Cal.) (Feb. 26, 2014)
- *Berry v. Kior, Inc.*, 4:13-cv-02443 (S.D. Tex. Nov. 25, 2013)
- *In re OCZ Technology Group, Inc. Sec. Litig.*, 3:12-cv-05265-RS (N.D. Cal. Jan. 4, 2013)
- *In re Digital Domain Media Group, Inc. Sec. Litig.*, 12-CIV-14333 (JEM) (S.D. Fla. Sept. 20, 2012)
- *Zaghian v. THQ, Inc.*, 2:12-cv-05227-GAF-JEM (C.D. Cal. Sept. 14, 2012)

Consumer Litigation

Levi & Korsinsky works hard to protect consumers by holding corporations accountable for defective products, false and misleading advertising, overcharging, and unfair or deceptive business practices.

Our litigation and class action expertise combined with our in-depth understanding of federal and state laws enables us to fight for consumers who purchased defective products, including automobiles, appliances, electronic goods, and home products, as well as consumers who were deceived by consumer service providers such as banks and insurance, credit card, or phone companies.

In *NV Security, Inc. v. Fluke Networks*, Case No. CV05-4217 GW (SSx) (C.D. Cal. 2005), we negotiated a settlement on behalf of purchasers of Test Set telephones in an action alleging that the Test Sets contained a defective 3-volt battery. We benefited the consumer class by obtaining the following relief: free repair of the 3-volt battery, reimbursement for certain prior repair, an advisory concerning the 3-volt battery on the outside of packages of new Test Sets, an agreement that defendants would cease to market and/or sell certain Test Sets, and a 42-month warranty on the 3-volt battery contained in certain devices sold in the future.

In *Bustos v. Vonage America, Inc.*, Case No. 06 Civ. 2308 (HAA) (D.N.J. 2006), our firm achieved a common fund settlement of \$1.75 million on behalf of class members who purchased Vonage Fax Service in an action alleging that Vonage made false and misleading statements in the marketing, advertising, and sale of Vonage Fax Service by failing to inform consumers that the protocol Defendant used for the Vonage Fax Service was unreliable and unsuitable for facsimile communications.

In *Masterson v. Canon U.S.A.*, Case No. BC340740 (Cal. Super. Ct. L.A. Cty. 2006), we represented purchasers of Cannon SD Cameras in an action alleging that liquid crystal display ("LCD") screens on Cannon SD Cameras cracked, broke, or otherwise malfunctioned, and obtained refunds for certain broken LCD repair charges and important changes to the product warranty.

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

OUR ATTORNEYS

Joseph E. Levi, *Managing Partner*

Joseph E. Levi is a central figure in shaping and managing the Firm's securities litigation practice. Mr. Levi has been lead or co-lead in dozens of cases involving the enforcement of shareholder rights in the context of mergers & acquisitions and securities fraud. In addition to his involvement in class action litigation, he has represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications, and information processing, and has been instrumental in obtaining substantial awards and settlements.

Mr. Levi and the attorneys achieved success on behalf of the former shareholders of Occam Networks, Inc. in ongoing litigation challenging the Company's merger with Calix, Inc., obtaining a preliminary injunction against the merger due to material representations and omissions in the proxy statement by which the shareholders were solicited to vote. See *Steinhardt v. Howard-Anderson*, No. 5878-VCL (Del. Ch. Jan. 24, 2011). Vigorous litigation efforts are continuing to recover money damages for the shareholders.

Another victory for Mr. Levi and the attorneys was in litigation challenging the acquisition of Health Grades, Inc. by affiliates of Vestar Capital Partners, L.P., where it was successfully demonstrated to the Delaware Court of Chancery that the defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required by *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173 (Del. 1986). See *Weigard v. Hicks*, No. 5732-VCS (Del. Ch. Sept. 3, 2010). This ruling was used to reach a favorable settlement in which defendants agreed to a host of measures designed to increase the likelihood of superior bid. Vice Chancellor Strine "applaud[ed]" the litigation team for their preparation and the extraordinary high-quality of the briefing. He and the attorneys also played a prominent role in the matter of *In re CNX Gas Corp. Shareholders Litigation*, C.A. No. 5377-VCL (Del. Ch. 2010), in which plaintiffs recovered a common fund of over \$42.7 million for stockholders.

Education

- Brooklyn Law School, J.D. (1995), *magna cum laude*
- Polytechnic University, B.S. (1984), *summa cum laude*, MS (1986)

Admissions

- New York (1996)
- New Jersey (1996)
- United States Patent and Trademark Office (1997)
- United States District Court for the Southern District of New York (1997)
- United States District Court for the Eastern District of New York (1997)

Eduard Korsinsky, *Managing Partner*

For more than 17 years Eduard Korsinsky has represented clients in securities cases, derivative actions, consumer fraud, and complex commercial matters. He has been named a New York "Super Lawyer" by Thompson Reuters and is recognized as one of the country's leading practitioners in class and derivative matters. Mr. Korsinsky also has served as an editor of the American Bar Association's Securities Litigation Section's newsletter and is a member of the American Bar Association's Derivative Suits Subcommittee.

Cases which he has litigated include:

- *E-Trade Financial Corp. Sec. Litig.*, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

- *In re Activision, Inc. S'holder Derivative Litig.*, No. 06-cv-04771-MRP (JTLX)(C.D. Cal. 2006), recovered \$24 million in excess compensation
- *Corinthian Colleges, Inc., S'holder Derivative Litig.*, SACV-06-0777-AHS (C.D. Cal. 2009), obtained re-pricing of executive stock options providing more than \$2 million in benefits to the company
- *Pfeiffer v. Toll*, C.A. No. 4140-VCL (Del. Ch. 2010), \$16.25 million in insider trading profits recovered
- *In re Net2Phone, Inc. S'holder Litig.*, Case No. 1467-N (Del. Ch. 2005), obtained increase in tender offer price from \$1.70 per share to \$2.05 per share
- *In re Pamrapo Bancorp S'holder Litig.*, C-89-09 (N.J. Ch. Hudson Cty. 2011) & HUD-L-3608-12 (N.J. Law Div. Hudson Cty. 2015), obtained supplemental disclosures following the filing of a motion for preliminary injunction, pursued case post-closing, defeated motion for summary judgment, and obtained an increase in consideration of between 15-23% for the members of the Class
- *In re Google Inc. Class C S'holder Litig.*, C.A. No. 19786 (Del. Ch. 2012), obtained payment ladder indemnifying investors up to \$8 billion in losses stemming from trading discounts expected to affect the new stock
- *Woodford v. M.D.C. Holdings, Inc.*, 1:2011cv00879 (D. Del. 2012), one of a few successful challenges to say on pay voting, recovered millions of dollars in reductions to compensation
- *i2 Technologies, Inc. S'holder Litig.*, C.A. No. 4003-CC (Del. Ch. 2008), \$4 million recovered, challenging fairness of certain asset sales made by the company
- *Pfeiffer v. Alpert (Beazer Homes)*, C.A. No. 10-cv-1063-PD (D. Del. 2011), obtained substantial revisions to an unlawful executive compensation structure
- *In re NCS Healthcare, Inc. Sec. Litig.*, C.A. CA 19786, (Del. Ch. 2002), case settled for approximately \$100 million
- *Paraschos v. YBM Magnex International, Inc.*, No. 98-CV-6444 (E.D. Pa.), United States and Canadian cases settled for \$85 million Canadian

Education

- New York University School of Law, LL.M. (1997) Master of Law(s) Taxation
- Brooklyn Law School, J.D. (1995)
- Brooklyn College, B.S. (1992) *summa cum laude*, Accounting

Admissions

- New York (1996)
- New Jersey (1996)
- United States District Court for the Southern District of New York (1998)
- United States District Court for the Eastern District of New York (1998)
- United States Court of Appeals for the Second Circuit (2006)
- United States Court of Appeals for the Third Circuit (2010)
- United States District Court for the Northern District of New York (2011)
- United States District Court of New Jersey (2012)

- United States Court of Appeals for the Sixth Circuit (2013)

Publications

- Delaware Court Dismisses Compensation Case Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- SDNY Questions SEC Settlement Practices in Citigroup Settlement, ABA Section of Securities Litigation News & Developments (Nov. 7, 2011)
- New York Court Dismisses Shareholder Suit Against Goldman Sachs, ABA Section of Securities Litigation News & Developments (Oct. 31, 2011)

Donald J. Enright, *Partner*

During his 20 years as a litigator and trial lawyer, Mr. Enright has handled matters in the fields of securities, commodities, consumer fraud and commercial litigation, with a particular emphasis on shareholder M&A and securities fraud class action litigation. He has been named as a Washington, D.C. "Super Lawyer" by Thomson Reuters for several consecutive years, and as one of Washington's "Top Lawyers" by *Washingtonian* magazine.

Mr. Enright has shown a track record of achieving victories in federal trials and appeals, including:

- ***Nathenson v. Zonagen, Inc.***, 267 F. 3d 400, 413 (5th Cir. 2001)
- ***SEC v. Butler***, 2005 U.S. Dist. LEXIS 7194 (W.D. Pa. April 18, 2005)
- ***Belizan v. Hershon***, 434 F. 3d 579 (D.C. Cir. 2006)

Most recently, as Co-Lead Counsel in ***In re Bluegreen Corp. Shareholder Litigation***, Case No. 502011CA018111 (Cir. Ct. for Palm Beach Cnty., Fla.), Mr. Enright achieved a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders. Similarly, in ***In re CNX Gas Corp. Shareholders Litigation***, C.A. No. 53377-VCL (Del. Ch. 2010), in which Levi & Korsinsky served upon plaintiffs' Executive Committee, Mr. Enright helped obtain the recovery of a common fund of over \$42.7 million for stockholders.

Mr. Enright has also played a leadership role in numerous securities and shareholder class actions from inception to conclusion. His leadership has produced multi-million dollar recoveries in shareholder class actions involving such companies as:

- Allied Irish Banks PLC
- Iridium World Communications, Ltd.
- En Pointe Technologies, Inc.
- PriceSmart, Inc.
- Polk Audio, Inc.
- Meade Instruments Corp.
- Xicor, Inc.
- Streamlogic Corp.
- Interbank Funding Corp.
- Riggs National Corp.
- UTStarcom, Inc.

- Manugistics Group, Inc.

Mr. Enright also has a successful track record of obtaining injunctive relief in connection with shareholder M&A litigation, having won preliminary injunctions or other injunctive relief in the cases of:

- *In re Portec Rail Products, Inc. S'holder Litig.*, G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- *In re Craftmade International, Inc. S'holder Litig.*, C.A. No. 6950-VCL (Del. Ch. 2011)
- *Dias v. Purches*, C.A. No. 7199-VCG (Del. Ch. 2012)
- *In re Complete Genomics, Inc. S'holder Litig.*, C.A. No. 7888-VCL (Del. Ch. 2012)
- *In re Integrated Silicon Solution, Inc. Stockholder Litig.*, Lead Case No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Mr. Enright has also demonstrated considerable success in obtaining deal price increases for shareholders in M&A litigation. As Co-Lead Counsel in the matter of *In re Great Wolf Resorts, Inc. Shareholder Litigation*, C.A. No. 7328-VCN (Del. Ch. 2012), Mr. Enright was partially responsible for a \$93 million (57%) increase in merger consideration and waiver of several "don't-ask-don't-waive" standstill agreements that were precluding certain potential bidders from making a topping bid for the company.

Similarly, Mr. Enright served as Co-Lead Counsel in the case of *Berger v. Life Sciences Research, Inc.*, No. SOM-C-12006-09 (NJ Sup. Ct. 2009), which caused a significant increase in the transaction price from \$7.50 to \$8.50 per share, representing additional consideration for shareholders of approximately \$11.5 million.

And most recently, representing a substantial institutional investor, Mr. Enright served as Co-Lead Counsel in *Minerva Group, LP v. Keane*, Index No. 800621/2013 (NY Sup. Ct. of Erie Cnty.), and obtained a settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share.

The courts have consistently recognized and praised the quality of Mr. Enright's work. In *In re Interbank Funding Corp. Securities Litigation* (D.D.C. 02-1490), Judge Bates of the United States District Court for the District of Columbia observed that Mr. Enright had "...skillfully, efficiently, and zealously represented the class, and... worked relentlessly throughout the course of the case."

Similarly, in *Freeland v. Iridium World Communications, LTD.* (D.D.C. 99-1002), Judge Nanette Laughrey stated that Mr. Enright had done "an outstanding job" in connection with the recovery of \$43.1 million for the shareholder class.

In *In re Schuff International Shareholders Litigation*, C.A. No. 10323-VCL (Del. Ch. 2015), Vice Chancellor J. Travis Laster stated that Mr. Enright and LK "have done an excellent job in this Court getting results."

And, in the matter of *Osieczanek v. Thomas Properties Group*, C.A. No. 9029-VCG (Del. Ch. 2013), Vice Chancellor Sam Glasscock of the Chancery Court of Delaware observed that "it's always a pleasure to have counsel [like Mr. Enright] who are articulate and exuberant in presenting their position," and that Mr. Enright's prosecution of a merger case was "wholesome" and served as "a model of . . . plaintiffs' litigation in the merger arena."

Education

- George Washington University School of Law, J.D. (1996), where he was a Member Editor of The George Washington University Journal of International Law and Economics from 1994 to 1996
- Drew University, B.A. (1993) *cum laude*, Political Science and Economics

Admissions

- Maryland (1996)

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

- New Jersey (1996)
- United States District Court for the District of Maryland (1997)
- United States District Court for the District of New Jersey (1997)
- District of Columbia (1999)
- United States Court of Appeals for the Fourth Circuit (1999)
- United States Court of Appeals for the Fifth Circuit (1999)
- United States District Court for the District of Columbia (1999)
- United States Court of Appeals for the District of Columbia (2004)
- United States Court of Appeals for the Second Circuit (2005)
- United States Court of Appeals for the Third Circuit (2006)

Publications

- "SEC Enforcement Actions and Investigations in Private and Public Offerings," Securities: Public and Private Offerings, Second Edition, West Publishing 2007
- "Dura Pharmaceuticals: Loss Causation Redefined or Merely Clarified?" J. Tax'n & Reg. Fin. Inst. September/October 2007, Page 5

Nicholas I. Porritt, *Partner*

Nicholas I. Porritt prosecutes securities class actions, shareholder class actions, derivative actions, and mergers and acquisitions litigation. He has extensive experience representing plaintiffs and defendants in a wide variety of complex commercial litigation, including civil fraud, breach of contract, and professional malpractice, as well as defending SEC investigations and enforcement actions. Mr. Porritt has helped recover hundreds of millions of dollars on behalf of shareholders. He was one of the Lead Counsel in *In re Google Inc. Class C Shareholder Litigation*, C.A. No. 7469-CS (Del. Ch. 2012) that resulted in a payment of \$422 million to shareholders and overall benefit of over \$3 billion to Google's minority shareholders. Some of Mr. Porritt's cases include:

- *Cozzarelli v. Inspire Pharmaceuticals, Inc.*, 549 F.3d 618 (4th Cir. 2008)
- *Teachers' Retirement System of Louisiana v. Hunter*, 477 F.3d 162 (4th Cir. 2007)
- *In re PEC Solutions, Inc. Sec. Litig.*, 418 F.3d 379 (4th Cir. 2005)
- *Carlton v. Cannon*, ___ F. Supp. 3d ___, 2016 U.S. Dist. LEXIS 59397 (S.D. Tex. May 4, 2016)
- *Zola v. TD Ameritrade, Inc.*, ___ F. Supp. 3d ___, 2016 U.S. Dist. LEXIS 37803 (D. Neb. Mar. 23, 2016)
- *In re Energy Recovery Sec. Litig.*, 2016 U.S. Dist. LEXIS 9781 (N.D. Cal. Jan. 27, 2016)
- *In re EZCorp Inc. Consulting Agreement Deriv. Litig.*, 2016 Del. Ch. LEXIS 14 (Del. Ch. Jan. 25, 2016)
- *In re Violin Memory Sec. Litig.*, 2014 U.S. Dist. LEXIS 155428 (N.D. Cal. Oct. 31, 2014)
- *Garnitschnig v. Horovitz*, 48 F. Supp. 3d 820 (D. Md. 2014)

Mr. Porritt is also qualified as a Solicitor of the Senior Courts of England & Wales and advises international clients in the United States and Europe on the recovery of losses suffered to their investment portfolios attributable to financial fraud or other misconduct, including participation in shareholder class actions and other representative litigation in the United States, England, and in other jurisdictions.

Before joining the Firm, Mr. Porritt practiced as a partner at Akin Gump Strauss Hauer & Feld LLP and prior to that was a partner at Wilson Sonsini Goodrich & Rosati PC.

Education

- University of Chicago Law School, J.D. (1996) with honors
- University of Chicago Law School, LL.M. (1993)
- Victoria University of Wellington, LL.B. (Hons.) (1990) with First Class Honors, Senior Scholarship

Admissions

- New York (1997)
- District of Columbia (1998)
- United States District Court for the District of Columbia (1999)
- United States District Court for the Southern District of New York (2004)
- United States Court of Appeals for the Fourth Circuit (2004)
- United States Court of Appeals for the Eleventh Circuit (2004)
- United States Court of Appeals for the District of Columbia Circuit (2006)
- United States Supreme Court (2006)
- United States District Court for the District of Maryland (2007)
- United States District Court for the Eastern District of New York (2012)
- United States Court of Appeals for the Second Circuit (2014)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States District Court for the District of Colorado (2015)

Shannon L. Hopkins, *Partner*

Shannon L. Hopkins manages the Firm's Connecticut office. She was selected in 2013 as a New York "Super Lawyer" by Thomson Reuters. For more than a decade Ms. Hopkins has been prosecuting a wide range of complex class action matters in securities fraud, mergers and acquisitions, and consumer fraud litigation on behalf of individuals and large institutional clients. Ms. Hopkins has played a lead role in numerous shareholder securities fraud and merger and acquisition matters and has been involved in recovering multi-million dollar settlements on behalf of shareholders, including:

- *In re Force Protection, Inc. S'holder Litig.*, C.A. No. A-11-651336-B (D. Nev. 2015), \$11 million shareholder recovery
- *Craig Telke v. New Frontier Media, Inc.*, C.A. No. 1:12-cv-02941-JLK (D. Co. 2015), \$2.25 million shareholder recovery
- *Shona Investments v. Callisto Pharmaceuticals, Inc.*, C.A. No. 652783/2012 (NY Sup. Ct. 2015), shareholder recovery of \$2.5 million and increase in exchange ratio from 0.1700 to 0.1799
- *E-Trade Financial Corp. S'holder Litig.*, No. 07-cv-8538 (S.D.N.Y. 2007), \$79 million recovery for the shareholder class
- *In re Cogent, Inc. S'holder Litig.*, C.A. No. 5780-VCP (Del. Ch. 2010), \$1.9 million shareholder recovery and corrective disclosures relating to the Merger
- *In re CMS Energy Sec. Litig.*, Civil No. 02 CV 72004 (GCS) (E.D. Mich. Sept. 6, 2007), \$200 million recovery

- *In re Sears, Roebuck and Co. Sec. Litig.*, No. 02-cv-07527 (N.D. Ill. Jan. 8, 2007), \$200 million recovery
- *In re El Paso Electric Co. Sec. Litig.*, C.A. No. 3:03-cv-00004-DB (W.D. Tex. Sept. 15, 2005), \$10 million recovery
- *In re Novastar Fin. Sec. Litig.*, 4:04-cv-00330-ODS (W.D. Mo. Apr. 14, 2009), \$7.25 million recovery

The quality of Ms. Hopkin's work has been noted by courts. In *In re Health Grades, Inc. Shareholder Litigation*, C.A. No. 5716-VCS (Del. Ch. 2010), where Ms. Hopkins was significantly involved with the briefing of the preliminary injunction motion, then Vice Chancellor Strine "applaud[ed]" Co-Lead Counsel for their preparation and the extraordinary high-quality of the briefing.

In addition to her legal practice, Ms. Hopkins is a Certified Public Accountant (1998 Massachusetts). Prior to becoming an attorney, Ms. Hopkins was a senior auditor with PricewaterhouseCoopers LLP, where she led audit engagements for large publicly held companies in a variety of industries.

Education

- Suffolk University Law School, J.D. (2003) *magna cum laude*, where she served on the Journal for High Technology and as Vice Magister of the Phi Delta Phi International Honors Fraternity
- Bryant University, B.S.B.A., (1995) *cum laude*, Accounting and Finance, where she was elected to the Beta Gamma Sigma Honor Society

Admissions

- Massachusetts (2003)
- United States District Court for the District of Massachusetts (2004)
- New York (2004)
- United States District Court for the Southern District of New York (2004)
- United States District Court for the Eastern District of New York (2004)
- United States District Court for the District of Colorado (2004)
- United States Court of Appeals for the First Circuit (2008)
- United States Court of Appeals for the Third Circuit (2010)
- Connecticut (2013)

Publications

- Cybercrime Convention: A Positive Beginning to a Long Road Ahead, 2 J. High Tech. L. 101 (2003)

Shane T. Rowley, Partner

Shane T. Rowley has represented clients in class actions since 1991. Mr. Rowley has amassed extensive experience in complex litigation. In *Brickell Partners v. Emerging Communications, Inc.*, C.A. No. 16415 (Del. Ch. 1998), Mr. Rowley, as sole class counsel in conjunction with counsel for a co-litigant hedge fund, was instrumental in establishing new law and new standards for determining the fiduciary duties of corporate directors, especially directors that have specialized backgrounds (such as accountants, lawyers, financial experts, etc.). He was named as 2014 NY Metro Super Lawyer by Super Lawyers.

The Brickell Partners action was litigated vigorously by Mr. Rowley for over four years, including a six week trial, after which the Court returned a verdict in favor of plaintiff. The landmark decision is now reported as

In re Emerging Communications., Inc. Shareholders Litigation, C.A. No. 16415, 2004 Del. Ch. LEXIS 70 (Del. Ch., May 3, 2004).

Mr. Rowley has recovered hundreds of millions of dollars for shareholders of publicly traded companies. In *Rice v. Lafarge North America, Inc.*, No. 268974-V (Md. Cir. Ct. Montgomery Cty. 2007), as Co-Lead Counsel, he represented the public shareholders of Lafarge North America ("LNA") in challenging the buyout of LNA by its French parent, Lafarge S.A., at the original offer price of \$75 per share. Following discovery and extensive injunction motion practice by Mr. Rowley and his co-counsel, the price per share was increased from \$75 to \$85.50 per share, representing a total benefit to the public shareholders of \$388 million.

In *In re Fox Entertainment Group, Inc. Shareholders Litigation*, Consolidated C.A. No. 1033-N (Del. Ch. 2005), Mr. Rowley, as Co-Lead Counsel, was responsible for creating an increased offer price from the original proposal to shareholders, which represented an increased benefit to Fox Entertainment Group, Inc. shareholders of \$450 million.

Mr. Rowley is a citizen of the United States of America and Ireland and is admitted to practice in both countries.

Education

- Honorable Society of Kings Inns, Dublin, B.L. (1989)
- Trinity College (Dublin, Ireland), LL.B. (1987)

Admissions

- New York (1990)
- United States District Courts for the Eastern District of New York (1993)
- United States District Courts for the Southern District of New York (1993)
- United States District Court for the District of Colorado (1999)

Then Vice Chancellor Leo E. Strine, Jr. praised the "exceedingly measured and logical" argument in Forgo v. Health Grades, Inc., C.A. No. 5716-VCS (Del. Ch. 2010).

Michael H. Rosner, *Partner*

Michael H. Rosner focuses his practice on representing shareholders of public companies in class action and derivative litigation seeking recovery for corporate wrongdoing, particularly with respect to mergers and acquisitions and executive compensation. He was selected as a "Rising Star" by Super Lawyers in 2014.

Recent successes on behalf of shareholders include the obtaining of a preliminary injunction against the merger of Occam Networks, Inc. and Calix, Inc., due to material misrepresentations and omissions in the proxy statement by which the shareholders were solicited to vote for the merger. See *Steinhardt v. Howard-Anderson*, No. 5878-VCL (Del. Ch. Jan. 24, 2011). Mr. Rosner continues to lead the litigation effort on behalf of former Occam shareholders to recover money damages for alleged breaches of fiduciary duty by Occam's Board of Directors in connection with the merger.

Another of Mr. Rosner's recent victories for shareholders was in litigation challenging the acquisition of Health Grades, Inc. by affiliates of Vestar Capital Partners, L.P. In that case, Mr. Rosner and his co-counsel

successfully demonstrated to the Delaware Court of Chancery that the defendants had likely breached their fiduciary duties to Health Grades' shareholders by failing to maximize value as required by *Revlon, Inc. v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173 (Del. 1986). See *Weigard v. Hicks*, No. 5732-VCS (Del. Ch. Sept. 3, 2010) ("Health Grades").

Using the Court's favorable ruling, Mr. Rosner and co-counsel in Health Grades were successful in reaching a settlement in which defendants agreed to, among other things, modify the merger agreement (including by reducing the termination fee, imposing a "majority of the minority" requirement, and reducing the period of notice to the buyer before Health Grades could enter into a superior proposal), as well as to create and empower an independent committee, extend the tender offer so as to allow other potential bidders an opportunity to make a competing bid, and issue a "Fort Howard" press release affirmatively stating that the company "will provide information to, and engage and participate in good faith discussions and negotiations with, any third party" making a bona fide written acquisition proposal. Vice Chancellor Strine "applaud[ed]" Mr. Rosner and co-counsel for their preparation and the extraordinarily high quality of the briefing.

Mr. Rosner has also had success at the appellate level, persuading the Second Circuit Court of Appeals to reverse a district court's dismissal of derivative claims seeking to recover excessive compensation granted to officers and directors of Goldman Sachs. See *Bader v. Goldman Sachs Group, Inc.*, No. 10-4364-cv, 2011 WL 6318037 (2d Cir. Dec. 19, 2011).

Prior to joining the Firm, Mr. Rosner practiced as an associate at Sullivan & Cromwell (2000-2006).

Education

- Fordham University School of Law, J.D. (2000) *magna cum laude*, where he served on the Fordham Law Review and was President of the Chess Club
- State University of New York at Albany, B.A. (1997) *summa cum laude*, where he was elected to Phi Beta Kappa

Admissions

- New York (2001)
- United States District Court for the Southern District of New York (2001)
- United States District Court for the Eastern District of New York (2001)
- United States Court of Appeals for the Second Circuit (2005)
- United States District Court for the Eastern District of Michigan (2016)

Publications

- Co-authored "Seeking Subprime Solutions: Fed Action, Legislation and Litigation Address the Subprime Mess," Global Securitization Guide (May 2008)
- Co-authored "Legislative and Regulatory Developments in U.S. Securitizations," Global Securitization Guide (May 2007)
- Assisted in the preparation of "Pay, Performance and Proxies: The Latest in Executive Compensation," Fund Management Legal & Regulatory Report (March 2007)

Lori G. Feldman, *Partner*

Lori G. Feldman provides strong legal representation to victims of consumer fraud and breaches of fiduciary duty under the Employment Retirement Income Security Act of 1974 (ERISA). She holds violators of consumer and investor trust accountable through the vigorous prosecution of class action litigation. She has over 20 years of class action experience litigating diverse claims against large and powerful corporations and has recovered more than \$100 million on behalf of her clients. Her national, federal, and state court practice has helped to shape class action law and earned her recognition as a Super Lawyer in the NY Metro area from 2011-2016.

She is bi-coastally licensed in New York and Washington States and is admitted to practice in federal districts and appellate courts across the country.

Prior to joining the firm, Ms. Feldman spent many years as a Partner of a nationally-recognized plaintiffs' class action practice. She is a member of numerous bar and legal associations, and sits on the Board of The Glaucoma Foundation.

Education

- Albany Law School, Union University, J.D. (1990), where she served as a member of the Albany Law Review
- State University of New York at Albany, B.A. (1987) *magna cum laude*, Criminal Justice, Biology Minor

Admissions

- New York (1991)
- United States District Court for the Southern District of New York (1991)
- United States District Court for the Eastern District of New York (1991)
- United States District Court for the Western District of Washington (1999)
- Washington (1999)
- United States District Court for the District of Colorado (2002)
- United States Court of Appeals for the Ninth Circuit (2006)
- United States District Court for the Eastern District of Michigan (2006)
- United States Court of Appeals for the Seventh Circuit (2008)
- United States Court of Appeals for the First Circuit (2013)
- United States Court of Appeals for the Second Circuit (2013)
- United States Court of Appeals for the Fifth Circuit (2013)

Publications

- Co-author of "Turning Tides For Employee Arbitration Agreements" as featured on Law360.com (October 2016)

Nancy A. Kulesa, Partner

Nancy A. Kulesa has extensive experience in complex litigation in federal and state courts, including securities litigation, Employee Retirement Income Security Act of 1974 (ERISA) litigation, consumer fraud litigation, mergers and acquisitions cases, and antitrust litigation.

Ms. Kulesa is involved in all of the Firm's practice areas, with a primary focus on securities litigation and institutional investor relations. She directs the Firm's Portfolio Monitoring Services and assists clients in identifying material losses in their securities portfolios caused by corporate wrongdoing. She consults with investors regarding securities litigation, corporate governance, and shareholder rights. She has been involved in numerous securities fraud litigations which have recovered millions of dollars for shareholders, including:

- *In re CIT Group Sec. Litig.*, 1:08-06613 (S.D.N.Y. 2008), \$75 million
- *Klugmann v. American Capital Ltd.*, 09-cv-0005 (D. Md. 2009), \$18 million
- *In re Nuvelo, Inc. Sec. Litig.*, 07-cv-4056 (N.D. Cal. 2007), \$8.9 million
- *Bauer v. Prudential, Inc.*, 09-cv-1120 (JLL) (D.N.J. 2009), \$16.5 million

Prior to joining the Firm, Ms. Kulesa practiced at Iazard Nobel, LLP, where she represented investors in securities class actions and employees under ERISA. Ms. Kulesa has experience in representing corporations seeking antitrust clearance of mergers and acquisitions and has also handled commercial litigation matters and contractual disputes.

Education

- University of Connecticut School of Law, J.D. (2001)
- Fordham University, B.A. (1998), International Politics

Admissions

- Connecticut (2001)
- United States District Court for the District of Connecticut (2004)
- United States District Court for the Southern District of New York (2015)
- United States Court of Appeals for the Ninth Circuit (2016)

Vice Chancellor Sam Glasscock said "it's always a pleasure to have counsel [from Levi & Korsinsky] who are articulate and exuberant..." and referred to our approach to merger litigation as "wholesome" and "a model of... plaintiffs' litigation in the merger arena."

Vice Chancellor Sam Glasscock, in *Ocieczanek v. Thomas Properties Group*,
C.A. No. 9029-VCG (Del. Ch. 2014)

Elizabeth K. Tripodi, Partner

Elizabeth K. Tripodi focuses her practice on shareholder M&A litigation, representing shareholders of public companies impacted by mergers, acquisitions, tender offers, and other change-in-control transactions. Ms.

Tripodi has been named as a Washington, DC “Super Lawyer” and was selected as a “Rising Star” by Thomson Reuters for several consecutive years.

Ms. Tripodi has played a lead role in obtaining monetary *recoveries* for shareholders in M&A litigation:

- *In re Bluegreen Corp. S’holder Litig.*, Case No. 502011CA018111 (Circuit Ct. for Palm Beach Cty., FL), creation of a \$36.5 million common fund settlement in the wake of a majority shareholder buyout, representing a 25% increase in total consideration to the minority stockholders
- *In re Cybex International S’holder Litig.*, Index No. 653794/2012 (N.Y. Sup. Ct. 2014), recovery of \$1.8 million common fund, which represented an 8% increase in stockholder consideration in connection with management-led cash-out merger
- *In re Great Wolf Resorts, Inc. S’holder Litig.*, C.A. No. 7328-VCN (Del. Ch. 2012), where there was a \$93 million (57%) increase in merger consideration
- *Minerva Group, LP v. Keane*, Index No. 800621/2013 (N.Y. Sup. Ct. 2013), settlement in which Defendants increased the price of an insider buyout from \$8.40 to \$9.25 per share

Ms. Tripodi has played a key role in obtaining injunctive relief while representing shareholders in connection with M&A litigation, including obtaining preliminary injunctions or other injunctive relief in the following actions:

- *In re Portec Rail Products, Inc. S’holder Litig.*, G.D. 10-3547 (Ct. Com. Pleas Pa. 2010)
- *In re Craftmade International, Inc. S’holder Litig.*, C.A. No. 6950-VCL (Del. Ch. 2011)
- *Dias v. Purches*, C.A. No. 7199-VCG (Del. Ch. 2012)
- *In re Complete Genomics, Inc. S’holder Litig.*, C.A. No. 7888-VCL (Del. Ch. 2012)
- *In re Integrated Silicon Solution, Inc. Stockholder Litig.*, Lead Case No. 115CV279142 (Sup. Ct. Santa Clara, CA 2015)

Prior to joining Levi & Korsinsky LLP, Ms. Tripodi was a member of the litigation team that served as Lead Counsel in, and was responsible for, the successful prosecution of numerous class actions, including: *Rudolph v. UTStarcom* (stock option backdating litigation obtaining a \$9.5 million settlement); *Grecian v. Meade Instruments* (stock option backdating litigation obtaining a \$3.5 million settlement).

*In appointing the Firm Lead Counsel in Zaghian v. THQ, Inc.,
2:12-cv-05227-GAF-JEM (C.D. Cal. Sept. 14, 2012),
The Honorable Gary Allen Feess cited the Firms’ “significant prior
experience in securities litigation and complex class actions.”*

Education

- American University Washington College of Law (2006), *cum laude*, where she served as Editor in Chief of the Business Law Brief, was a member of the National Environmental Moot Court team, and interned for Environmental Enforcement Section at the Department of Justice
- Davidson College B.A. (2000) Art History

Admissions

- Virginia (2006)
- District of Columbia (2008)
- United States District Court for the Eastern District of Virginia (2006)
- United States District Court for the District of Columbia (2010)

Amy Miller, *Of Counsel*

Amy Miller is Of Counsel with the Firm. Over the last fifteen years, Ms. Miller has represented clients in stockholder derivative law suits, corporate governance litigation, securities class actions, and appraisal proceedings. Ms. Miller currently prosecutes these cases on behalf of stockholders seeking accountability from corporate management on issues ranging from breach of fiduciary duties to corporate waste. Ms. Miller has secured significant monetary recoveries and corporate governance reforms on behalf of stockholders, including:

- ***In re Jefferies Group, Inc. Shareholders Litigation***, C.A. No. 8059-CB (Del. Ch. 2015) (\$70 million recovery)
- ***In re News Corp. Shareholder Derivative Litigation***, C.A. No. 6285-VCN (Del. Ch. 2013) (\$139 million recovery and a variety of corporate governance enhancements)
- ***In re ACS Shareholder Litigation***, C.A. No. 4940-VCP (Del. Ch. 2010) (\$69 million recovery)

Prior to joining the Firm, Ms. Miller practiced at Cadwalader, Wickersham & Taft LLP for more than seven years before working at two boutique plaintiffs firms in New York. While in law school, Ms. Miller participated in an externship with the Honorable George B. Daniels of the United States District Court for the Southern District of New York.

Education

- New York Law School, J.D., *summa cum laude* (2001), where she served as a Member & Articles Editor on the New York Law School Law Review, and was awarded Merit Based Scholarships from 1997 - 2001
- Boston University, B.A. *magna cum laude* (1995)

Admissions

- New York (2002)
- United States District Court for the Southern District of New York
- United States District Court for the Eastern District of New York
- United States Court of Appeals for the Sixth Circuit

Publications

- Co-Author of "Coaches Should Stick to the Sidelines: Why the Federal Rules Should Track Delaware Rules Regarding Conferences Between Deponents and Counsel," used in conjunction with Practising Law Institute's Corporate Law and Practice Course Handbook Series

Cecille B. Cargill, *Associate*

Cecille B. Cargill manages the Firm's client development services. She advises shareholders of their rights related to securities litigation, complex class actions, and shareholder and derivative litigation, and also responds to shareholder inquiries pertaining to the Firm and specific cases.

Education

- Boston University School of Law, J.D. (1994)
- State University at Buffalo, B.A. (1990) History & Legal Studies

Admissions

- Massachusetts (1995)

Julia J. Sun, *Associate*

Julia J. Sun represents investors in a variety of complex class actions, including securities class actions and shareholder derivative actions in federal and state courts. In particular, she represents shareholders in litigation arising from mergers and acquisitions.

Ms. Sun has played an important role in the prosecution of:

- ***Spahn v. Edward D. Jones & Co.***, 04 cv 00086 (HEA) (E.D. Mo. 2004), a federal class action alleging inadequate disclosure to clients of the company's "preferred funds program," which resulted in the successful recovery of \$127.5 million for investors
- ***Bachman v. A.G. Edwards, Inc.***, Case No. 22052-01266-03 (Mo. Cir. Ct. St. Louis Cty. 2005), which alleged fiduciary breach and unjust enrichment, and resulted in a recovery for the class valued at \$60 million
- ***Conditionally Certified Class of Certain Former Summit Bancorp Shareholders v. FleetBoston Financial Corporation***, C.A. 2:08-cv-04947-GEB-MCA (D.N.J. 2008), which charged defendants with violations of the Securities Act and recovered \$5.5 million for the class

Ms. Sun was also responsible for the coordination of several complex actions under Section 36(b) of the Investment Company Act of 1940 and certain other federal and state laws, arising from the payment of excessive fees to investment advisers and distributors of large mutual fund families, including *Forsythe v. Massachusetts Financial Services Co.*, No. 04 cv 10584 (GAO) (D. Mass 2004) and *In re RS Funds*, 04 cv 3798 (JFM) (D. Md. 2004) (*In re Mutual Funds Investment Litigation*, MDL 1586, 04-MD-15863 (JFM)).

Education

- Brooklyn Law School, J.D. (2003)
- Barnard College, B.A. (1998)

Admissions

- New York (2004)
- New Jersey (2004)
- United States District Court for the District of New Jersey (2004)

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

- United States District Court for the Eastern District of New York (2006)
- United States District Court for the Southern District of New York (2006)

Thomas M. Gottschlich, *Associate*

Thomas M. Gottschlich focuses on prosecuting shareholder, consumer, and anti-trust class actions. During law school, Mr. Gottschlich interned at the Department of Justice's Federal Tort Claims Act Section, interned for the Honorable Ricardo M. Urbina at the U.S. District Court for the District of Columbia, and interned for the Honorable Mary Katherine Huffman at the Montgomery County, Ohio Court of Common Pleas.

Education

- American University Washington College of Law, J.D. (2009), where he was a member of the American University Law Review
- American University, B.A. (2005) International Studies, Spanish minor

Admissions

- New York (2009)
- District of Columbia (2011)
- United States District Court for the Southern District of New York (2012)
- United States District Court for the Eastern District of New York (2012)

Adam M. Apton, *Associate*

Adam M. Apton focuses his practice on investor protection. He represents institutional investors and high net worth individuals in securities fraud, corporate governance, and shareholder rights litigation. Prior to joining the firm, Mr. Apton defended corporate clients against complex mass tort, commercial, and products liability lawsuits. Thomson Reuters selected Mr. Apton to the Super Lawyers 2016 Washington DC "Rising Stars" list, a distinction given to only the top 2.5% of lawyers.

Mr. Apton currently serves as court-appointed lead counsel in several class action lawsuits throughout the United States:

- ***Carlton v. Cannon (KiOR Inc.)***, 4:13-cv-02443 (LHR) (S.D. Tex.), federal class action securities fraud lawsuit against former officers of biofuel firm KiOR, Inc., featured on CBS's "60 Minutes"
- ***In re Energy Recovery Inc. Sec. Litig.***, 3:15-cv-00265 (N.D. Cal.), federal class action lawsuit alleging securities fraud violations against company and former chief executive officer for false projections and reports of finances and operations
- ***Cortina v. Anavex Life Sciences Corp.***, 1:15-cv-10162-JMF (S.D.N.Y.), federal class action lawsuit for market manipulation against biopharmaceutical company for promoting itself as extraordinary investment opportunity based on supposed cure for Alzheimer's Disease
- ***Rux v. Meyer (Sirius XM Holdings Inc.)***, No. 11577 (Del. Ch.), shareholder rights lawsuit against SiriusXM's Board of Directors for engaging in harmful related-party transactions with controlling stockholder, John. C. Malone and Liberty Media Corp.

- ***Stadnick v. Vivint Solar, Inc.***, No. 16-65 (2d Cir.), federal class action lawsuit alleging violations under the Securities Act of 1933 in connection with misleading initial public offering documents

Mr. Apton's past representations and successes include:

- ***In re Violin Memory Inc. Sec. Litig.***, 4: 13-cv-05486-YGR (N.D. Cal.) (settlement of \$7.5 million over allegations of false statements in initial public offering documents concerning sales to government sector)
- ***Roby v. Ocean Power Technologies, Inc.***, 3:14-cv-3799-FLW-LHG (D.N.J.) (settlement fund of \$3 million and 380,000 shares of common stock in response to allegations over failed technology)
- ***Maritime Asset Management, LLC v. NeurogesX, Inc.***, 4: 12-cv-05034-YGR (N.D. Cal.) (recovery of \$1.25 million on behalf of private offering class)
- ***Monson v. Friedman (Associated Estates Realty Corp.)***, 1:14-cv-01477-PAG (N.D. Ohio) (revoking improperly awarded stock options and implementing corporate governance preventing reoccurrence of similar violations)
- ***In re OCZ Technology Group, Inc. Sec. Litig.***, 3:12-cv-05265-RS (N.D. Cal.) (settlement fund of \$7.5 million over allegations of accounting fraud relating to improper revenue recognition)

Education

- New York Law School, J.D. *cum laude* (2009), where he served as Articles Editor of the *New York Law School Law Review* and interned for the New York State Supreme Court, Commercial Division
- University of Minnesota, B.A. *with distinction* (2006) Entrepreneurial Management & Psychology

Admissions

- New York (2010)
- United States District Court for the Southern District of New York (2010)
- United States District Court for the Eastern District of New York (2010)
- District of Columbia (2013)
- United States Court of Appeals for the Ninth Circuit (2015)
- United States Court of Appeals for the Second Circuit (2016)
- United States Court of Appeals for the Third Circuit (2016)

Justin G. Sherman, Associate

Justin G. Sherman is a member of the New York City Bar Association and the New York County Lawyers Association.

Education

- New York Law School, J.D. (2011) *cum laude*, where he was a Notes & Comments Editor on the New York Law School Law Review
- Hamilton College, B.A. (2008), World Politics Major, Spanish Minor

Admissions

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)

William J. Fields, *Associate*

William J. Fields is a member of the New York City Bar Association and serves on the New York City Affairs Committee. Before joining the Firm, Mr. Fields was a Law Clerk in the Second Circuit Court of Appeals – Staff Attorney’s Office.

Education

- Cornell Law School, J.D. (2011)
- University of Connecticut, B.A. (2008) *cum laude*

Admissions

- New York (2012)
- United States District Court for the Eastern District of Michigan (2016)

“[The court] appreciated very much the quality of the argument, the obvious preparation that went into it, and the ability of counsel...”

- Vice Chancellor Sam Glasscock, III, *Dias v. Purches*, C.A. No. 7199-VCG (Del. Ch. 2012)

Sebastian Tornatore, *Associate*

Prior to joining the Firm, Sebastian Tornatore worked for the Connecticut Judicial System, where he gained significant experience working for various state judges.

Education

- The University of Connecticut School of Law, J.D. (2012), where he served as Executive Editor of the Connecticut Law Review and was a member of the Connecticut Moot Court Board
- Boston College, B.A. (2008) Political Science

Admissions

- Massachusetts (2012)
- Connecticut (2012)
- New York (2014)
- United States District Court for the District of Connecticut (2014)
- United States District Court for the Southern District of New York (2016)
- United States District Court for the District of Massachusetts (2016)

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

Stephanie A. Bartone, *Associate*

Stephanie A. Bartone practices in all areas of the firm, with a focus on consumer class action litigation. Prior to joining the firm, Ms. Bartone worked for the Connecticut Judicial System where she assisted State court judges in civil and family matters. Ms. Bartone also previously worked for a firm specializing in civil litigation and criminal defense at the state and federal level.

Education

- The University of Connecticut School of Law, J.D. (2012), where she served as Symposium Editor of the Connecticut Law Review
- University of New Hampshire, B.A. (2008) *summa cum laude*, Psychology and Justice Studies

Admissions

- Connecticut (2012)
- Massachusetts (2012)
- United States District Court for the District of Colorado (2013)
- United States District Court for the District of Connecticut (2015)
- United States District Court for the District of Massachusetts (2016)

Christopher J. Kupka, *Associate*

Christopher J. Kupka represents victims of wrongdoing in employment, consumer, and securities class actions and stockholder derivative suits. In law school, Mr. Kupka was awarded the M.H. Goldstein Memorial Prize for excellence in labor law. Mr. Kupka was also the recipient of an Edward V. Sparer Public Interest Fellowship.

Education

- University of Pennsylvania Law School, J.D. (2010), where he served as an editor of the Journal of International Law, was an Edward V. Sparrow Public Interest Fellow, and was awarded the M.H. Goldstein Memorial Prize in labor law
- Cornell University, A.B. (2007)

Admissions

- New York (2011)
- United States District Courts for the Southern District of New York (2012)
- United States District Courts for the Eastern District of New York (2012)
- Illinois (2013)
- United States District Courts for the Northern District of Illinois (2014)

Publications

- "Remediation of Unfair Labor Practices and the EFCA: Justifications, Criticisms, and Alternatives," 38 Rutgers L. Rec. 197 (May 2011)

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

- Co-author of "Turning Tides For Employee Arbitration Agreements" as featured on Law360.com (October 2016)

Alexander Krot, *Associate*

Education

- The George Washington University, BBA (2003) concentrations in Finance and International Business
- American University Washington College of Law, J.D. (2010)
- Georgetown University Law Center, LL.M. (2011) Securities and Financial Regulation with Distinction
- American University, Kogod School of Business, M.B.A. (2012)

Admissions

- Maryland (2011)
- District of Columbia (2014)
- United States District Court for the District of Colorado (2015)

Katherine DeStefano, *Associate*

Katherine DeStefano practices in the Washington, D.C. office. Prior to joining the Firm, Ms. DeStefano was a law clerk in the District Court of Maryland for Montgomery County, assisting all eleven judges.

Education

- Georgetown University, B.S. Marketing & Management, concentration in Leadership & Change (2010)
- Fordham University School of Law, J.D. (2013), where she served as an Associate Editor of the Fordham Intellectual Property, Media & Entertainment Law Journal, and as Executive Vice President of the Fordham Sports Law Forum

Admissions

- New York (2014)
- District of Columbia (2014)

Courtney E. Maccarone, *Associate*

Prior to joining the firm, Courtney E. Maccarone was an associate at a boutique firm in New York specializing in class action litigation. Ms. Maccarone gained experience in law school as an intern to the Honorable Martin Glenn of the Southern District of New York Bankruptcy Court and as a law clerk at a New York City-based class action firm.

Ms. Maccarone was selected as a New York Super Lawyers "Rising Star" in 2014, 2015 and 2016.

Education

- New York University, B.A. (2008) *magna cum laude*

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

- Brooklyn Law School, J.D. (2011) *magna cum laude*, where she served as the Executive Symposium Editor of the Brooklyn Journal of International Law and was a member of the Moot Court Honor Society

Admissions

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)
- United States District Court for the Eastern District of New York (2012)
- United States District Court for the Southern District of New York (2012)

Publications

- "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights," published in the Spring 2011 edition of the Brooklyn Journal of International Law

"a model for how [the] great legal profession should conduct itself."

*- Justice Timothy S. Driscoll, Grossman v. State Bancorp, Inc.,
Index No. 600469/2011 (Nassau County, New York Supreme Court 2011)*

Michael B. Ershowsky, *Associate*

Michael B. Ershowsky is an Associate with the Firm practicing in the New York office. Mr. Ershowsky's practice focuses on the prosecution of shareholder, employment, and consumer class actions. During law school, Mr. Ershowsky was a judicial extern in the chambers of the Honorable Leon Ruchelsman of the New York Supreme Court, Kings County. Mr. Ershowsky also interned with the United States Postal Service law department, where he assisted attorneys defending the Postal Service in labor and employment actions.

Education

- Brooklyn Law School, J.D. (2013), where he earned a Certificate in Business Law with Distinction
- University of Miami, B.A. (2006) History

Admissions

- New York (2014)
- United States District Court for the Eastern District of New York (2016)
- United States District Court for the Southern District of New York (2016)

Brian Stewart, *Associate*

Brian Stewart is an Associate with the Firm practicing in the Washington, D.C. office. Prior to joining the firm, Mr. Stewart was an associate at a small litigation firm in Washington D.C. and a regulatory analyst at the

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

Financial Industry Regulatory Authority (FINRA). During law school, he interned for the Enforcement Divisions of the SEC and CFPB.

Education

- American University Washington College of Law, J.D. (2012)
- University of Washington, B.S. Economics, Minor in Mathematics (2008)

Admissions

- Maryland (2012)
- District of Columbia (2014)

Andrea Clisura, *Associate*

Andrea Clisura focuses her practice on prosecuting consumer class actions. Prior to joining Levi & Korsinsky, LLP, she was an associate at a boutique law firm in New York specializing in class action litigation. While attending Brooklyn Law School, Ms. Clisura served as an Associate Managing Editor of the Journal of Law and Policy and was a member of the Moot Court Honor Society, Appellate Advocacy Division. Her note, "None of Their Business: The Need for Another Alternative to New York's Bail Bond Business," was published in Brooklyn Law School's Journal of Law and Policy.

Ms. Clisura also gained experience in law school as an intern to the Honorable David G. Trager of the U.S. District Court for the Eastern District of New York and as a summer law intern with the U.S. Department of Justice, Antitrust Division, and a New York Legal Services office engaged in foreclosure defense.

Education

- Brooklyn Law School, J.D., *magna cum laude* (2011)
- New York University, B.A., *magna cum laude* (2005)

Admissions

- New Jersey (2011)
- New York (2012)
- United States District Court for the District of New Jersey (2012)
- United States District Court for the Eastern District of New York (2012)
- United States District Court for the Southern District of New York (2012)

Adam C. McCall, *Associate*

Adam C. McCall is an Associate with the Firm. Prior to joining Levi & Korsinsky, Mr. McCall was a Summer Analyst at Moelis & Company and an intern at Fortress Investment Group. While attending the Georgetown University Law Center, he was an extern at the Securities and Exchange Commission's Division of Corporate Finance.

Education

- Georgetown University Law Center, LL.M. Securities and Financial Regulation (2015)
- California Western School of Law, J.D. *cum laude* (2013)

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

- Santa Clara University, Certificate of Advanced Accounting Proficiency (2010)
- University of Southern California, B.A. Economics (2008)

Admissions

- California (2014)
- United States District Court for the Central District of California (2015)
- United States District Court for the Eastern District of California (2015)
- United States District Court for the Northern District of California (2015)
- United States District Court for the Southern District of California (2015)
- United States Court of Appeals for the Ninth Circuit (2016)
- Admission to DC Bar pending

Christa Menge, *Associate*

Christa Menge attended the University of Connecticut School of Law and worked as an intern in the Juvenile Court System, as well as a Child Advocate. Before joining the Firm, Christa worked in the Judicial System directly with numerous State Judges. Christa then represented victims of Domestic Violence as an Attorney Advocate.

Education

- Sacred Heart University, M.A., Honors, Silver Medal of Excellence (2012) Criminal Justice
- The University of Connecticut School of Law, J.D. (2011); Pro Bono Service Honoree (100+ hours of Pro Bono work); CALI Excellence for the Future Award for Criminal Appellate Division & Criminal Appellate Advocacy
- Marist College, B.A., *magna cum laude* (2008) Political Science, Honors Program

Admissions

- Connecticut (2011)
- Massachusetts (2012)
- New York (2013)

Meghan Daley, *Associate*

Meghan Daley is an Associate with the Firm in the Connecticut office. While attending law school at the University of Connecticut, she gained experience as an intern at the Connecticut Attorney General's Office in the Department of Antitrust and Trade Regulation, and as an intern to the Honorable Michael R. Sheldon of the Connecticut Appellate Court. Ms. Daley also served as the Executive Symposium Editor of the Connecticut Public Interest Law Journal.

Education

- University of Connecticut School of Law, J.D., *cum laude*, (2015)
- University of Connecticut, B.A. (2012) English

LEVI&KORSINSKY LLP

NEW YORK | WASHINGTON, D.C. | NEW JERSEY | CONNECTICUT | CALIFORNIA

Admissions

- Connecticut (2015)

Jonathan Lindenfeld, *Associate*

Jonathan Lindenfeld is an Associate with the Firm in the New York office. While attending law school, Mr. Lindenfeld gained experience as an intern at the U.S. Attorney's Office in the Eastern District of New York and a boutique derivatives and forex firm. Mr. Lindenfeld also served as the Alumni Relations Editor of the Hofstra Journal of International Business and Law.

Education

- Hofstra University School of Law, J.D., *cum laude*, (2015)
- City University of New York-Queens College, B.A. (2012) Economics

Admissions

- New Jersey (2015)
- New York (2016)
- United States District Court for the Southern District of New York (2016)

Publications

- The CFTC's Substituted Compliance Approach: An Attempt To Bring About Global Harmony and Stability in the Derivatives Market, 14 J. INT'L BUS. & L. 125 (2015)

Samir Shukurov, *Associate*

Prior to joining the Firm, Mr. Shukurov worked for a corporate and securities law firm where he represented clients in exempted securities offerings and 1934 Securities Exchange Act reporting matters. Mr. Shukurov also worked as the General Counsel for Ernst & Young's Azerbaijan office.

Education

- Boston University School of Law, LL.M. *Outstanding Achievement Award* (2015)
- Baku State University, LL.M. in Civil Law *with honors* (2012)
- Baku State University, LL.B. (2009)

Admissions

- Massachusetts (2015)
- New York (2016)
- United States District Court for the Southern District of New York (2016)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION**

Rachael Cronin.

Plaintiff,

Y.

EOS Products, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

DECLARATION OF JANINE L. POLLACK IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT

Date: December 19, 2016

Time: 8:30 a.m.

Room: 750

Judge: Hon. John A. Kronstadt

I, Janine L. Pollack, declare as follows:

1. I am a partner of the law firm Wolf Haldenstein Adler Freeman & Herz LLP, counsel for Plaintiffs Marylou Gilsleider, Yokie Renee Ivy, Samantha Santiago and Larissa Gannuccelli in these Actions. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of the contemporaneously filed Plaintiffs' Motion for Preliminary Approval of Proposed Class Action (the "Motion").¹

¹ All capitalized terms have the same meaning as set forth in the Settlement Agreement.

2. The schedule below indicates the attorneys, paralegals and other professionals of my firm who performed work in this litigation for time entered through October 27, 2016. The schedule includes the name of each person who worked on the case, hourly billing rates, and the number of hours expended. The backgrounds and qualifications of the attorneys who worked on the matter are set forth in the Firm Resume attached hereto as Exhibit A. The lodestar calculation is based on my firm's current billing rates, including for attorneys and employees no longer employed by the firm, at the firm's customary hourly rates charged to our fee-paying clients, and which have been accepted as reasonable by this District and other district courts in numerous other class action litigations. *See, e.g., Bezdek v. Vibram USA Inc.*, 79 F. Supp. 3d 324 (D. Mass. 2015), *aff'd*, 2015 U.S. App. LEXIS 22925 (1st Cir. Dec. 31, 2015).

3. The total number of hours expended on this litigation by Wolf Haldenstein Adler Freeman & Herz LLP for time entered from inception through October 27, 2016 is 158.1 hours. The total lodestar for those hours for Wolf Haldenstein Adler Freeman & Herz LLP is \$126,610.50. Wolf Haldenstein Adler Freeman & Herz LLP will submit an updated declaration, conformed to the Court's Exhibit H of its Standing Order, with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its hours expended in the litigation.

NAME	HOURS	RATE	LODESTAR
Daniel W. Krasner (P)	10.00	\$935.00	\$9,350.00
Janine L. Pollack (P)	144.10	\$805.00	\$116,000.50
David I. Weinstein (PL)	1.00	\$255.00	\$255.00
James A. Cirigliano (PL)	3.00	\$335.00	\$1,005.00
TOTAL	158.10		\$126,610.50

4. Wolf Haldenstein Adler Freeman & Herz LLP's lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter are being separately reimbursed by Defendant and are included in the sum of \$1,850,000 being requested by Plaintiffs' Counsel for their fees and expenses. Wolf Haldenstein Adler Freeman & Herz LLP will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its expenses. Such expenses may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 31st day of October, 2016 at New York, New York.

/s/ Janine L. Pollack

EXHIBIT A

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

FIRM RESUME

Founded in 1888, Wolf Haldenstein Adler Freeman & Herz LLP is a full service law firm specializing in complex litigation in federal and state courts nationwide. The firm's practice includes litigation, both hourly and contingent, in securities, antitrust, wage & hour, consumer fraud, false marketing, ERISA, and general and commercial matters, general representation in REIT & partnership, whistleblower, false claim, trust & estate, corporate investigation, and white collar matters, and FINRA arbitration. The Firm has a particular specialty in complex class action and other representative litigation – including investor, shareholder, antitrust, ERISA, consumer, employee, and biotechnology matters – under both federal and state law.

Wolf Haldenstein's total practice approach distinguishes it from other firms. Our longstanding tradition of a close attorney/client relationship ensures that each one of our clients receives prompt, individual attention and does not become lost in an institutional bureaucracy. Our team approach is at the very heart of Wolf Haldenstein's practice. All of our lawyers are readily available to all of our clients and to each other. The result of this approach is that we provide our clients with an efficient legal team having the broad perspective, expertise and experience required for any matter at hand. We are thus able to provide our clients with cost effective and thorough counsel focused on our clients' overall goals.

270 MADISON AVENUE
NEW YORK, NY 10016
TELEPHONE: 212-545-4600
TELECOPIER: 212-545-4653
WWW.WHAFH.COM

SYMPHONY TOWERS
750 B STREET, SUITE 2770
SAN DIEGO, CA 92101
TELEPHONE: 619-239-4599
TELECOPIER: 619-234-4599

ONE DEARBORN STREET
SUITE 2122
CHICAGO, IL 60603
TELEPHONE: 312-984-0000
TELECOPIER: 312-212-4401

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

THE FIRM

Wolf Haldenstein has been recognized by state and federal courts throughout the country as being highly experienced in complex litigation, particularly with respect to securities, consumer, ERISA, FLSA and state overtime and expense deductions, and antitrust class actions and shareholder rights litigation.

Among its colleagues in the plaintiffs' bar, as well as among its adversaries in the defense bar, Wolf Haldenstein is known for the high ability of its attorneys, and the exceptionally high quality of its written and oral advocacy.

The nature of the Firm's activities in both individual and representative litigation is extremely broad. In addition to a large case load of securities fraud and other investor class actions, Wolf Haldenstein has represented classes of corn and rice farmers in connection with the devaluation of their crops; contact lens purchasers for contact lens manufacturers' violations of the antitrust laws; merchants compelled to accept certain types of debit cards; insurance policyholders for insurance companies' deceptive sales practices; victims of unlawful strip searches under the civil rights laws; and various cases involving violations of Internet users' on-line privacy rights.

The Firm's experience in class action securities litigation, in particular public shareholder rights under state law and securities fraud claims arising under the federal securities laws and regulations is particularly extensive. The Firm was one of the lead or other primary counsel in securities class action cases that have recouped billions of dollars on behalf of investor classes, in stockholder rights class actions that have resulted in billions of dollars in increased merger consideration to shareholder classes, and in derivative litigation that has recovered billions of dollars for corporations.

Its pioneering efforts in difficult or unusual areas of securities or investor protection laws include: groundbreaking claims that have been successfully brought under the Investment Company Act of 1940 regarding fiduciary responsibilities of investment companies and their advisors toward their shareholders; claims under ERISA involving fiduciary duties of ERISA trustees who are also insiders in possession of adverse information regarding their fund's primary stockholdings; the fiduciary duties of the directors of Delaware corporations in connection with change of control transactions; the early application of the fraud-on-the-market theory to claims against public accounting firms in connection with their audits of publicly traded corporations; and the application of federal securities class certification standards to state law claims often thought to be beyond the reach of class action treatment.

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

JUDICIAL COMMENDATIONS

Wolf Haldenstein has repeatedly received favorable judicial recognition. The following representative judicial comments over the past decade indicate the high regard in which the Firm is held:

- *In re Empire State Realty Trust, Inc. Investor Litig.*, No. 650607/2012 (Sup. Ct. N.Y. Co.) – On May 2, 2013, Justice O. Peter Sherwood praised the Firm in its role as chair of the committee of co-lead counsel as follows: "It is apparent to me, having presided over this case, that class counsel has performed in an excellent manner, and you have represented your clients quite well. You should be complimented for that." In awarding attorneys' fees, the Court stated that the fee was "intended to reward class counsel handsomely for the very good result achieved for the Class, assumption of the high risk of Plaintiffs prevailing and the efficiency of effort that resulted in the settlement of the case at an early stage without protracted motion practice." May 17, 2013 slip. op. at 5 (citations omitted).
- *Roberts v. Tishman Speyer*, 13 N.Y.3d 270 (N.Y. 2009) – On April 9, 2013, Justice Richard B. Lowe III praised the Firm's efforts as follows: "[W]hen you have challenging cases, the one thing you like to ask for is that the legal representation on both sides rise to that level. Because when you have lawyers who are professionals, who are confident, who are experienced, each of you know that each side has a job to do [. . .] I want to tell you that I am very satisfied with your performance and with your, quite frankly, tenacity on both sides. And it took six years, but look at the history of the litigation. There were two appeals all of the way to the Court of Appeals [. . .] And then look at the results. I mean, there are dissents in the Court of Appeals, so that shows you the complexity of the issues that were presented in this litigation [. . .] [I]t shows you effort that went into this and the professionalism that was exhibited [. . .] So let me just again express my appreciation to both sides."
- *K.J. Egleston L.P. v. Heartland Industrial Partners, et al.*, 2:06-13555 (E.D. Mich.) – where the Firm was Lead Counsel, Judge Rosen, at the June 7, 2010 final approval hearing, praised the Firm for doing "an outstanding job of representing [its] clients," and further commented that "the conduct of all counsel in this case and the result they have achieved for all of the parties confirms that they deserve the national recognition they enjoy."

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *Klein, et al. v. Ryan Beck Holdings, Inc., et al.*, 06-cv-3460 (DAB) (S.D.N.Y. 2010) – where the Firm was Lead Counsel, Judge Deborah A. Batts described the Firm’s successful establishment of a settlement fund as follows: “[a] miracle that there is a settlement fund at all.” Judge Batts continued: “As I said earlier, there is no question that the litigation is complex and of a large and, if you will, *pioneering magnitude* ...” (Emphasis added).
- *Parker Friedland v. Iridium World Communications, Ltd.*, 99-1002 (D.D.C.) – where the Firm was co-lead counsel, Judge Laughrey said (on October 16, 2008), “[a]ll of the attorneys in this case have done an outstanding job, and I really appreciate the quality of work that we had in our chambers as a result of this case.”
- *In re Dynamic Random Access Memory Antitrust Litigation*, MDL-02-1486 (N.D. Cal.) – where the Firm was co-lead counsel, Judge Hamilton said (on August 15, 2007), “I think I can conclude on the basis with my five years with you all, watching this litigation progress and seeing it wind to a conclusion, that the results are exceptional. The percentages, as you have outlined them, do put this [case] in one of the upper categories of results of this kind of [antitrust] class action. I am aware of the complexity . . . I thought that you all did an exceptionally good job of bringing to me only those matters that really required the Court’s attention. You did an exceptionally good job at organizing and managing the case, assisting me in management of the case. There was excellent coordination between all the various different plaintiffs’ counsel with your group and the other groups that are part of this litigation. . . . So my conclusion is the case was well litigated by both sides, well managed as well by both sides.”
- *In re Comdisco Sec. Litigation*, 01 C 2110 (N.D. Ill. July 14, 2005) – Judge Milton Shadur observed: “It has to be said . . . that the efforts that have been extended [by Wolf Haldenstein] on behalf of the plaintiff class in the face of these obstacles have been exemplary. And in my view [Wolf Haldenstein] reflected the kind of professionalism that the critics of class actions . . . are never willing to recognize. . . . I really cannot speak too highly of the services rendered by class counsel in an extraordinary difficult situation.”

RECENT NOTEWORTHY RESULTS

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

Wolf Haldenstein's performance in representative litigation has repeatedly resulted in favorable results for its clients. The Firm has helped recover **billions of dollars** on behalf of its clients in the cases listed below. Recent examples include the following:

- *In re Genetically Modified Rice Litigation*, MDL 1811 (E.D. Mo.) - Wolf Haldenstein represented U.S. rice farmers in this landmark action against Bayer A.G. and its global affiliates, achieving a global recovery of \$750 million. The case arose from the contamination of the nation's long grain rice crop by Bayer's experimental and unapproved genetically modified Liberty Link rice.
- *Roberts v. Tishman Speyer*, 13 N.Y.3d 270 (N.Y. 2009) - a class action brought on behalf of over 27,500 current and former tenants of New York City's iconic Stuyvesant Town and Peter Cooper Village housing complexes. On April 9, 2013, Justice Richard B. Lowe III of the New York Supreme Court finally approved settlement of the action, which totals over \$173 million, sets aside \$68.75 million in damages, re-regulates the apartments at issue, and sets preferential rents for the units that will save tenants significant monies in the future. The settlement also enables the tenants to retain an estimated \$105 million in rent savings they enjoyed between 2009 and 2012. **The settlement is by many magnitudes the largest tenant settlement in United States history.**
- *In re Empire State Realty Trust, Inc. Investor Litig.*, Index No. 650607/2012 – The firm served as Chair of the Executive Committee of Co-Lead Counsel for the Plaintiffs in a class action settlement finally approved on May 2, 2013 that provides for the establishment of a \$55 million settlement fund for investors, in addition to substantial tax deferral benefits estimated to be in excess of \$100 million.
- *American International Group Consolidated Derivative Litigation*, Civil Action No. 769-VCS (Del. Ch.) The Firm acted as co-lead counsel and the settlement addressed claims alleging that the D&O Defendants breached their fiduciary duties to the Company and otherwise committed wrongdoing to the detriment of AIG in connection with various allegedly fraudulent schemes during the 1999-2005 time period.
- *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, Master File No. 09 MD 2058 (S.D.N.Y.) (firm was co-lead counsel in parallel derivative action pending in Delaware (*In Re Bank of*

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

America Stockholder Derivative Litigation, C.A. No. 4307-CS (Del. Ch.)) (increase of settlement cash recovery from \$20 million to \$62.5 million).

- *The Investment Committee of the Manhattan and Bronx Service Transit Operating Authority Pension Plan v. JPMorgan Chase Bank, N.A.*, 1:09-cv-04408-SAS (S.D.N.Y.) (class recovered \$150 million).
- *In re Tremont Sec. Law, State Law and Insurance Litig.*, No. 08-civ-11117 (TPG) (SDNY) (class recovered \$100 million). The firm was court-appointed co-lead counsel in the Insurance Action, 08 Civ. 557, and represented a class of persons who purchased or otherwise acquired Variable Universal Life (“VUL”) insurance policies or Deferred Variable Annuity (“DVA”) policies issued by Tremont International Insurance Limited or Argus International Life Bermuda Limited from May 10, 1994 - December 11, 2008 to the extent the investment accounts of those policies were exposed to the massive Ponzi scheme orchestrated by Bernard L. Madoff through one or more Rye funds.
- *In re Initial Public Offering Securities Litigation*, 21 MC 92 (SAS) (S.D.N.Y.) (class recovered \$586 million). Wolf Haldenstein served as Co-Lead Counsel of one of the largest securities fraud cases in history. Despite the United States Court of Appeals for the Second Circuit’s decision to vacate the district court’s class certification decision, on remand, counsel for plaintiffs were able to press on to a settlement on April 1, 2009, ultimately recovering in excess of a half-billion dollars.

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

FIRM PRACTICE AREAS

CLASS ACTION LITIGATION

Wolf Haldenstein is a leader in class and derivative action litigation and is currently or has been the court-appointed lead counsel, co-lead counsel, or executive committee member in some of the largest and most significant class action and derivative action lawsuits in the United States. For example, the class action *Roberts v. Tishman Speyer*, 13 N.Y.3d 270 (N.Y. 2009) was recently described by a sitting member of the U.S. House of Representatives as the greatest legal victory for tenants in her lifetime. In *Roberts*, the Firm obtained a victory in the New York Court of Appeals requiring the reregulation of thousands of apartment units in the Stuyvesant Town complex in Manhattan, New York. Many of the firm's other successful results are summarized within.

PRIVATE ACTIONS FOR INSTITUTIONAL INVESTORS

In addition to its vast class action practice, the Firm also regularly represents institutional clients such as public funds, investment funds, limited partnerships, and qualified institutional buyers in private actions. The Firm has represented institutional clients in non-class federal and state actions concerning a variety of matters, including private placements, disputes with investment advisors, and disputes with corporate management.

The Firm has also acted as special counsel to investors' committees in efforts to assert and advance the investors' interests without resorting to litigation. For example, the Firm served as Counsel to the Courtyard by Marriott Limited Partners Committee for several years in its dealings with Host Marriott Corporation, and as Special Counsel to the Windsor Park Properties 7 and 8 limited partners to insure the fairness of their liquidation transactions.

ANTITRUST LITIGATION

Wolf Haldenstein is a leader in antitrust and competition litigation. The Firm actively seeks to enforce the federal and state antitrust laws to protect and strengthen the rights and claims of businesses, organizations, Taft-Hartley funds, and consumers throughout the United States. To that end, Wolf Haldenstein commences large, often complex, antitrust and trade regulation class actions and other cases that target some of the most powerful and well-funded corporate interests in the world. Many of these interests exert strong influence over enforcement policy that is in the hands of elected officials, so that private enforcement provides the only true assurance that unfair and

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

anticompetitive conduct will be duly scrutinized for compliance with the law. These cases frequently bring to light concealed, unlawful behavior such as price fixing, monopolization, market allocation, monopoly leveraging, essential facilities, tying arrangements, vertical restraints, exclusive dealing, and refusals to deal. Wolf Haldenstein's Antitrust Practice Group has successfully prosecuted numerous antitrust cases and aggressively advocates remedies and restitution for businesses and investors wronged by violations of the antitrust laws. For example, in *In re DRAM Antitrust Litigation*, No. 02-cv-1486 (PJH) (N.D. Cal.) the firm successfully prosecuted an antitrust case resulting in a \$315 million recovery. Many of the firm's successful results are summarized within.

Wolf Haldenstein attorneys currently serve as lead counsel, co-lead counsel, or as executive committee members in some of the largest and most significant antitrust class action lawsuits.

BIOTECHNOLOGY AND AGRICULTURAL LITIGATION

Wolf Haldenstein is a leader in biotechnology and agricultural litigation. The firm has represented U.S. row crop farmers and others harmed by crop supply contamination, price fixing of genetically-modified crop seeds, and false claims and representations relating to purportedly "organic" products. The firm has prosecuted actions in these fields against domestic and international biotechnology and crop science companies under the federal and state antitrust laws, consumer protection and deceptive trade practice statutes, and the common law. As a leader in this field, Wolf Haldenstein pioneered approaches now commonly used in these types of cases, including the use of futures-based efficient market analyses to fashion damages models relating to the underlying commodity crops. The firm has served or is currently serving as lead or co-lead counsel in some of the most significant biotechnology and agricultural class actions pending or litigated in the United States. For example, in *In re Genetically Modified Rice Litigation*, MDL 1811 (E.D. Mo.) the firm prosecuted a multidistrict product liability litigation brought on behalf of United States long-grain rice farmers that ultimately settled in July 2011 for \$750 million. Many of the firm's other successful results are summarized within.

OVERTIME AND COMPENSATION CLASS ACTIONS

Wolf Haldenstein is a leader class action litigation on behalf of employees who have not been paid overtime or other compensation they are entitled to receive, or have had improper deductions taken from their compensation. These claims under the federal

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

Fair Labor Standards Act and state labor laws allege improper failure to pay overtime and other wages, and improper deductions from compensation for various company expenses. Wolf Haldenstein has served as lead or co-lead counsel, or other similar lead role, in some of the most significant overtime class actions pending in the United States, and has recovered hundreds of millions of dollars in recovered wages for its clients. For example, in *LaVoice v. Citigroup Global Markets, Inc.*, Case No. C 07-801 (CW) (N.D. Cal.) a \$108 million settlement was secured for the class. Many of the firm's other successful wage and hour results are summarized within.

OTHER SUBSTANTIAL RECOVERIES IN CLASS ACTION AND DERIVATIVE CASES IN
WHICH WOLF HALDENSTEIN WAS LEAD COUNSEL OR HAD ANOTHER
SIGNIFICANT ROLE

- *In re Beacon Associates Litigation*, Master File No. 09 Civ. 0777 (LBS) (S.D.N.Y.) (**\$219 million** settlement in this and related action).
- *Roberts v. Tishman Speyer*, No. 100956/2007 (Sup. Ct. N.Y. Cty.) (**\$173 Million** settlement).
- *In re Mutual Fund Investment Litigation*, MDL No. 1586 (D. Md.) (derivative counsel in consolidated cases against numerous mutual fund companies involved in market timing resulting in class/derivative settlements totaling more than **\$300 million**).
- *Inland Western Securities Litigation*, Case No. 07 C 6174 (N.D. Ill.) (settlement value of shares valued between **\$61.5 million** and **\$90 million**).
- *In re Direxion Shares ETF Trust*, No. 09-Civ-8011 (KBF) (S.D.N.Y.) (class recovered **\$8 million**).
- *In re BankAmerica Corp. Securities Litigation*, MDL Docket No. 1264 (JFN) (E.D. Mo.) (class recovered **\$490 million**).
- *In re Dynamic Random Access Memory Antitrust Litigation*, (MD-02 1486 (N.D. Cal.) (class recovered **\$325 million**).
- *In re MicroStrategy, Inc. Securities Litigation*, Civ. No. 00-473-A (E.D. Va.) (class recovered **\$160 million** in cash and securities).
- *Kurzweil v. Philip Morris Cos.*, 94 Civ. 2373, 94 Civ. 2546 (S.D.N.Y.) (securities fraud) (class recovered **\$116.5 million** in cash).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Starlink Corn Products Liability Litigation*, (N.D. Ill.) (class recovered **\$110 million**).
- *In Computer Associates 2002 Class Action Sec. Litigation*, 2:02-CV-1226 (E.D.N.Y.) (**\$130 million** settlement in this and two related actions).
- *In re Sepracor Inc. Securities Litigation*, Civ. No. 02-12338 (MEL) (D. Mass.) (classes recovered **\$52.5 million**).
- *In re Transkaryotic Therapies, Inc., Securities Litigation*, C.A. No. 03-10165-RWZ (D. Mass) (class recovered **\$50 million**).
- *In re Iridium Securities Litigation*, C.A. No. 99-1002 (D.D.C.) (class recovered **\$43 million**).
- *In re J.P. Morgan Chase Securities Litigation*, MDL No. 1783 (N.D. Ill.) (settlement providing for adoption of corporate governance principles relating to potential corporate transactions requiring shareholder approval).
- *LaVoice v. Citigroup Global Markets, Inc.*, Case No. C 07-801 (CW) (N.D. Cal.) (**\$108 million** settlement).
- *Steinberg v. Morgan Stanley & Co., Inc.*, Case No. 06-cv-2628 (BEN) (S.D. Cal.) (**\$50 million** settlement).
- *Poole v. Merrill Lynch, Pierce, Fenner & Smith Inc.*, Case No. CV-06-1657 (D. Or.) (**\$43.5 million** settlement).
- *In re Wachovia Securities, LLC Wage and Hour Litigation*, MDL No. 07-1807 DOC (C.D. Cal.) (**\$39 million** settlement).
- *In re Wachovia Securities, LLC Wage and Hour Litigation (Prudential)*, MDL No. 07-1807 DOC (C.D. Cal.) (**\$11 million** settlement).
- *Basile v. A.G. Edwards, Inc.*, 08-CV-00338-JAH-RBB (S.D. Cal.) (**\$12 million** settlement).
- *Miguel Garcia, et al. v. Lowe's Home Center, Inc. et al.* – Case No. GIC 841120 (Barton) (Cal. Sup. Ct, San Diego) (co-lead, **\$1.65 million** settlement w/ average class member recovery of \$5,500, attorney fees and cost awarded separately).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *Neil Weinstein, et al. v. MetLife, Inc., et al.* – Case No. 3:06-cv-04444-SI (N.D.Cal) (co-lead, **\$7.4 million** settlement).
- *Creighton v. Oppenheimer*, Index No. 1:06 - cv - 04607 - BSJ - DCF (S.D.N.Y.) (**\$2.3 million** settlement).
- *Klein v. Ryan Beck*, 06-CV-3460 (DAB)(S.D.N.Y.) (**\$1.3 million** settlement).
- *In re American Pharmaceutical Partners, Inc. Shareholder Litigation*, Consolidated C.A. No. 1823-N (Del. Ch. Ct.) (**\$14.3 million** settlement).
- *Egleston v. Collins and Aikman Corp.*, 06-cv-13555 (E.D. Mich.) (class recovered **\$12 million**).
- *In re Merrill Lynch & Co., Inc. Global Technology Fund Securities Litigation*, 02 CV 7854 (JFK) (SDNY); and *In re Merrill Lynch & Co., Inc. Focus Twenty Fund Securities Litigation*, 02 CV 10221 (JFK) (SDNY) (class recovered **\$39 million** in combined cases).
- *In re CNL Hotels & Resorts, Inc. Securities Litigation*, No. 6:04-cv-1231 (Orl-31) (class recovered **\$35 million**, and lawsuit also instrumental in **\$225 million** benefit to corporation).
- *In re Cablevision Systems Corp. Shareholder Derivative Litigation*, Master File No. 06-CV-4130-DGT-AKT (**\$34.4 million** recovery).
- *In re Monster Worldwide, Inc. Stock Option Derivative Litigation*, Master File No. 06cv4622 (S.D.N.Y.) (**\$32 million** recovery and corporate governance reforms).
- *Berger v. Compaq Computer Corp.*, Docket No. 98-1148 (S.D. Tex.) (class recovered **\$29 million**).
- *In re Arakis Energy Corporation Securities Litigation*, 95 CV 3431 (E.D.N.Y.) (class recovered **\$24 million**).
- *In re E.W. Blanche Holdings, Inc. Securities Litigation*, Civ. No. 01-258 (D. Minn.) (class recovered **\$20 million**).
- *In re Globalstar Securities Litigation*, Case No. 01-CV-1748 (SHS) (S.D.N.Y.) (class recovered **\$20 million**).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Luxottica Group S.p.A. Securities Litigation*, No. CV 01-3285 (E.D.N.Y.) (class recovered **\$18.25 million**).
- *In re Musicmaker.com Securities Litigation*, CV-00-2018 (C.D. Cal.) (class recovered **\$13.75 million**).
- *In re Comdisco Securities Litigation*, No. 01 C 2110 (MIS) (N.D. Ill.) (class recovered **\$13.75 million**).
- *In re Acclaim Entertainment, Inc., Securities Litigation*, C.A. No. 03-CV-1270 (E.D.N.Y.) (class recovered **\$13.65 million**).
- *In re Concord EFS, Inc. Securities Litigation*, No. 02-2097 (MA) (W.D. Tenn) (class recovered **\$13.25 million**).
- *In re Bausch & Lomb, Inc. Securities Litigation*, 01 Civ. 6190 (CJS) (W.D.N.Y.) (class recovered **\$12.5 million**).
- *In re Allaire Corp. Securities Litigation*, 00-11972 (D. Mass.) (class recovered **\$12 million**).
- *Bamboo Partners LLC v. Robert Mondavi Corp.*, No. 26-27170 (Cal. Sup. Ct.) (class recovered **\$10.8 million**).
- *Curative Health Services Securities Litigation*, 99-2074 (E.D.N.Y.) (class recovered **\$10.5 million**).
- *City Partnership Co. v. Jones Intercable*, 99 WM-1051 (D. Colo.) (class recovered **\$10.5 million**).
- *In re Aquila, Inc.*, (ERISA Litigation), 04-865 (W.D. Mo.) (**\$10.5 million** recovery for the class).
- *In re Tenfold Corporation Securities Litigation*, 2:00-CV-652 (D. Utah) (class recovered **\$5.9 million**).
- *In re Industrial Gas Antitrust Litigation*, 80 C 3479 and related cases (N.D. Ill.) (class recovered **\$50 million**).
- *In re Chor-Alkalai and Caustic Soda Antitrust Litigation*, 86-5428 and related cases (E.D. Pa.) (class recovered **\$55 million**).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Infant Formula Antitrust Litigation*, MDL No. 878 (N.D. Fla.) (class recovered **\$126 million**).
- *In re Brand Name Prescription Drugs Antitrust Litigation*, No. 1:94-cv-00897, M.D.L. 997 (N.D. Ill.) (class recovered **\$715 million**).
- *Landon v. Freel*, M.D.L. No. 592 (S.D. Tex.) (class recovered **\$12 million**).
- *Holloway v. Peat, Marwick, Mitchell & Co.*, No. 84 C 814 EU (N.D. Okla.) (class recovered **\$38 million**).
- *In re The Chubb Corp. Drought Insurance Litigation*, C-1-88-644 (S.D. Ohio) (class recovered **\$100 million**).
- *Wong v. Megafoods*, Civ-94-1702 (D. Ariz.) (securities fraud) (class recovered **\$12.25 million**).
- *In re Del Val Financial Corp. Securities Litigation*, 92 Civ 4854 (S.D.N.Y.) (class recovered **\$11.5 million**).
- *In re Home Shopping Network Shareholders Litigation*, Consolidated Civil Action No. 12868, (Del. Ch. 1995) (class recovered **\$13 million**).
- *In re Paine Webber Limited Partnerships Litigation*, 94 Civ 8547 (S.D.N.Y.) (class recovered **\$200 million**).
- *In re Bristol-Meyers Squibb Co. Securities Litigation*, 92 Civ 4007 (S.D.N.Y.) (class recovered **\$19 million**).
- *In re Spectrum Information Technologies Securities Litigation*, CV 93-2245 (E.D.N.Y.) (class recovered **\$13 million**).
- *In re Chase Manhattan Securities Litigation*, 90 Civ. 6092 (LJF) (S.D.N.Y.) (class recovered **\$17.5 million**).
- *Prostic v. Xerox Corp.*, No. B-90-113 (EBB) (D. Conn.) (class recovered **\$9 million**).
- *Steiner v. Hercules*, Civil Action No. 90-442-RRM (D. Del.) (class recovered **\$18 million**).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Ambase Securities Litigation*, 90 Civ 2011 (S.D.N.Y.) (class recovered **\$14.6 million**).
- *In re Southmark Securities Litigation*, CA No. 3-89-1402-D (N.D. Tex.) (class recovered **\$70 million**).
- *Steiner v. Ideal Basic Industries, Inc.*, No. 86-M 456 (D. Colo. 1989) (securities fraud) (class recovered **\$18 million**).
- *Tucson Electric Power Derivative Litigation*, 2:89 Civ. 01274 TUC. ACM (corporation recovered **\$30 million**).
- *Alleco Stockholders Litigation*, (Md. Cir. Ct. Pr. Georges County) (class recovered **\$16 million**).
- *In re Revlon Group, Inc. Shareholders Litigation*, No. 8362 (Del. Ch.) (class recovered **\$30 million**).
- *In re Taft Broadcasting Company Shareholders Litigation*, No. 8897 (Del. Ch.) (class recovered **\$20 million**).
- *In re Southland Corp. Securities Litigation*, No. 87-8834-K (N.D.Tex.) (class recovered **\$20 million**).
- *In re Crocker Bank Securities Litigation*, CA No. 7405 (Del. Ch.) (class recovered **\$30 million**).
- *In re Warner Communications Securities Litigation*, No. 82 Civ. 8288 (JFK) (S.D.N.Y.) (class recovered **\$17.5 million**).
- *Joseph v. Shell Oil*, CA No. 7450 (Del. Ch.) (securities fraud) (class recovered **\$200 million**).
- *In re Flight Transportation Corp. Securities Litigation*, Master Docket No. 4-82-874, MDL No. 517 (D. Minn.) (recovery of over **\$50 million**).
- *In re Whittaker Corporation Securities Litigation*, CA000817 (Cal. Super. Ct., Los Angeles County) (class recovered **\$18 million**).
- *Naevus International, Inc. v. AT&T Corp.*, C.A. No. 602191/99 (N.Y. Sup. Ct.) (consumer fraud) (class recovered **\$40 million**).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *Sewell v. Sprint PCS Limited Partnership*, C.A. No. 97-188027/CC 3879 (Cir. Ct. for Baltimore City) (consumer fraud) (class recovered **\$45.2 million**).
- *In re Vytarin/Zetia Marketing, Sales Practices and Products Liability Litigation*, 2:08-cv-285 (D.N.J.) (class recovered **\$41.5 million**).
- *Egleston v. Verizon*, No. 104784/2011 (N.Y. Sup. Ct.) – Wolf Haldenstein represented a class of New York Verizon Centrex customers in an action against Verizon stemming from overbilling of certain charges. The Firm secured a settlement with a total value to the Class of over **\$5 million**, which provided, among other things, each class member with full refunds of certain disputed charges, plus interest.
- *Zelouf Int’l Corp. v. Nahal Zelouf*, Index No. 653652/2014 (Sup. Ct. N.Y. Co. 2015). In an important trial decision following an appraisal proceeding triggered by the freeze-out merger of a closely-held corporation, which also included shareholder derivative claims, Justice Kornreich of the New York Supreme Court refused to apply a discount for lack of marketability to the minority interest in the former corporation and found that the insiders stole more than \$14 million dollars; the minority shareholder recovered over \$9 million.
- *Zelouf Int’l Corp. v. Zelouf*, 45 Misc.3d 1205(A) (Sup. Ct. N.Y. Co., 2014). The Court rejected application of a discount for lack of marketability and awarded a \$10,031,438.28 judgment following an eleven day bench trial in the Commercial Division of the Supreme Court of the State of New York (New York County) on the value of a minority interest in a closely held corporation.

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

REPRESENTATIVE REPORTED OPINIONS SINCE 1990 IN WHICH WOLF
HALDENSTEIN WAS LEAD COUNSEL OR HAD ANOTHER SIGNIFICANT ROLE

FEDERAL APPELLATE AND DISTRICT COURT OPINIONS

- *DeFrees v. Kirkland*, 2012 U.S. Dist. LEXIS 52780 (C.D. Cal. Apr. 11, 2012).
- *In re Beacon Associates Litigation.*, 745 F. Supp. 2d 386 (S.D.N.Y. 2010); *In re Beacon Associates Litig.*, 282 F.R.D. 315 (S.D.N.Y. 2012)
- *Messner v. Northshore University HealthSystem*, 669 F.3d 802, No. 10-2514 (7th Cir. Jan. 13, 2012).
- *In re Text Message Antitrust Litigation*, 630 F.3d, 622 (7th Cir. 2010).
- *In re Apple & ATTM Antitrust Litig.*, 2010 U.S. Dist. LEXIS 98270 (N.D. Cal. July 8, 2010).
- *Freeland v. Iridium World Communications Ltd.*, 545 F.Supp.2d 59 (D.D.C. 2008).
- *In re Apple & AT&TM Antitrust Litig.*, 596 F. Supp. 2d 1288 (N.D. Cal. 2008).
- *Harzewski v. Guidant Corp.*, 489 F.3d 799 (7th Cir. 2007).
- *In re JP Morgan Chase & Co. Securities Litigation*, No. 06 C 4674, 2007 U.S. Dist. LEXIS 93877 (N.D. Ill. Dec. 18, 2007).
- *Schoenbaum v. E.I. Dupont De Nemours and Co.*, 2007 WL 2768383 (E.D. Mo. Sept. 20, 2007).
- *Jeffries v. Pension Trust Fund*, 99 Civ. 4174 (LMM), 2007 U.S. Dist. LEXIS 61454 (S.D.N.Y. Aug. 20, 2007).
- *Klein v. Ryan Beck*, 06-Civ. 3460 (WCC), 2007 U.S. Dist. LEXIS 51465 (S.D.N.Y. July 13, 2007).
- *Cannon v. MBNA Corp.* No. 05-429 GMS, 2007 U.S. Dist. LEXIS 48901 (D. Del. 2007).
- *In re Aquila ERISA Litig.*, 237 F.R.D. 202 (W.D. Mo. 2006).
- *Smith v. Aon Corp.*, 238 F.R.D. 609 (N.D. Ill. 2006).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Sepracor Inc. Securities Litigation*, 233 F.R.D. 52 (D. Mass. 2005).
- *In re Transkaryotic Therapies, Inc. Securities Litigation*, No. 03-10165, 2005 U.S. Dist. LEXIS 29656 (D. Mass. Nov. 28, 2005).
- *In re Luxottica Group, S.p.A. Securities Litigation*, 2005 U.S. Dist. LEXIS 9071 (E.D.N.Y. May 12, 2005).
- *In re CNL Hotels & Resorts, Inc. Securities Litigation*, 2005 U.S. Dist. LEXIS 38876, No. 6:04-cv-1231-Orl-31KRS (M.D. Fla. May 9, 2005).
- *Johnson v. Aegon USA, Inc.*, 1:01-CV-2617 (N.D. Ga. Sept. 20, 2004).
- *Freeland v. Iridium World Communications, Ltd.*, 99-1002 (D.D.C. Aug. 31, 2004).
- *In re Acclaim Entertainment, Inc. Securities Litigation*, 03-CV-1270 (E.D.N.Y. June 22, 2004).
- *In re Sepracor Inc. Securities Litigation*, 308 F. Supp. 2d 20 (D. Mass. 2004).
- *In re Concord EFS, Inc. Securities Litigation*, No. 02-2697 (W.D. Tenn. Jan. 7, 2004).
- *In re Pharmatrak, Inc. Privacy Litig.*, 2003 U.S. App. LEXIS 8758 (1st Cir. May 9, 2003).
- *In re Enterprise Mortgage Acceptance Co., LLC, Sec. Litig.*, 02-Civ. 10288 (SWK) (S.D.N.Y. Nov. 5, 2003).
- *In re PerkinElmer, Inc. Securities Litigation*, 286 F. Supp. 2d 46 (D. Mass. 2003).
- *In re Initial Public Offering Securities Litigation*, 241 F. Supp. 2d 281 (S.D.N.Y. 2003).
- *In re Comdisco Securities Litigation*, No. 01 C 2110, 2003 U.S. Dist. LEXIS 5047 (N.D. Ill. Mar. 31, 2003).
- *Berger v. Compaq Computer Corp.*, 257 F.3d 475 (2001), clarified, 279 F.3d 313 (5th Cir. 2002).
- *City Partnership Co. v. Cable TV Fund 14-B*, 213 F.R.D. 576 (D. Colo. 2002).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Allaire Corporation Securities Litigation*, Docket No. 00-11972 - WGY, 2002 U.S. Dist. LEXIS 18143 (D. Mass., Sept. 27, 2002).
- *In re StarLink Corn Products Liability Litigation*, 212 F.Supp.2d 828 (N.D. Ill. 2002).
- *In re Bankamerica Corp. Securities Litigation*, 263 F.3d 795 (8th Cir. 2001).
- *In re Comdisco Securities Litigation*, 166 F.Supp.2d 1260 (N.D. Ill. 2001).
- *In re Crossroads Systems, Inc. Securities Litigation*, Master File No. A-00-CA-457 JN, 2001 U.S. Dist. LEXIS 14780 (W.D. Tx. Aug. 15, 2001).
- *In re MicroStrategy, Inc. Securities Litigation*, 150 F. Supp. 2d 896 (E.D. Va. 2001).
- *Lindelow v. Hill*, No. 00 C 3727, 2001 U.S. Dist. LEXIS 10301 (N.D. Ill. July 19, 2001).
- *In re MicroStrategy, Inc. Securities Litigation*, 148 F. Supp. 2d 654 (E.D. Va. 2001).
- *Jeffries v. Pension Trust Fund of the Pension, Hospitalization & Benefit Plan of the Electrical Industry*, 172 F. Supp. 2d 389 (S.D.N.Y. 2001).
- *Carney v. Cambridge Technology Partners, Inc.*, 135 F. Supp. 2d 235 (D. Mass. 2001).
- *Weltz v. Lee*, 199 F.R.D. 129 (S.D.N.Y. 2001).
- *Schoers v. Pfizer, Inc.*, 00 Civ. 6121, 2001 U.S. Dist. LEXIS 511 (S.D.N.Y. Jan. 23, 2001).
- *Kurzweil v. Philip Morris Cos.*, 94 Civ. 2373 (MBM), 2001 U.S. Dist. LEXIS 83 (S.D.N.Y. Jan. 9, 2001).
- *Goldberger v. Bear, Stearns & Co.*, 98 Civ. 8677 (JSM), 2000 U.S. Dist. LEXIS 18714 (S.D.N.Y. Dec. 28, 2000).
- *In re Newell Rubbermaid, Inc., Securities Litigation*, Case No. 99 C 6853, 2000 U.S. Dist. LEXIS 15190 (N.D. Ill. Oct. 2, 2000).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *Stanley v. Safeskin Corp.*, Case No. 99 CV 454 BTM (LSP), 2000 U.S. Dist. LEXIS 14100, Fed. Sec. L. Rep. (CCH) P91, 221 (S.D. Cal. Sept. 18, 2000).
- *In re MicroStrategy, Inc. Securities Litigation*, 115 F. Supp. 2d 620 (E.D. Va. 2000).
- *In re USA Talks.com, Inc. Securities Litigation*, 2000 U.S. Dist. LEXIS 14823, Fed. Sec. L. Rep. (CCH) P91, 231 (S.D. Cal. Sept. 14, 2000).
- *In re Sotheby's Holdings, Inc. Securities Litigation*, 00 CIV. 1041 (DLC), 2000 U.S. Dist. LEXIS 12504, Fed. Sec. L. Rep. (CCH) P91, 059 (S.D.N.Y. Aug. 31, 2000).
- *Dumont v. Charles Schwab & Co., Inc.*, Civil Action No. 99-2840 2000 U.S. Dist. LEXIS 10906 (E.D. La. July 21, 2000).
- *Berger v. Compaq Computer Corp.*, Civil Action No. H-98-1148, 2000 U.S. Dist. LEXIS 21424 (S.D. Tex. July 17, 2000).
- *In re BankAmerica Corp. Securities Litigation*, 95 F. Supp. 2d 1044 (E.D. Mo. 2000).
- *In re Carnegie International Corp. Securities Litigation*, 107 F. Supp. 2d 676 (D. Md. 2000).
- *Berger v. Compaq Computer Corp.*, Civil Action No. H-98-1148, 2000 U.S. Dist. LEXIS 21423 (S.D. Tex. Mar. 13, 2000).
- *In re Imperial Credit Industries Securities Litigation*, CV 98-8842 SVW, 2000 U.S. Dist. LEXIS 2340 (C.D. Cal. Feb. 23, 2000).
- *Sturm v. Marriott Marquis Corp.*, 85 F. Supp. 2d 1356 (N.D. Ga. 2000).
- *In re Health Management Systems Securities Litigation*, 82 F. Supp. 2d 227 (S.D.N.Y. 2000).
- *Dumont v. Charles Schwab & Co., Inc.*, Civil Action No. 99-2840, 2000 U.S. Dist. LEXIS 619 (E.D. La. Jan. 19, 2000).
- *In re MicroStrategy, Inc. Securities Litigation*, 110 F. Supp. 2d 427 (E.D. Va. 2000).
- *In re BankAmerica Corp. Securities Litigation*, 78 F. Supp. 2d 976 (E.D. Mo. 1999).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *Kurzweil v. Philip Morris Cos.*, 94 Civ. 2373 (MBM), 1999 U.S. Dist. LEXIS 18378 (S.D.N.Y. Nov. 24, 1999).
- *In re Nanophase Technologies Corp. Litigation*, 98 C 3450, 1999 U.S. Dist. LEXIS 16171 (N.D. Ill. Sept. 27, 1999).
- *In re Clearly Canadian Securities Litigation*, File No. C-93-1037-VRW, 1999 U.S. Dist. LEXIS 14273 Cal. Sept. 7, 1999).
- *Yuan v. Bayard Drilling Technologies, Inc.*, 96 F. Supp. 2d 1259 (W.D. Okla. 1999).
- *In re Spyglass, Inc. Securities Litigation*, No. 99 C 512, 1999 U.S. Dist. LEXIS 11382 (N.D. Ill. July 20, 1999).
- *Carley Capital Group v. Deloitte & Touche, L.L.P.*, 1:97-CV-3183-TWT, 1999 U.S. Dist. LEXIS 11595 (N.D. Ga. June 30, 1999).
- *Blue Cross & Blue Shield of N.J., Inc. v. Philip Morris, Inc.*, 98 CV 3287, 1999 U.S. Dist. LEXIS 11363 (E.D.N.Y. June 1, 1999).
- *Carley Capital Group v. Deloitte & Touche, L.L.P.*, 1:97-CV-3183-TWT, 1999 U.S. Dist. LEXIS 1368, Fed. Sec. L. Rep. (CCH) P90, 429 (N.D. Ga. Jan. 19, 1999).
- *Longman v. Food Lion, Inc.*, 186 F.R.D. 331 (M.D.N.C. 1999).
- *Wright v. Ernst & Young LLP*, 152 F.3d 169 (2d Cir. 1998).
- *Romine v. Compuserve Corp.*, 160 F.3d 337 (6th Cir. 1998).
- *Felzen v. Andreas*, 134 F.3d 873 (7th Cir. 1998).
- *Walsingham v. Biocontrol Technology, Inc.*, 66 F. Supp. 2d 669 (W.D. Pa. 1998).
- *Sturm v. Marriott Marquis Corp.*, 26 F. Supp. 2d 1358 (N.D. Ga. 1998).
- *Carley Capital Group v. Deloitte & Touche, L.L.P.*, 27 F. Supp. 2d 1324 (N.D. Ga. 1998).
- *In re MobileMedia Securities Litigation*, 28 F.Supp.2d 901 (D.N.J. 1998).
- *Weikel v. Tower Semiconductor, Ltd.*, 183 F.R.D. 377 (D.N.J. 1998).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Health Management Systems Securities Litigation*, 97 Civ. 1865 (HB), 1998 U.S. Dist. LEXIS 8061 (S.D.N.Y. May 27, 1998).
- *In re Painwebber Ltd. Partnership Litigation*, 999 F. Supp. 719 (S.D.N.Y. 1998).
- *Carley Capital Group v. Deloitte & Touche, L.L.P.*, 1:97-cv-3183-TWT, 1998 U.S. Dist. LEXIS 23222 (N.D. Ga. Feb. 10, 1998).
- *Brown v. Radica Games (In re Radica Games Securities Litigation)*, No. 96-17274, 1997 U.S. App. LEXIS 32775 (9th Cir. Nov. 14, 1997).
- *Robbins v. Koger Properties*, 116 F.3d 1441 (11th Cir. 1997).
- *In re TCW/DW North American Government Income Trust Securities Litigation*, 95 Civ. 0167 (PKL), 1997 U.S. Dist. LEXIS 18485 (S.D.N.Y. Nov. 20, 1997).
- *Wright v. Ernst & Young, LLP*, 97 Civ. 2189 (SAS), 1997 U.S. Dist. LEXIS 13630 (S.D.N.Y. Sept. 9, 1997).
- *Felzen v. Andreas*, No. 95-2279, 1997 U.S. Dist. LEXIS 23646 (C.D. Ill. July 7, 1997).
- *Felzen v. Andreas*, No. 95-2279, 1997 U.S. Dist. LEXIS 23647 (C.D. Ill. July 7, 1997).
- *A. Ronald Sirna, Jr., P.C. Profit Sharing Plan v. Prudential Securities, Inc.*, 964 F. Supp. 147 (S.D.N.Y. 1997).
- *Kurzweil v. Philip Morris Companies*, 94 Civ. 2373 (MBM), 1997 U.S. Dist. LEXIS 4451 (S.D.N.Y. April 8, 1997).
- *Bobrow v. Mobilmedia, Inc.*, Civil Action No. 96-4715, 1997 U.S. Dist. LEXIS 23806 (D.N.J. March 31, 1997).
- *Kalodner v. Michaels Stores, Inc.*, 172 F.R.D. 200 (N.D.Tex. 1997).
- *In re Painwebber Ltd. Partnerships Litigation*, 171 F.R.D. 104 (S.D.N.Y. 1997).
- *A. Ronald Sirna, Jr., P.C. Profit Sharing Plan v. Prudential Securities, Inc.*, 95 Civ. 8422 (LAK), 1997 U.S. Dist. LEXIS 1226 (S.D.N.Y. Feb. 7, 1997).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Painewebber Inc. Limited Partnerships Litigation*, 94 F.3d 49 (2d Cir. 1996).
- *Glassman v. Computervision Corp.*, 90 F.3d 617 (1st Cir. 1996).
- *Alpern v. Utilicorp United, Inc.*, 84 F.3d 1525 (8th Cir. 1996).
- *Shaw v. Digital Equipment Corp.*, 82 F.3d 1194 (1st Cir. 1996).
- *Dresner Co. Profit Sharing Plan v. First Fidelity Bank, N.A.*, 95 Civ. 1924 (MBM), 1996 U.S. Dist. LEXIS 17913 (S.D.N.Y. Dec. 3, 1996).
- *Simon v. American Power Conversion Corp.*, 945 F. Supp. 416 (D.R.I. 1996).
- *TII Industries, Inc.*, 96 Civ. 4412 (SAS), 1996 U.S. Dist. LEXIS 14466 (S.D.N.Y. Oct. 1, 1996).
- *In re TCW/DW North American Government Income Trust Securities Litigation*, 941 F. Supp. 326 (S.D.N.Y. Oct. 1, 1996).
- *In re Painewebber Ltd. Partnership Litigation*, 94 Civ. 8547 (SHS), 1996 U.S. Dist. LEXIS 9195 (S.D.N.Y. June 28, 1996).
- *In re Tricord Systems, Inc., Securities Litigation*, Civil No. 3-94-746, 1996 U.S. Dist. LEXIS 20943 (D. Minn. April 5, 1996).
- *In re Painewebber Limited Partnership Litigation*, 94 Civ. 8547 (SHS), 1996 U.S. Dist. LEXIS 1265 (S.D.N.Y. Feb. 6, 1996).
- *Riley v. Simmons*, 45 F.3d 764 (3d Cir. 1995).
- *Stepak v. Addison*, 20 F.3d 398 (11th Cir. 1994).
- *Zitin v. Turley*, [1991 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 96,123 (D. Ariz. June 20, 1994).
- *In re Southeast Hotel Properties Limited Partnership Investor Litigation*, 151 F.R.D. 597 (W.D.N.C. 1993).
- *County of Suffolk v. Long Island Lighting Co.*, 907 F.2d 1295 (2d Cir. 1990).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

NOTABLE STATE COURT OPINIONS

- *McWilliams v. City of Long Beach*, 56 Cal. 4th 613 (2013).
- *Roberts v. Tishman Speyer*, 89 A.D.3d 444 (N.Y. App. Div. 1st Dep't 2011).
- *Roberts v. Tishman Speyer*, 13 N.Y.3d 270 (N.Y. 2009).
- *Ardon v. City of Los Angeles*, 52 Cal.4th 241 (2011).
- *In re Tyson Foods, Inc., Consolidated Shareholder Litigation*, 919 A. 2d 563 (Del. Ch. 2007).
- *Naevus Int'l v. AT&T Corp.*, 283 A.D.2d 171, 724 N.Y.S.2d 721 (2001).
- *Paramount Communications, Inc. v. QVC Network, Inc.*, 637 A.2d 34 (Del. Super. Ct. 1994).
- *In re Western National Corp. Shareholders Litigation*, Consolidated C.A. No. 15927, 2000 Del. Ch. LEXIS 82 (May 22, 2000).
- *In re Cencom Cable Income Partners, L.P. Litigation*, C.A. No. 14634, 2000 Del. Ch. LEXIS 90 (May 5, 2000).
- *In re Cencom Cable Income Partners, L.P. Litigation*, Consolidated C.A. No. 14634, 2000 Del. Ch. LEXIS 10 (Jan. 27, 2000).
- *In re Marriott Hotels Properties II Limited Partnership Unitholders Litigation*, Consolidated C.A. No. 14961, 2000 Del. Ch. LEXIS 17 (Jan. 24, 2000).
- *Romig v. Jefferson-Pilot Life Insurance Company*, 132 N.C. App. 682, 513 S.E.2d 598 (Ct. App. 1999), *aff'd*, 351 N.C. 349, 524 S.E.2d 804 (N.C. 2000).
- *Wallace v. Wood*, 752 A.2d 1175 (Del. Ch. 1999).
- *Greenwald v. Batterson*, C.A. No. 16475, 1999 Del. Ch. LEXIS 158 (July 26, 1999).
- *Brown v. Perrette*, Civil Action No. 13531, 1999 Del. Ch. LEXIS 92 (May 18, 1999).
- *In re Cencom Cable Income Partners, L.P. Litigation*, C.A. No. 14634, 1997 Del. Ch. LEXIS 146 (Oct. 15, 1997).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

- *In re Marriott Hotel Properties II Limited Partnership Unitholders Litigation*, Consolidated C.A. No. 14961, 1997 Del. Ch. LEXIS 128 (Sept. 17, 1997).
- *In re Cheyenne Software Shareholders Litigation*, Consolidated C.A. No. 14941, 1996 Del. Ch. LEXIS 142 (Nov. 7, 1996).
- *Seinfeld v. Robinson*, 246 A.D.2d 291, 676 N.Y.S.2d 579 (N.Y. 1998).
- *Werner v. Alexander*, 130 N.C. App. 435, 502 S.E.2d 897 (N.C. Ct. App. 1998).

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

ATTORNEY BIOGRAPHIES

PARTNERS

DANIEL W. KRASNER: *admitted:* New York; Supreme Court of the United States; U.S. Courts of Appeals for the Second, Third, Fourth, Sixth, Eighth, Ninth, Tenth, and Eleventh Circuits; U.S. District Courts for the Southern and Eastern Districts of New York, Central District of Illinois, and Northern District of Michigan. *Education:* Yale Law School (LL.B., 1965); Yeshiva College (B.A., 1962). Mr. Krasner, a partner in the Firm's New York office, is the senior partner of Wolf Haldenstein's Class Action Litigation Group. He began practicing law with Abraham L. Pomerantz, generally credited as the "Dean of the Class Action Bar." He founded the Class Litigation Group at Wolf Haldenstein in 1976.

Mr. Krasner received judicial praise for his class action acumen as early as 1978. *See, e.g., Shapiro v. Consolidated Edison Co.*, [1978 Transfer Binder] Fed. Sec. L. Rep. (CCH) & 96,364 at 93,252 (S.D.N.Y. 1978) ("in the Court's opinion the reputation, skill and expertise of . . . [Mr.] Krasner, considerably enhanced the probability of obtaining as large a cash settlement as was obtained"); *Steiner v. BOC Financial Corp.*, [1980 Transfer Binder] Fed. Sec. L. Rep. (CCH) & 97,656, at 98,491.4, (S.D.N.Y. 1980) ("This Court has previously recognized the high quality of work of plaintiffs' lead counsel, Mr. Krasner"). The New York Law Journal referred to Mr. Krasner as one of the "top rank plaintiffs' counsel" in the securities and class action fields. In connection with a failed 1989 management buyout of United Airlines, Mr. Krasner testified before Congress.

More recently, Mr. Krasner has been one of the lead attorneys for plaintiffs in some of the leading Federal multidistrict cases in the United States, including the IPO Litigation in the Southern District of New York, the Mutual Fund Market Timing Litigation in the District of Maryland, and several Madoff-related litigations pending in the Southern District of New York. Mr. Krasner has also been lead attorney in several precedent-setting shareholder actions in Delaware Chancery Court and the New York Court of Appeals, including *American International Group, Inc. v. Greenberg*, 965 A.2d 763 (Del. Ch. 2009) and the companion certified appeal, *Kirschner v. KPMG LLP*, Nos. 151, 152, 2010 N.Y. LEXIS 2959 (N.Y. Oct. 21, 2010); *Teachers' Retirement System of Louisiana and City of New Orleans Employees' Retirement System, derivatively on behalf of nominal defendant American International Group, Inc., v. PricewaterhouseCoopers LLP*, No. 152 (New York, October 21, 2010); *In re CNX Gas Corp. S'holders Litig.*, C.A. No. 5377-VCL, 2010 Del. Ch. LEXIS 119 (Del. Ch., May 25, 2010); *In re CNX Gas Corp. S'holders Litig.*, C.A. No. 5377-

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

VCL, 2010 Del. Ch. LEXIS 139, (Del. Ch. July 5, 2010), appeal refused, 2010 Del. LEXIS 324, 2010 WL 2690402 (Del. 2010).

Mr. Krasner has lectured at the Practicing Law Institute; Rutgers Graduate School of Business; Federal Bar Council; Association of the Bar of the City of New York; Rockland County, New York State, and American Bar Associations; Federal Bar Council, and before numerous other bar, industry, and investor groups.

JANINE L. POLLACK: *admitted:* New York (1990); New Jersey (1989); U.S. District Courts for the Southern and Eastern Districts of New York and the District of New Jersey, among others. *Education:* Rutgers University (1986), with high honors, Phi Beta Kappa; University of Pennsylvania School of Law (1989), Editor - Journal of International Business Law.

Ms. Pollack has successfully prosecuted many consumer and securities cases. She is one of the lead counsel in the recent \$28.5 million settlement in *In re Reebok EasyTone Litigation* (D. Mass.), as well as the \$45 million settlement in *In re Skechers Toning Shoes Product Liability Litigation (Grabowski)* (W.D. Ky.), false advertising class actions involving toning shoes. She is also lead counsel in numerous other class actions involving consumer fraud, including the recently settled *Bezdek v. Vibram USA Inc.* (D. Mass.), against the maker of so-called barefoot running shoes. In addition, Ms. Pollack won a jury trial against R.J. Reynolds in a wrongful death tobacco case in Florida state court, which has been affirmed on appeal. She was also lead trial counsel in a federal court case against a major mutual fund advisor.

Ms. Pollack is chair of the Women's Initiative of the National Association of Shareholder & Consumer Attorneys (NASCAT), for which she organizes meetings and charity events. A frequent public speaker, Ms. Pollack has given lectures on such topics as consumer fraud, time and stress management, Cy Pres, and other related topics. Ms. Pollack also sits on the New York City Bar Association's Women in the Legal Profession Committee. Her work on that committee includes being an editor for the recent book, "Street Smarts for Women Lawyers."

Ms. Pollack's recent achievements include being named as a New York Super Lawyer in 2012, 2013, 2014 and 2015. She was also appointed this year to the Law360 Privacy and Consumer Protection Editorial Advisory Board for the second year in a row.

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

NON-DISCRIMINATION POLICIES

Wolf Haldenstein does not discriminate or tolerate harassment against any employee or applicant because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or alienage or citizenship status and designs its hiring practices to ensure that minority group members and women are afforded equal employment opportunities without discrimination. The Firm is in compliance with all applicable Federal, State, County, and City equal employment opportunity laws.

Wolf Haldenstein is proud of its long history of support for the rights of, and employment opportunities for, women, the disadvantaged, and minority group persons, including the participation in civil rights and voter registration activities in the South in the early 1960s by partners of the Firm; the part-time employment of disadvantaged youth through various public school programs; the varied *pro bono* activities performed by many of the Firm's lawyers; the employment of many women and minority group persons in various capacities at the Firm, including at the partner level; the hiring of ex-offenders in supported job training programs; and the use of minority and women-owned businesses to provide services and supplies to the Firm.

270 MADISON AVENUE
NEW YORK, NY 10016
TELEPHONE: 212-545-4600
TELECOPIER: 212-545-4653
WWW.WHAFH.COM

SYMPHONY TOWERS
750 B STREET, SUITE 2770
SAN DIEGO, CA 92101
TELEPHONE: 619-239-4599
TELECOPIER: 619-234-4599

ONE DEARBORN STREET
SUITE 2122
CHICAGO, IL 60603
TELEPHONE: 312-984-0000
TELECOPIER: 312-212-4401

WOLF HALDENSTEIN

PROVIDING EXEMPLARY LEGAL SERVICE SINCE 1888

number of hours expended to date. The backgrounds and qualifications of the attorneys who worked on the matter are set forth in the Firm Resume attached hereto as Exhibit A. The lodestar calculation is based on my firm's current billing rates which have been accepted as reasonable by district courts in the Ninth Circuit and state courts in California in numerous other class action cases. *See, e.g., Jones, et al. v. Agilysys, Inc., et al.*, Case No. 4:12-cv-03516-SBA (N.D. Cal. May 19, 2014); *Williams, et al. v. Pay Day Loan Store of California, Inc.*, BC532356, Los Angeles Superior Court (Sept. 22, 2015).

3. The total number of hours expended on this litigation by Bisnar | Chase LLP from mid December 2015 through November 1, 2016 is 941 hours. The total lodestar for Bisnar | Chase LLP to date is \$406,575. Bisnar | Chase LLP will submit an updated declaration, conformed to the Court's Exhibit H of its Standing Order, with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its hours expended in the litigation.

NAMES	POSITIONS	HOURS	RATE	LODESTAR
Brian D. Chase, Esq.	Partner	109.5	\$750	\$82,125
Jerusalem F. Beligan, Esq.	Senior Associate	416	\$600	\$249,600
Javier R. Ruiz	Paralegal	333	\$200	\$66,600
Jilliam M. Schragen	Paralegal	82.5	\$100	\$8,250
	TOTAL	941		\$406,575

4. Bisnar | Chase LLP's lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter are being separately reimbursed by Defendant and are included in the sum of \$1,850,000 being requested by Plaintiffs' Counsel for their fees and expenses. Bisnar | Chase LLP will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its expenses. Such expenses

may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 1st day of November, 2016 at Newport Beach, California.

/s/ Jerusalem F. Beligan
JERUSALEM F. BELIGAN

EXHIBIT A



BISNAR | CHASE

Trust. Passion. Results.

The Firm

Founded in 1998, today Bisnar | Chase is proud to be a firm that offers a breadth and depth of complex litigation and trial experience in multiple litigation areas: ranging from single plaintiff product defect cases to mass tort and class action cases. Bisnar | Chase is built upon advocating for the rights of workers, consumers, and families and aggressively seeking justice and accountability for people harmed by wrongdoing and negligence. Our firm is committed to obtaining the best possible outcome for clients, investing considerable resources into our clients' cases. Using the fundamentals of the U.S. civil justice system, we champion fights considered long shots. Bisnar | Chase takes on cases that others may not be able or may choose not to fight. The civil justice system compensates people injured or wronged, address corporate behavior and cause change to help prevent more people from being hurt. By continuing to take cutting-edge and challenging cases, by giving back to our profession and our communities, and by believing optimistically that just one person can bring about change, we are litigating today for a better tomorrow.

Attorneys at Bisnar | Chase have handled many individual, consolidated, mass torts and class action cases in state and federal courts across the country. Our practice is diverse, and over the years, Bisnar | Chase has expanded their civil litigation focus to encompass these areas:

- Catastrophic Personal Injury and Wrongful Death
- Consumer Fraud
- Medical Drugs
- Medical Devices
- Employment Class Actions

MDL/Complex Leadership Experience

Recently, Brian Chase was appointed to the Plaintiffs' Executive Committee in the *Johnson & Johnson Talcum Powder Cases*, JCCP No. 4872. The JCCP involves coordination of cases involving plaintiffs from the 50 states suffering from Ovarian Cancer as the result of using talc-based products such as baby powder or shower to shower. Bisnar | Chase is also plaintiff's counsel in a bellwether selection in the *In re Plavix Marketing, Sales Practices and Products Liability Litigation* cases (MDL 2418) pending

Trust. Passion. Results.

before Hon. Freda L. Wolfson in New Jersey (*Hawley, et al v. Bristol-Myers Squibb Company, et al.*, Case No. 3:13-cv-02083).

Other mass tort cases that Bisnar | Chase has handled include *DePuy Pinnacle Hip System Cases* (JCCP 4662), the *DePuy ASR Hip System Cases* (JCCP 4649), *In re Zimmer Nexgen Knee Implant Products Liability Litigation* (MDL 2272), transvaginal mesh, and Zofran/Ondansetron cases.

In December 2015, Bisnar | Chase was appointed co-lead counsel in a certified class action against Conair Corporation, a case involving millions of alleged defectively designed hair dryers that exposed unsuspecting consumers to serious bodily injury (*Czuchaj, et al. v. Conair Corp.*, Case No. 13-cv-1901-BEN-RBB).

Bisnar | Chase has been appointed sole class counsel in numerous employment class actions: *Contreras, et al. v. Orange Coast Plumbing, Inc.*, Case No. 30-2011-00505181-CU-OE-CXC (OCSC); *Buan, et al. v. Earl of Sandwich, LLC, et al.*, 30-2013-00673449-CU-OE-CXC (OCSC); *Pinette, et al. v. Desert Ventures South, LLC, et al.*, Case No. RIC1406754 (RCSC); and *Travis v. Guild Mortgage Co.*, Case No. 30-2014-00727549-CU-OE-CXC (OCSC).

Bisnar | Chase has also been appointed co-lead class counsel in numerous employment class actions: *Jones, et al. v. Agilysys, Inc., et al.*, Case No. 4:12-cv-03516-SBA (N.D. Cal.); *Greene, et al. vs. Gino Morena Enterprises, LLC*, Case No. 13-cv-1332-JM-NLS (S.D. Cal.); *Grant, et al. vs. College Hospital, Inc.*, Case No. BC487206 (LASC); *Williams, et al. v. Pay Day Loan Store of California, Inc.*, Case No. BC532356 (LASC); and *Nehrlich, et al. v. RPM Mortgage Co.*, Case No. 30-2013-00666783-CU-OE-CXC (OCSC).

Bisnar | Chase is continuing to vie for sole or co-leadership roles in other class actions.

Complex Civil Trial Experience and Results Achieved

Mr. Chase has tried to verdict over 30 civil jury trials in both state and federal courts across the country. Bisnar | Chase has a long history of success against large manufacturers in complex product-liability actions arising from products either defectively designed or manufactured, and have recovered over \$250,000,000 for their clients. A small sampling includes:

- *Romine v. Nissan Motor Co., Ltd., et al.*, Case No. 386031 (LASC), \$24,744,764 jury verdict in seat back defect case, successfully upheld on appeal (resulting in a published opinion) and resisted Petition for Review to the California Supreme Court;
- *Mares, et al. v. Chrysler Group, LLC*, Case No. 386031 (LASC), \$915,000.00 jury verdict in gas tank design defect case (successfully upheld on appeal (unpublished opinion) and resisted Petition for Review);

Trust. Passion. Results.

- *Levesque v. Ford Motor Company, et al.*, Case No. BC313548 (LASC), defective side curtain air bag, occupant restraints, handling, stability and roof crush [confidential settlement after hung jury];
- *Bardonner v. Suzuki, et al.*, Case No. 30-2008-00109180 (OCSC), on second trial in front of Hon. Gail A. Andler, defective side curtain air bag, handling, stability and occupant restraints [confidential settlement];
- *Rittenberg v. General Motors, et al.*, Case No. 2:04-22156-23, U.S. District Court, District of South Carolina, Charleston Division, defective occupant restraints and roof crush [confidential settlement];
- *Obediente v. Toyota Motors Co., et al.*, Case No. YC 060158 (LASC), defective handling and stability [confidential settlement];
- *Colonna v. Porsche AG, et al.*, Case No. RIC 449128 (RCSC), defective occupant restraints and defective sun roof [confidential settlement of wrongful death claim];
- *Gil v. Ford Motor Company, et al.*, Case No. 1:06-CV-122, U.S. District Court, Northern District of West Virginia, defective handling, stability and occupant restraints [confidential wrongful death settlement];
- *Pheam v. Land Rover, et al.*, Case No. BC 329775 (LASC), defective handling, stability and occupant restraints [confidential settlement of wrongful death and personal injury claims];
- *Thayer v. Subaru, et al.*, Case No. 30-2008-0019807 (OCSC), defective handling, stability and occupant restraints [confidential settlement of child's wrongful death claims for death of her mother];
- *Sleight v. Ford Motor Company, et al.*, Case No. C20054479, Superior Court for the State of Arizona, County of Pima, defective seat [wrongful death and several personal injuries, confidential settlement];
- *Collins v. Ford Motor Company, et al.*, Case No. RIC 361201 (RCSC), defective seat [wrongful death of daughter, confidential settlement];
- *Newton v. General Motors, et al.*, Case No. 341918 (RCSC), defective occupant restraints and roof crush [confidential settlement of personal injury claims]; and
- *Dennis v. The Coleman Company, et al.*, Case No. 30-2007 00100173 (OCSC), defective heater [confidential settlement of personal injury claims].

Trust. Passion. Results.

Leadership Positions and Firm Accolades

Mr. Chase is the past President of the Consumer Attorneys of California (CAOC). He is also the past president of the Orange County Trial Lawyers Association (OCTLA). Mr. Chase is on the current Board of Directors of a national auto products liability organization known as the Attorneys Information Exchange Group (AIEG) and has been on the board for the past 10 years.

As a result of his civil trial experience, Mr. Chase is a member of the American Board of Trial Advocates (ABOTA). In 2004 and 2015, Mr. Chase was awarded the Products Liability Trial Lawyer of the Year Award from the OCTLA. In 2012, Mr. Chase was awarded the Consumer Attorney of the Year award from the CAOC. In 2012, Mr. Chase was a Trial Lawyer of the Year nominee for the Consumer Attorneys Association of Los Angeles (CAALA).

Trust. Passion. Results.

1301 Dove Street, Suite 120, Newport Beach, California 92660 ♦ (949)752-2999 ♦ Facsimile (949)752-2777

1 **GERAGOS & GERAGOS**

2 A PROFESSIONAL CORPORATION
3 LAWYERS
4 HISTORIC ENGINE CO. NO. 28
5 644 SOUTH FIGUEROA STREET
6 LOS ANGELES, CALIFORNIA 90017-3411
7 TELEPHONE (213) 625-3900
8 FACSIMILE (213) 232-3255
9 GERAGOS@GERAGOS.COM

10 **MARK J. GERAGOS SBN 108325**
11 **BEN J. MEISELAS SBN 277412**
12 **Attorneys For Plaintiff RACHAEL CRONIN on Behalf of Herself and All Others**
13 **Similarly Situated**

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 **RACHAEL CRONIN, on Behalf of**
17 **Herself and All Others Similarly**
18 **Situated;**

19 **Plaintiffs,**

20 **vs.**

21 **EOS PRODUCTS, LLC, a New York**
22 **Limited Liability Company, and**
23 **DOES 1-10;**

24 **Defendants.**

25 **Case No. 2:16-cv-00235-JAK-JEM**
26 **D**

27 *Hon. John A. Kronstadt*

28 **DECLARATION OF BEN J. MEISELAS**

GERAGOS & GERAGOS, APC
HISTORIC ENGINE CO. NO. 28
644 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90017-3411

DECLARATION OF BEN J. MEISELAS

I, Ben Meiselas, hereby declare as follows:

1. I am the attorney of record in the matter Rachael Cronin, et al. v. EOS Products, LLC, et al. (C.A.C.D, Case No.:2:16-cv-00235-JAK-JEM) ("EOS Lawsuit").

2. I am licensed to practice before this Court. By virtue of my involvement in this case as the attorney of record, I have personal knowledge of the facts set forth herein and if called upon as a witness, I could and would competently testify hereto.

3. After filing the EOS lawsuit, the case received national and international attention and was featured on both the Today Show on NBC and Good Morning America on ABC, in addition to being featured in most major newspapers and periodicals. We received inquiries from health professionals, consumers, and experts, who shared information regarding the case and their own experiences.

4. On or around January 13, 2016, we began engaging in settlement discussions with the Quinn Emanuel firm who was representing EOS in this action. During our initial communication with the Quinn firm we set out a protocol where we would informally exchange information and data, and work towards setting up a mediation.

5. On or around January 15, 2016, Mr. Geragos and I met in person with Mr. Morgan from the Quinn Emanuel firm. We spent approximately 1-2 hours discussing the case, the cases that were filed or being filed in other jurisdictions, and we further discussed a streamlined approach to settlement discussions.

6. On or around January 17, 2016, the parties selected the Honorable Peter Lichtman (Ret.) to mediate the case. The parties selected Judge Lichtman based on his vast experience as a Judge and Mediator, whose reputation for resolving high-profile and complex matters is second to none. Specifically, the parties relied heavily on Judge Lichtman's experience in resolving difficult class cases, with complex jurisdictional, coordination, and consolidation issues.

7. The parties submitted mediation briefs to Judge Lichtman on January 21, 2016. The mediation briefs were confidentially exchanged, although the parties reserved the right to share data and pre-Rule 26 discovery during the mediation.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION**

Rachael Cronin,

Plaintiff,

v.

EOS Products, LLC,

Defendant.

} Lead Case No. 2:16-cv-00235-JAK-JEM

} **DECLARATION OF BEN MEISELAS IN**
} **SUPPORT OF PLAINTIFFS' MOTION**
} **FOR PRELIMINARY APPROVAL OF**
} **PROPOSED CLASS ACTION**
} **SETTLEMENT**

} Date: December 19, 2016

} Time: 8:30 a.m.

} Room: 750

} Judge: Hon. John A. Kronstadt

I, Ben Meiselas, declare as follows:

1. I am a Senior Attorney of the law firm Geragos & Geragos, APC counsel for Plaintiff Rachael Cronin in above-referenced lead action. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of the contemporaneously filed Plaintiffs' Motion for Preliminary Approval of Proposed Class Action (the "Motion").¹

2. The schedule below indicates the attorneys, paralegals and other professionals of my firm who performed work in this litigation through the present. The schedule includes the name of each person who worked on the case, hourly

¹ All capitalized terms have the same meaning as set forth in the Settlement Agreement.

billing rates, and the number of hours expended to date. The backgrounds and qualifications of the attorneys who worked on the matter are set forth in the Firm Resume attached hereto as Exhibit A. The lodestar calculation is based on my firm's current billing rates, including for attorneys and employees no longer employed by the firm, at the firm's customary hourly rates charged to our fee-paying clients, and which have been accepted as reasonable by this District and other district courts in numerous other class action litigations. *See, e.g., Marootian, et al. v. New York Life Insurance Company*, Case No. C99-12073 CAS (MCx); *Kyurkjian, et. al, v. AXA, S.A., et al.*, Case No: 02-01750 CAS(mc)

3. The total number of hours expended on this litigation by **Geragos & Geragos, APC** from December 9, 2015 through the date of execution of the declaration is 1,110 hours. The total lodestar for **Geragos & Geragos, APC** to date is \$736,250.00. **Geragos & Geragos, APC** will submit an updated declaration, conformed to the Court's Exhibit H of its Standing Order, with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its hours expended in the litigation.

NAME	HOURS	RATE	LODESTAR
Mark Geragos (Firm Principal)	290	\$1500	\$435,000.00
Ben Meiselas (Senior Attorney)	475	\$600	\$240,000.00
Frida Hjort (Junior Associate)	220	\$250	\$55,000.00
Tiffany Darden (paralegal)	70	\$50	\$3,500.00
Margo Hartley (parlegal)	55	\$50	\$2,750.00
TOTAL	1110	XXX	\$736,250.00

4. **Geragos & Geragos, APC's** lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter

are being separately reimbursed by Defendant and are included in the sum of \$1,850,000 being requested by Plaintiffs' Counsel for their fees and expenses. **Geragos & Geragos, APC** will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its expenses. Such expenses may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 27th day of October, 2016 at Los Angeles, California.

/s/ Ben Meiselas
Ben Meiselas
Geragos & Geragos, APC

EXHIBIT A

GERAGOS & GERAGOS

A PROFESSIONAL CORPORATION
LAWYERS
HISTORIC ENGINE CO. NO. 28
644 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90017-3411
TELEPHONE (213) 625-3900
FACSIMILE (213) 625-1600
GERAGOS@GERAGOS.COM

Geragos & Geragos, APC, is a boutique law firm focusing on complex civil litigation and criminal defense, with offices in downtown Los Angeles and New York. The firm's managing partner, Mark J. Geragos, has represented some of the most prominent figures in the world and is among the leading trial attorneys in the United States. He has been lead counsel in over three hundred jury trials ranging from the successful defense of murder cases to civil victories in class action and complex trade secret matters. Mr. Geragos leads a team of attorneys who have extensive experience in all phases of litigation through jury trial.

Firm background:

Founded in 1969, Geragos & Geragos's extraordinary commitment to the legal community has been proven over and over again by its attorneys' passion, hard work, dedication, and resulting success for over the last fifty years. The firm's clientele has included former Congressman Gary Condit, former first brother Roger Clinton, former Los Angeles City Councilman Art Snyder (whose case Mr. Geragos argued before the California Supreme Court), Academy award-winning actress Winona Ryder, international icon Michael Jackson, Mike Tyson, hip-hop star Nathaniel Hale (a.k.a. Nate Dogg), Los Angeles Lakers' Hall of Fame player, Elgin Baylor, international arms dealer Sarkis Soghanalian, internationally renowned James Bond movie director Lee Tamahori, Nicole Ritchie, Greg Anderson, the late Japanese businessman Kazuyoshi Miura, entertainer Chris Brown, and Scott Peterson, among many others.

Mr. Geragos was awarded the prestigious California Lawyer of the Year award in Civil Litigation in 2006 for his work involving the Armenian class action lawsuits. Mr. Geragos has also been named Trial Lawyer of The Year by the Los Angeles Criminal Courts Bar Association, making him one of only two lawyers ever named Lawyer of the Year in both the criminal and civil arenas. *California Law Business Magazine* has named him "one of the 100 Most Influential Attorneys in California" three years in a row and he has been described by *The Los Angeles Daily Journal* as "arguably the hottest defense lawyer of the moment." *Investor's Business Daily* named Mark Geragos as one of the best white collar criminal defense lawyers in California and *The Los Angeles Times* has described him as "seemingly unbeatable." Mr. Geragos has repeatedly been voted by his peers every year as one of Los Angeles's SuperLawyers and he is listed in Martindale Hubbell's registry of AV Preeminent Lawyers in the United States. Mr. Geragos currently serves as the President of the National Trial Lawyers Association.

Complex litigation/class action background:

Starting in 2001, the firm commenced class action work fighting on behalf of Armenian families and organizations to assert what many thought to be long lost claims arising out of the Armenian Genocide. Along with committed and experienced co-counsel, Geragos & Geragos prosecuted the following class action lawsuits, and continues to prepare others, for payment on insurance policies and recovery of bank deposits and land confiscated from Armenians prior to World War I:

Marootian, et al. v. New York Life Insurance,
USDC Case No. CV 99-12073 CAS (Mcx);
Kyurkjian, et al. v. Axa, S.A., a French Corporation,
USDC Case No. CV 02-01750 CAS (Mcx);
Movsesian, et al. v. Victoria Versicherung, A.G., a German Corporation,
USDC Case No. CV 03-9407 CAS (Mcx);
Deirmenjian, et al. v. Deutsche Bank, A.G.,
USDC Case No. CV 06-00774 MMM (Rcx),
Davoyan, et al. v. Republic of Turkey,
USDC Case No. CV10-5636 DMG (SSx)

These cases presented plaintiffs with a multitude of legal challenges of both a procedural and substantive nature, including jurisdictional issues related to some of the international companies, preclusion under the foreign affairs doctrine, and affirmative challenges based on the statute of limitations. The cases were met by many, and in particular the national and international defendant corporations, with skepticism about how claims ninety years old could succeed. But through tireless efforts and extraordinary legal work, the initial two cases resulted in highly successful settlements totaling nearly 40 million dollars for Genocide family survivors and charitable organizations throughout the world. The settlement of these cases were groundbreaking in that they represent the oldest resolved cases in U.S. history and are the first recorded cases addressing issues involving the Armenian Genocide. The other cases are still pending.

The firm's class action background has come to include cases involving various types of corporate misconduct. Geragos & Geragos has represented spouses in wrongful death cases and seriously injured plaintiffs in the recently settled cases of *In Re Vioxx: Products Liability Litigation*, MDL No. 1657 and *In Re Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation*, M:05-CV-01699-CRB, MDL No. 1699.

The firm currently serves as co-lead counsel on behalf of the class, as well as several individual plaintiffs, against AT&T in the well-known *In Re Pellicano* case, Los Angeles Superior Court Case Number BC 316318. The related cases involve multiple lawsuits against former private investigator Anthony Pellicano, prominent attorneys, entertainment figures, former law enforcement officers, and AT&T employees for having

engaged in illegal wiretapping of private conversations, primarily of individuals involved in pending family law litigation.

Mr. Geragos was recently appointed to the Executive Committees in two multidistrict litigation cases: *In Re: Kaba Marketing and Sales Practices Litigation*, MDL No. 2220, pending before Judge Donald C. Nugent in the United States District Court for the Northern District of Ohio, which involves a defect in a particular series of combination locks which may be opened by using a simple magnet, and *In Re: POM Wonderful LLC Marketing and Sales Practices Litigation*, MDL No. 2199, pending before Judge Dean D. Pregerson in the United States District Court for the Central District of California, representing a class of plaintiffs against POM Wonderful for misleading consumers about POM Wonderful Pomegranate Juice's alleged health benefits.

Mr. Geragos has been selected by the Steering Committee to be co-chair of the trial committee for the multidistrict litigation case, *In Re Apple iPhone 3G and 3GS, Marketing Sales Practices Litigation*, MDL No. 2116, pending before Judge Carl Barbier in the United States District Court for the Eastern District of Louisiana. Geragos & Geragos, is also a member of the Plaintiff's Steering Committee in the in the mass tort MDL: *In Re Mirena IUD Products Liability Litigation*, MDL No. 2434.

Geragos & Geragos, is currently serving as lead counsel in the nationwide MDL: *In re: 5-Hour Energy Marketing and Sales Practices Litigation*, Case No. 13-ml-02438 PSG (PLAx). The Court's Order appointing Geragos & Geragos as lead counsel stated, "The Geragos Firm also has experience in consumer class actions and other complex litigation, and has considerable trial experience."

Consumer fraud background:

Geragos & Geragos has pursued numerous large corporate entities in a variety of cases claiming malfeasance, including cases against Ford Motor Company, Bridgestone/Firestone, Medtronic, Inc., Pfizer, Inc., CIGNA Healthcare, Inc., Bank of America, N.A., NASCAR, Inc., Amtrak, Burlington Northern Santa Fe Corporation, Aladdin Hotel & Casino of Las Vegas, Nickelodeon Network, Allstate Insurance Company, Bernini Clothing, Inc., Metropark, USA, Inc., County of Orange, Sheriff's Department of Orange County, City of Orange, City of Los Angeles, and City of Glendale.

In 2008, the firm represented a non-profit organization against pharmaceutical giant Pfizer, Inc. for trade secret misappropriation and related claims. The jury's verdict of over 58 million dollars was named one of the top ten jury verdicts in California by *The Daily Journal* and one of the top 100 jury verdicts in the United States by *The National Law Journal*. *Ischemia Research and Education Foundation v. Pfizer, Inc.*, Superior Court of Santa Clara, Case Number 1-04-CV 026653.

Cases involving automotive malfunction have also been a part of the firm's practice for years. In 2008, Mr. Geragos successfully settled a multi-injury and wrongful death Ford rollover case in *Eng v. Ford Motor Company*, Superior Court of Washington, Case Number 06-2-07541-1 (confidential settlement). The firm also pursued Bridgestone/Firestone North America Tire in a products liability action arising out of the tire blowout problem experienced by many drivers, including the firm's seriously injured plaintiff. *Samsonyan v. Bridgestone*, Los Angeles Superior Court, Case Number BC 318516.

Federal court background:

Mr. Geragos has tried to verdict eight federal cases before then-Judge and now-Justice of the Ninth Circuit, Paez, Judges Takasugi and Baird in the Central District of California, Judge Burns in the Southern District of California, and Judge Kauffman in the Eastern District of Pennsylvania. Other attorneys at the firm have tried civil cases before Judges Snyder, Pregerson, and Stotler in the Central District of California, resulting in favorable verdicts and settlements.

One of the most renowned federal cases that Mr. Geragos tried and which drew national media attention was the representation and successful acquittal of Whitewater figure and former business partner of President Clinton, Susan McDougal, on charges of contempt and obstruction of justice. *United States v. McDougal*, USDC, Eastern District, Arkansas, LR-CR-98-82. This case came on the heels of a fifteen-count acquittal Mr. Geragos obtained for Ms. McDougal in *People of the State of California v. McDougal*, which was tried in Los Angeles Superior Court before Judge Les Light.

Mr. Geragos, along with John R. Climaco, challenged the Ohio Elections Commission for attempting to curtail congressional candidate David Krikorian's speech about the incumbent Congresswoman in the election for United States Representative from the Second Congressional District of the State of Ohio. *Krikorian v. Ohio Elections Commission*, USDC, Southern District, Ohio, Chief Judge Susan J. Dlott.

Presentations and awards:

Mr. Geragos regularly appears as both guest and legal commentator on CNN, Fox News Service, CNBC, and MSNBC. He is also a guest speaker on a regular basis at seminars, symposiums, bar association meetings, and law schools throughout the country. Mr. Geragos has published numerous articles and other publications on a variety of legal topics. He is also the co-author of *Mistrial: An Inside Look at How the Criminal Justice System Works...and Sometimes Doesn't*. Mr. Geragos has also been a featured keynote speaker at several HarrisMartin conferences on topics including, "The Tort System's

Regulatory Role—How Will It Work With the Toyota Litigation,” which attracted several hundred plaintiff and defense attorneys.

Mr. Geragos has been the recipient of the Top Ten Verdicts of the State of California for *Ischemia Research and Education Foundation v. Pfizer, Inc. et al.* (2008), Attorney of the Year by the California Lawyer Magazine (2006), California CLAY Award (2006), Consumer Attorney of the Year by the Consumer Attorneys of California (2005), Professional of the Year by the Armenian Professional Society (2004), Who's Who in America—The Country's 100,000 Most Accomplished Men and Women From Across All Fields of Endeavor (2004), 100 Most Influential Lawyers in California (2001, 2002), Humanitarian of the Year by the Mexican American Grocers Association (2001), Jerry Giesler Memorial Award for Trial Skills, Judgement & Dedication in *People v. Susan McDougal* (1999), and Trial Lawyer of the Year by the Criminal Courts Bar Association (1999).

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION**

Rachael Cronin,

Plaintiff,

V.

EOS Products, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

DECLARATION OF R. SETH CROMPTON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT

Date: November 21, 2016

Time: 9:30 a.m.

Room: 750

Judge: Hon. John A. Kronstadt

I, R. Seth Crompton, declare as follows:

1. I am a partner at the Holland Law Firm and am counsel for Plaintiff Samatha Tipirneni in these Actions. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of the contemporaneously filed Plaintiffs' Motion for Preliminary Approval of Proposed Class Action (the "Motion").¹

2. I am the only attorney at my firm who spent time on this case and the schedule below indicates the work performed, including hourly billing rates and the number of hours expended, in this litigation through October 21, 2016. My curriculum vitae is attached as Exhibit A.

¹ All capitalized terms have the same meaning as set forth in the Settlement Agreement.

3. The lodestar calculation is based on my firm's current billing rates at the firm's usual and customary hourly rates charged in St. Louis, Missouri and the national venues in which the firm typically handles cases, to our fee-paying clients, and which have been accepted as reasonable by other district courts in numerous other class action litigations. *See, e.g., Smith v. Volkswagen Group of America, Inc.*, NO. 13-cv-00370 (S.D. Ill.). These rates are not adjusted, notwithstanding the complexity of this litigation, for the skill and tenacity of the opposition, the preclusion of other employment, the delay in payment or any other factors that could be used to justify a higher hourly compensation.

4. My firm's work on this case was performed on a wholly contingent basis pursuant to contingency fee contracts with the named Plaintiff. My firm has not received any amounts in connection with this case either as fee income or expense reimbursement. Additionally, all expense amounts were incurred and paid by my firm out of operating funds.

5. The total number of hours expended on this litigation by the Holland Law Firm from January 2016 through October 21, 2016 is 40.4 hours. The total lodestar for the Holland Law Firm to date is \$24,240. These amounts were derived from contemporaneous daily time records HLF compiled on this matter, which are recorded in our computerized database. The firm requires regular and contemporaneous recording of time records, which occurred in this case. The Holland Law Firm will submit an updated declaration, conformed to the Court's Exhibit H of its Standing Order, with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its hours expended in the litigation.

NAME	HOURS	RATE	LODESTAR
R. Seth Crompton (partner)	40.4	\$600.00/hr	\$24,240.00
TOTAL	40.4		\$24,240.00

6. Holland Law Firm's lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter are being separately reimbursed by Defendant and are included in the sum of \$1,850,000 being requested by Plaintiffs' Counsel for their fees and expenses. To date, Holland Law Firm has advanced a total of \$405.00 in expenses reasonably and necessarily incurred in connection with the prosecution of this case, and is broken down in the chart below. These expenses are reflected in the books and records regularly kept and maintained by my firm.

<i>EXPENSE CATEGORY</i>	<i>AMOUNT</i>
Filing Fee	\$400.00
Copy Charges	\$2.20
PACER Document Retrieval Charges	\$2.80
<i>TOTAL:</i>	<i>\$405.00</i>

7. Holland Law Firm will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its expenses. Such expenses may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

8. In my opinion, the time expended and expenses incurred in prosecuting this action were reasonable and necessary for the diligent litigation of the matter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 21st day of October, 2016 at St. Louis, Missouri.

/s/ R. Seth Crompton

EXHIBIT A

R. Seth Crompton, Esq.

Curriculum Vitae

R. Seth Crompton is a distinguished trial lawyer litigating complex civil cases throughout the United States. He has been appointed by courts across the country to lead complex litigations and has obtained significant verdicts, settlements, and results on behalf of his clients.

He has received the Martindale-Hubbell preeminent AV rating (5.0/5.0), which is given to a select group of attorneys that have been designated by their colleagues and the judiciary as demonstrating preeminence in the practice of law.

He is designated as a National Trial Lawyers – Top 100 Trial Lawyer. National Trial Lawyers is an invitation-only organization wherein members are evaluated on the basis of stringent qualifications, and is comprised of the most premier trial attorneys across the United States.

He has received Global Directory of Who's Who (Top Lawyers). Who's Who (Top Lawyers) honors attorneys who have demonstrated achievement and leadership in the legal field based on an attorneys' position and professional accomplishments.

He is designated by Super Lawyers as a Top Rated Class Action and Mass Tort attorney. Super Lawyers uses an independent selection process to rate outstanding lawyers who have attained a high-degree of peer recognition and professional achievement.

In addition to other not-for-profit and community leadership activities, he serves on the Board of Governors for the Missouri Association of Trial Attorneys.

Current Position:

Holland Law Firm, St. Louis, MO, 2010-present (formerly Holland, Groves, Schneller & Stolze)

Partner, Trial Attorney and Counselor at Law

- 1st chair jury and bench trial practice representing consumers, individuals, union members, and business entities in complex cases
- Trial practice concentration (*not exhaustive*):

Business Address:
300 N. Tucker
Suite 801
St. Louis, MO 63101

Office direct: 314.244.2014
Cell: 618.559.5111
Email: scrompton@allfela.com

- *Aggregate/Mass/Class litigation* – consumer, product, insurance, and financial class action; pharmaceutical and medical device mass tort; whistleblower/qui tam; environmental and oil spill; and antitrust
- *Individual litigation* – catastrophic personal injury; product liability; FELA; Jones Act; trucking accidents; toxic exposure; and business/commercial litigation
- Representative results:
 - *Aggregate/class litigation (excludes confidential settlements):*
 - \$506 million – JP Morgan Chase mortgage modification litigation
 - Forced place insurance litigation – recovered hundreds of millions of dollars against banks and insurance companies including Wells Fargo, U.S. Bank, HSBC, Everbank, SunTrust, SGIC, Assurant, and ASIC
 - \$46 million – VW Jetta wiring harness litigation
 - \$18 million – Flushmate toilet system litigation
 - \$17.5 million – AAA membership renewal backdating litigation
 - Represented over 200 franchise owners in a business interruption matter that resulted in a multi-million dollar recovery
 - *Individual litigation (excludes confidential settlements and results of less than \$750,000):*
 - \$4.5 million – wrongful death
 - \$1.6 million – mild traumatic brain injury
 - \$750,000 – mild traumatic brain injury
- Representative Appellate Decisions
 - *Hobbs, et al v. Tamko Building Products, Inc.*, 479 S.W.3d 147 (Mo. App. S.D. 2015) – upholding trial court’s denial of motion to compel arbitration in class action suit
 - *Crompton v. BNSF Railway Company*, 745 F.3d 292 (7th Cir. 2014) – upholding \$1.6 million verdict
 - *Swift v. Litchfield Hotel Ventures, LLC*, 2013 WL 5658700, No. 5-12-0589 (Ill. App. 5th 2013) – overturning trial court’s order sustaining motion to dismiss
 - *Cooper v. Chrysler Group, LLC*, 361 S.W.3d 60 (Mo. App. E.D. 2012) – overturning trial court’s order sustaining summary judgment
- Counseled a fight promotion company and fighters in various respects

- Personal counsel to select individuals providing strategic guidance on personal, professional, political, and business decisions
- Provide guidance to businesses, organizations, and individuals on strategic language to incorporate into transactional documents

Summation of Past Legal Experience (2005-2010):

- Trial attorney at one of the region's most respected corporate civil defense firms, and thereafter at a national corporate civil defense firm, representing multinational corporations, Fortune 500 companies, and other large business entities
- 1st and 2nd chair jury and bench trials
- Practice concentration included catastrophic personal injury, product liability, trucking accidents, and commercial litigation in the areas of construction, property development, real estate, and finance

Bar Admissions

- State – Missouri; Illinois
- Federal – E.D. Mo.; W.D. Mo.; S.D. Ill.; C.D. Ill.; N.D. Ill.; E.D. Mich.; W.D. Mich.
- 7th Circuit; 8th Circuit

Education:

- St. Louis University School of Law
 - J.D., 2005, including Health Law Certificate (#1 nationally ranked program)
 - Intern, City of St. Louis Circuit Attorneys' Office (white collar crime/fraud)
 - Intern, United States Attorneys' Office for the S.D. of IL (white collar and healthcare crime/fraud)
 - Legal Study Abroad – Madrid, Spain
- University of Illinois at Urbana Champaign
 - B.A., 2002, Economics and Political Science
 - Dean's List
 - National Society of Collegiate Scholars

Publications/Speaking/Consulting:

- Author, *Baseball and the Mild Traumatic Brain Injury Case*, The Missouri Trial Attorney, Fall 2016
- Speaker, *Developing, Defending and Evaluating Damages: Perspectives From the Bench and Bar*, 23rd Annual Admiralty Symposium, Louisiana State Bar Association, September 2016
- Moderator, *Nuts & Bolts of Deposition Practice*, Missouri Bar, August 2016
- Panelist, SLU Law New Student Orientation Reception, August 2016
- Faculty, Harris Martin “*Bet the Company*” Mass Tort Litigation Conference, Chicago, IL, May 2016
- Author, *Missouri Tort Law Desk Book, 4th Ed., Chapter 22 – Federal Employers’ Liability Act, Jones Act, and the Longshore and Harbor Workers’ Compensation Act*, May 2016
- Panelist, SLU Law Admitted Students Day Reception, March 2016
- Consultant for moot court program for nearby high school, Fall 2015
- Contributing Author, LaceupBoxing.com, Aug. 2013 – Nov. 2013
- Panelist, Discussion on medical lien resolution and complex/mass tort settlement administration, November 2012
- Instructor of intra-firm continuing legal education courses, as well as legal and marketing presentations to clients on various topics, while at corporate civil defense firms from 2005 – 2010

Not-for-Profit and Community Board/Committee Activities:

- Craftsmen Masonic Lodge, St. Louis, MO, 2006-present
 - Including Audit Committee
- Metro St. Louis Illini Club, St. Louis, MO, 2008-2014, President

Business Address:
300 N. Tucker
Suite 801
St. Louis, MO 63101

Office direct: 314.244.2014
Cell: 618.559.5111
Email: scrompton@allfela.com

- Developed the club to include a board of directors, fundraising, and regular business, social, and sporting events
- Developed all events to be either profitable or at no-cost to the club
- Jointly operated with various departments of the University, including alumni association, foundation, and athletics
- Young Friends of the St. Louis Zoo, 2009-2013, Board Member
 - Fund raising, community organization/awareness, and volunteer work
- Lafayette Square Restoration Committee, Development Committee, Member-at-large, 2012-2016
 - Oversight of standards for development, construction, and rehabilitation

Legal Affiliations:

- American Association of Justice
- Missouri Association of Trial Attorneys
 - ***Board of Governors, 2016 – present***
- Missouri Bar Association
- Illinois Trial Lawyers Association
- American Bar Association

Personal Interests:

- Travel, boxing, MMA, horseracing

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION**

Rachael Cronin,

Plaintiff,

V.

EOS Products, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

DECLARATION OF JOSHUA H. EGGNATZ IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT

Date: November 21, 2016

Time: 9:30 a.m.

Room: 750

Judge: Hon. John A. Kronstadt

I, Joshua H. Eggnatz, declare as follows:

1. I am a partner of the law firm Eggnatz, Lopatin & Pascucci, LLP (“ELP”), counsel for Plaintiff Melisa Menz in these Actions. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of the contemporaneously filed Plaintiffs’ Motion for Preliminary Approval of Proposed Class Action (the “Motion”).¹

2. The schedule below indicates the attorneys, paralegals and other professionals of my firm who performed work in this litigation through the present. The schedule includes the name of each person who worked on the case, hourly

1. All capitalized terms have the same meaning as set forth in the Settlement Agreement.

billing rates, and the number of hours expended to date. The backgrounds and qualifications of the attorneys who worked on the matter are set forth in the Firm Resume attached hereto as Exhibit A. The lodestar calculation is based on my firm's current billing rates, including for attorneys and employees no longer employed by the firm, at the firm's customary hourly rates charged to our fee-paying clients, and which have been accepted as reasonable by this District and approved by other courts in other class action litigations. *See, e.g., Barron, et al. v. Snyder's-Lance*, 0:13-cv-62496 (S.D. Fla., 2016); *Holliday v. Vitacost.com, Inc.* 2015-CA-010160 (AA) (15th Judicial Circuit, Palm Beach County, FL, 2016).

3. The total number of hours expended on this litigation by ELP from January 13, 2016 through present is 37.7 hours. The total lodestar for ELP to date is \$18,850.00. ELP will submit an updated declaration, conformed to the Court's Exhibit H of its Standing Order, with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its hours expended in the litigation.

NAME	HOURS	RATE	LODESTAR
Joshua H. Eggnatz (Partner)	28.50	\$500	\$14,250.00
Michael J. Pascucci (Partner)	3.3	\$500	\$1,650.00
Benjamin M. Lopatin (Partner)	5.9	\$500	\$2,950.00
TOTAL	37.7		\$18,850.00

4. ELP's lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter are being separately reimbursed by Defendant and are included in the sum of \$1,850,000 being requested by Plaintiffs' Counsel for their fees and expenses. ELP will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action

Settlement detailing its expenses. Such expenses may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 24th day of October, 2016 at Davie, FL.

/s/ Joshua H. Eggatz

EXHIBIT A



Offices Located at:

Florida

5400 S. University Drive, Suite 417
Davie, FL 33328

California

2201 Market Street, Suite H
San Francisco, CA 94114

Eggnatz, Lopatin & Pascucci, LLP (“ELP”) is a multi-jurisdictional law firm with offices in Florida and California. ELP’s practice is concentrated on consumer class actions in both federal and state courts, with a focus on food and dietary supplement, and consumer privacy litigation. ELP has successfully achieved changes to the labeling and marketing of various popular consumer products.

Joshua H. Eggnatz handles a variety of actions in civil litigation with an emphasis on consumer protection and personal injury. He obtained his law degree from Nova Southeastern University, Shepard Broad Law Center, *Magna Cum Laude*, and a bachelor of science in legal studies from The University of Central Florida, *Magna Cum Laude*. He is licensed to practice law in the State of Florida, and is admitted to practice before the following federal courts: Supreme Court of the United States; Eleventh Circuit Court of Appeals; United States District Court, Southern District of Florida; United States District Court, Middle District of Florida; United States District Court, District of Colorado. He has also litigated consumer class actions throughout the United States as part of coordinated multi-district litigations, and on a *pro hac vice* basis. He has been named to the *Florida Super Lawyers, Rising Stars* list for the past four years (2013-2016), and was selected as a finalist for the *Lifestyle Media Group’s* Leaders in Law award in 2014.

Benjamin M. Lopatin’s practice is primarily devoted to class-action litigation in the areas of consumer protection, false advertising, and consumer privacy. He received his Juris Doctor degree (J.D.), *cum laude*, from the Shepard Broad Law Center at Nova Southeastern University, and a Master of Laws degree (LL.M.) in intellectual property, from DePaul College of Law. He is licensed to practice law in the State of California, and is admitted to practice before the following federal courts: Supreme Court of the United States; United States Court of Appeals for the Ninth Circuit; United States Court of Appeals for the Eleventh Circuit; United States District Court for the Northern District of Florida; United States District Court for the Northern District of California; United States District Court for the Eastern District of California; United States District Court for the Central District of California; United States District Court for the Southern District of California; United States District Court for the District of Colorado; and United States District Court for the Northern District of Illinois (General Bar). Mr. Lopatin has

obtained favorable results against several defendant food manufacturers. He has been responsible for remedying consumer deception, particularly with respect to food labeling, through litigation. He has successfully achieved changes to the labeling and marketing of popular food products that previously had caused consumer confusion. He has substantial experience with consumer class actions, consumer fraud and false advertising, involving consumer protection, false advertising, and consumer privacy.

Michael J. Pascucci is a trial lawyer with a strong background in consumer advocacy, personal injury and insurance claims including homeowner's insurance claims, automobile accidents, premises liability, products liability and other bodily injury claims. He obtained his law degree from Nova Southeastern University, Shepard Broad Law Center, and a bachelor of science in finance from The University of Central Florida. Prior to co-founding ELP, Mr. Pascucci worked for a large Plaintiff's law firm where he handled hundreds of cases at various stages from pre-suit through trial. Prior to that, Mr. Pascucci also worked as a defense litigation attorney where he represented several insurance companies and some of the largest retail corporations in the country. Mr. Pascucci is licensed to practice law in the State of Florida, and is admitted to practice before the following federal courts: Supreme Court of the United States; United States District Court, Southern District of Florida; and United States District Court, Middle District of Florida

The lawyers at ELP have been appointed Class Counsel in the following consumer protection actions:

Moore, et al. v. GNC Holdings, Inc., 0:12-cv-61703-WPD (S.D. Fla.) (Class Counsel in a contested Nationwide class action involving creatine dietary supplement labeling);

Rappaport v. Jamba Juice Co., No.: CGC-12-521091 (San Francisco Superior Court) (Class Counsel in a contested California class action involving unfair pricing practices);

Klacko v. Diamond Foods, Inc., No. 14-80005-BB (S.D. Fla.) (Class Counsel in a Nationwide class action involving "All Natural" food labeling);

Teufel v. Karlin Foods Corp., 1:14-cv-23100 (S.D. Fla.) (Class Counsel in Nationwide class action involving "All Natural" food labeling);

Barron, et al. v. Snyder's-Lance, 0:13-cv-62496 (S.D. Fla.) (Class Counsel in Nationwide class action involving "All Natural" food labeling);

Bandell, et al. v. Massage Envy Franchising, LLC, 3:16-cv-.01236 (S.D. Cal.) (Class Counsel in Nationwide class action involving unfair and unconscionable consumer services contracts);

Holliday v. Vitacost.com, Inc. 2015-CA-010160 (AA) (15th Judicial Circuit, Palm Beach County, FL) (Class Counsel in Nationwide class action involving magnesium dietary supplement labeling); and

Bandell, et al. v. Massage Envy Franchising, LLC (16-cv-00783-DMS-BGS (S.D. Cal.) (Class Counsel in Nationwide class action involving unfair and conscionable consumer contracts).

A list of some of the firm's other recent notable consumer protection cases include the following:

Altman v. Frito-Lay North America, Inc., 1:12-cv-06105-RRM-RLM (S.D. Fla.) (Centralized in the E.D. NY, In re: Frito-Lay North America, Inc. All Natural Litigation, MDL No.: 2413) (proposed nationwide class action involving "All Natural" food labeling);

Leo v. Pepperidge Farm, Inc., 13-cv-2866 (Dist. Colorado) (formerly S.D. Fla. 9:13-cv-80598-KLR (proposed Florida class action involving improper "All Natural" food labeling);

Mirabella v. Vital Pharmaceuticals, Inc., 0:12-cv-62086-WJZ (S.D. Fla.) (proposed nationwide class action involving energy drink supplement labeling);

Feiner v. Innovation Ventures, LLC, 0:12-cv-62495 (S.D. Fla.) (Centralized in the C.D. CA, In re: 5-Hour Energy® Marketing and Sales Practices Litigation, MDL No.: 2438) (proposed Florida class action involving energy drink supplement labeling);

Cruz v. Tropicana Products, Inc. et al., No.: 10-62926 CA 08, Circuit Court, Miami-Dade County, Florida (proposed nationwide class action involving improper food labeling; appeal to be filed);

Kloszewski v. Bank of America, N.A. No.: 12-35513 CACE 14, Circuit Court, Broward County, Florida (individual banking action brought under the Fair Credit Reporting Act and common law claims);

Griffith, et al. v. Gruma Corporation, 14-cv-00833-YRG (N.D. Cal.) (formerly S.D. Fla. 9:13-cv-80791) (proposed Florida class action involving "All Natural" food labeling; class certification pending)

Mazzeo v. USPLabs, LLC., 13-62639 (S.D. Fla) (proposed Florida class action involving dietary supplement labeling);

Foster v. Chattem, Inc., 6:14-cv-00346 (M.D. Fla.) (proposed Florida class action involving cosmetic mouthwash labeling, class certification pending);

Batalla v. The Hain Celestial Group, Inc., 14-80246-CV (S.D. Fla) (proposed Florida class action involving "All Natural" food labeling);

Bohlke v. The Hain Celstial Group, Inc., 14-80300 (S.D. Fla) (proposed Florida class action involving "All Natural" food labeling);

Erye v. T. Marzetti Co., 9:14-cv-80626 (S.D. Fla) (proposed Florida class action involving "All Natural" food labeling);

Decastro v. Small Planet Foods, Inc., 9:14-cv-80033 (S.D. Fla) (proposed Florida class action involving "All Natural" food labeling);

Dye v. Bodacious Food Co., 9:14-cv-80627 (S.D. Fla) (proposed Florida class action involving “All Natural” food labeling);

Epstein v. Aidells Sausage Company, Inc., 9:14-cv-80916 (S.D. Fla) (proposed Florida class action involving “All Natural” food labeling);

Mackenzie v. The Blue Buffalo Company, Inc., 9:14-cv-80634 (S.D. Fla.) (In re: Blue Buffalo Company LTD Litigation, MDL No.: 2562) (proposed Florida class action involving pet food mislabeling);

Markley v. Whole Foods Marketing, Inc., 8:14-cv-01892 (M.D. Fla.) (proposed Florida class action involving sugar content mislabeling)

Mazzeo v. Nature’s Bounty, Inc., 14-cv-60580 (S.D. Fla) (proposed Florida class action involving dietary supplement labeling);

Monka v. JAG Specialty Foods, LLC., 9:14-cv-80764 (S.D. Fla) (proposed Florida class action involving “All Natural” food labeling);

Pettinga et al. v. B&G Foods, Inc., 9:14-cv-81159 (S.D. Fla) (proposed Florida class action involving “All Natural” food labeling);

Sturdivant v. Bob’s Red Mill Natural Foods, 9:14-cv-80765 (S.D. Fla) (proposed Florida class action involving “All Natural” food labeling);

Vandenberg v. Medora Snacks, LLC, 9:14-cv-81010 (S.D. Fla) (proposed Florida class action involving “All Natural” food labeling);

Riveron v. Home Depot USA, Inc., 9:14-cv-81175 (S.D. Fla) (proposed Florida class action involving data breach of consumer’s personal identifiable information);

Laboon v. Unilever United States, Inc. and Pepsico, Inc., 0:15-cv-60914 (S.D. Fla.) (proposed Florida class action involving “All Natural” food labeling);

Medgebow v. Merchant Capital Source, LLC, et al., 15-cv-81497 (S.D. Fla.) (proposed Nationwide class action under the Telephone Consumer Protection Action Act);

Hulse v. Wal Mart Stores, Inc., 2015 CA 000274 (7th Judicial Circuit, In and For Flagler County, FL) (proposed Nationwide class action involving deceptive juice labeling);

Romero, et al. v. General Nutrition Corporation, Inc., 15-019703 (17th Judicial Circuit, In and For Broward County, FL) (proposed nationwide class action involving dietary supplement labeling);

Brattain v. Santa Fe Natural Tobacco Company, Inc., et al., 15-cv-4705 (N.D. Cal.) (proposed Nationwide class action involving “natural” cigarette labeling); and

Jones v. Waffle House, Inc., et al., 6:15-cv-01637 (M.D. Fla.) (MDL No.: 2695) (proposed Nationwide class action brought under the Fair Credit Reporting Act);

Furbush, et al. v. University of Central Florida Board of Trustees, 6:16-cv-204 (M.D. Fla.) (proposed Nationwide class action involving data breach of student and employee private information); and

Birken-Sikora, et al. v. 21st Century Oncology Holdings, Inc., 2:16-cv-334 (M.D. Fla.) (proposed Nationwide class action involving data breach of medical records and other private information)

Eggnatz, Lopatin & Pascucci, LLP has also successfully negotiated confidential pre-suit settlements in other proposed consumer class action matters.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION**

Rachael Cronin,

Plaintiff,

V.

EOS Products, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

**DECLARATION OF HUNTER
SHKOLNIK IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
PROPOSED CLASS ACTION
SETTLEMENT**

Date: November 21, 2016

Time: 9:30 a.m.

Room: 750

Judge: Hon. John A. Kronstadt

I, Hunter Shkolnik, declare as follows:

1. I am a partner of the law firm Napoli Shkolnik PLLC, counsel for Plaintiff Maria Del Carmen Ballenilla-Blondett in these Actions. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of the contemporaneously filed Plaintiffs' Motion for Preliminary Approval of Proposed Class Action (the "Motion").¹

2. The schedule below indicates the attorneys, paralegals and other professionals of my firm who performed work in this litigation through the present. The schedule includes the name of each person who worked on the case, hourly

¹ All capitalized terms have the same meaning as set forth in the Settlement Agreement.

billing rates, and the number of hours expended to date. The backgrounds and qualifications of the attorneys who worked on the matter are set forth in the Firm Resume attached hereto as Exhibit A. The lodestar calculation is based on my firm's current billing rates, including for attorneys and employees no longer employed by the firm, at the firm's customary hourly rates charged to our fee-paying clients, and which have been accepted as reasonable by this District and other district courts in numerous other class action litigations. *See, e.g., Fuentes et al v. UniRush, LLC, et al.*, Docket No. 1:15-cv-08372 SDNY.

3. The total number of hours expended on this litigation by Napoli Shkolnik PLLC and Imbesi Law P.C. from January 16, 2016 through October 20, 2016 is 127 hours. The total lodestar for Napoli Shkolnik PLLC to date is \$80,535. Napoli Shkolnik PLLC will submit an updated declaration, conformed to the Court's Exhibit H of its Standing Order, with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its hours expended in the litigation.

NAME	HOURS	RATE	LODESTAR
Hunter Shkolnik (Partner)	28.2	\$800	\$22,560
Paul Napoli (Partner)	9	\$800	\$7,200
Vincent Imbesi (Partner)	37.5	\$800	\$30,000
Jeanne Lahiff (Partner)	6.6	\$800	\$5,280
Brittany Weiner (Partner)	1.9	\$350	\$665
Alex Greenberg (Law Clerk)	2.0	\$100	\$200
Salvatore Badala (Associate)	29.2	\$350	\$10,220
Annie Causey (Associate)	11.7	\$350	\$4,095
Israel Klein (Associate)	0.9	\$350	\$315
TOTAL	127		\$80,535

4. Napoli Shkolnik PLLC's lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter are being separately reimbursed by Defendant and are included in the sum of \$1,850,000 being requested by Plaintiffs' Counsel for their fees and expenses. Napoli Shkolnik PLLC will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its expenses. Such expenses may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 28 day of October, 2016.



Hunter Shkolnik
Napoli Shkolnik PLLC
360 Lexington Avenue, 11th Floor
New York, NY 10011
Hunter@napolilaw.com
Tele: (212) 397-1000

EXHIBIT A



**NAPOLI
SHKOLNIK** PLLC
ATTORNEYS AT LAW

MEDIA KIT 2016



TEAM PERFORMANCE

**WE HOPE YOU FIND THIS INFORMATIVE AND
WE LOOK FORWARD TO WORKING ALONGSIDE YOU.**



**NAPOLI
SHKOLNIK** PLLC
ATTORNEYS AT LAW

360 LEXINGTON AVENUE, 11TH FLOOR
NEW YORK, NEW YORK 10017

(212) 397-1000
NAPOLILAW.COM

PHOTOGRAPHY BY KASIA BIALASIEWICZ; EMANUELE BRESCIANI; ALBERT CHEUNG; EVAN SUNG; BIGSTOCK / COREPICS, MAARIGARD, CURAPHOTOGRAPHY, TOMAXZ GIERYGOWSKI, GVICTORIA, LEVENT KONUK, WAYNE0216, UDON10671.

COPYRIGHT © 2016 NAPOLI SHKOLNIK PLLC ATTORNEYS AT LAW. ALL RIGHTS RESERVED. LAST UPDATED JUNE 2016.

ATTORNEY ADVERTISING. PRIOR RESULTS DO NOT GUARANTEE SIMILAR OUTCOMES. THIS PUBLICATION IS FOR INFORMATIONAL PURPOSES ONLY, DOES NOT CONSTITUTE LEGAL ADVICE AND MAY NOT REFLECT THE MOST CURRENT LEGAL DEVELOPMENTS. THIS PUBLICATION DOES NOT CREATE AN ATTORNEY-CLIENT RELATIONSHIP, ONLY A WRITTEN CONTRACT BETWEEN THE PARTIES CAN ESTABLISH AN ATTORNEY-CLIENT RELATIONSHIP. NAPOLI SHKOLNIK PLLC AND ALL CONTRIBUTING AUTHORS EXPRESSLY DISCLAIM ALL LIABILITY TO ANY PERSON WITH RESPECT TO THE CONTENTS OF THIS PUBLICATION. IMAGERY USED IN THIS PUBLICATION UTILIZES FICTIONALIZED EVENTS OR SCENES WITH PARTICIPATION OF MODELS. FOR COMPLETE DETAILS, READ OUR TERMS OF USE AND PRIVACY POLICY AT NAPOLILAW.COM



PRACTICE AREAS | 05

We handle cases nationwide.

FROM LEFT Hunter J. Shkolnik, Partner,
Marie Napoli, Partner, and
Paul J. Napoli, Of Counsel.

TEAM PROFILES | 06

Experience, purpose and determination.

VERDICTS AND SETTLEMENTS | 12

Representing clients in complex litigation, arbitration proceedings and mediations.

MEDIA EXCERPTS | 14

Sought after speakers: interviewed in leading articles around the country.

GIVING BACK | 30

A tradition of sponsoring honorable and educational organizations.

LEGAL LEADERS

PRESENTS MARTINDALE-HUBBELL
TOP RATED LAWYERS

2 0 1 6



FEATURING

PREEMINENT®

MARTINDALE-HUBBELL® LAWYER RATINGS

HOW CAN WE HELP?

Our clients come from across the United States. We work alongside local co-counsel across the country.

Asbestos Related
Illnesses

Aviation
Accidents

Complex
Litigation

Defective
Prescription Drugs

Defective
Medical Devices

Serious
Personal Injury

Social Security
Disability

Workers'
Compensation

World
Trade Center

W **E EVALUATE CASES DAILY** and we encourage you to contact Napoli Shkolnik PLLC to discuss steps for compensation for our clients as well as to speak about any new litigations.

We have active offices in California, Illinois (Madison County and Chicago), Delaware, Florida, Texas and our principal offices are in New York City and Long Island.

The following articles highlight some of the cases we are currently litigating or have recently resolved.


Our attorneys hold a variety of leadership positions (lead or liaison counsel, members of litigation steering committees) in numerous multi-district litigations for pharmaceutical cases.

Interested parties call (212) 397-1000.

TEAM PROFILES

We look forward to building a mutually
beneficial relationship together.

FROM LEFT Marie Napoli, Partner, Paul J. Napoli, Of Counsel and Hunter J. Shkolnik, Partner.



NAPOLI SHKOLNIK PLLC is a national litigation firm providing representation to victims of defective prescriptions drugs and medical devices, asbestos-related illnesses, aviation accidents, complex litigation and other serious personal injury matters. ■

MARIE NAPOLI, PARTNER



"It's not about assigned case numbers— it's about people."

BAR ADMISSIONS

- New York
- Missouri
- Illinois
- United States Supreme Court
- New York Supreme Court
- United States District Court, Eastern District of New York
- United States District Court, Southern District of New York

PROFESSIONAL AFFILIATIONS

- Founding Partner, Napoli Kaiser Bern LLP
- Advisory Board to Dean at St. John's University School of Law
- Board of Governors at St. John's University
- Associate Board Member, The Bone Marrow Foundation
- Founder, Paul and Marie Napoli Foundation
- New York State Bar Association

PREVIOUSLY SERVED AS

- Notes & Comments Editor, *St. John's Journal of Legal Commentary*
- Notes & Comments Editor, *St. Mary's Law Journal*
- President, St. John's Alumni Association, Nassau Chapter
- Vice President, Friend's Academy Parent Council
- Board Member, Glen Cove Boys & Girls Club

PUBLICATIONS

- *The Lord in the Law*
- *Reflections on a Catholic Law School*, *St. Mary's Law Review*
- *He Said, She Said*, *St. John's Journal of Legal Commentary* ■

MARIE NAPOLI has over twenty years of experience handling personal injury, medical malpractice, mass tort, and complex litigation matters. She is one of the few female partners in a top mass tort litigation firm with a successful and proven track record. She has worked for the New York Appellate Division, 2nd Department and has taught CLE courses on Tort & Civil Procedure at St. John's University School of Law.

As a founding partner of Napoli Kaiser Bern LLP, Marie was involved in many high level negotiations that resulted in favorable settlements for their clients. Notably, Marie was part of the team responsible for the billion dollar settlement in a major pharmaceutical case.

Marie understands the breadth of the legal issues that particularly affect women injured by pharmaceutical and other defective products. She is a breast cancer survivor and philanthropist. She channels her passion to create awareness and fund research through such organizations and events as The Bone Marrow Foundation, Inc., the Long Island Half Marathon and the New York City Marathon.

MORE | <http://bit.ly/29XwMxR>



HUNTER J. SHKOLNIK, PARTNER



HUNTER J. SHKOLNIK leads the discovery and trial teams of various mass tort pharmaceutical and medical device litigations as well as aviation related product liability actions for the firm. He is also active in managing national litigation and plaintiff litigation groups including the American Association of Justice's Actos Litigation Group.

He is currently serving as a chairman, leader or court appointed representative on Plaintiff Steering Committees in various drug and other mass torts. He is also a sought after speaker on issues involving Guidant, Medtronic and St. Jude pacemakers, ICD and Lead Wire recall science and litigation; Cardiac Device product liability litigation, Class Actions topics such as Ethics of Mass Tort Settlements, Lone Pine, State Federal Coordination and Preemption and on multiple occasions, on science related to various pharmaceuticals.

Hunter has been included in the New York Metro Super Lawyer list every year since 2006. This peer recognition demonstrates achievement and overall professionalism.

BAR ADMISSIONS

- New York
- United States District Court, Eastern District of New York
- United States District Court, Southern District of New York
- New Jersey
- United States District Court, District of New Jersey

PROFESSIONAL AFFILIATIONS

- American Association of Justice (AAJ), The Actos Bladder Cancer Litigation Group, Co-Chair
- Litigation Counsel of America, Fellow
- New York State Trial Lawyers (NYSTLA), Board of Directors; Past Secretary, Assistant Treasurer and Treasurer
- Long Island Affiliate of the NYSTLA, Past President
- Nassau County Bar Association, Past Vice-Chairman, Medical Legal Committee
- American Association of Justice (AAJ), Past Vice-Chairman, Healthcare Finance Litigation Group
- American Association of Justice (AAJ) Health Orthopedic Implant Litigation Group, Past Vice-Chairman, Science Committee Director
- American Association of Justice (AAJ), Past Chairman, Health Breast Cancer Litigation Group
- American Association of Justice (AAJ), Co-Chair, Health Heart Device Litigation Group
- Selection Considerations for your Actos Inventory

PUBLICATIONS

- *Danger in the Ring* by Marie Brenner, *Vanity Fair*, January 2014
- *Divided They Fall: Conception's Effect on Consumer and Employee Claims* (Co-Author: Richard J. Arsenault, Esq.), *NYSTLA*, Vol. 1, 2012
- Lecturer and Written extensively in the areas of Auto Product and Drug Product Liability ■

MORE | <http://bit.ly/29Pa8FN>



PAUL J. NAPOLI, OF COUNSEL



PAUL J. NAPOLI has achieved hundreds of verdicts and settlements valued over \$1 million for his clients and has also received many awards from his peers. He serves as a Board Member of the National September 11 Memorial & Museum and has previously served on the Board of Directors of the New York Trial Lawyers Association, is active in several bar associations, has been interviewed on numerous television shows, in newspaper and magazine articles and is frequently consulted by attorneys around the country on a variety of mass tort, professional malpractice and general liability issues.

Paul lobbied New York State and the U.S. Congress for and was instrumental in obtaining two important pieces of legislation to assist WTC- injured workers. These are an amendment to New York's General Municipal Law §50-l ("JIMMY NOLAN'S LAW") that provided a one-year savings statute for otherwise time-barred first responder claims and the JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010 ("Zadroga Bill"), which provides for medical monitoring and cash awards for injured first responders and other WTC survivors, local office workers and community members injured by the post-9/11 fallout.

BAR ADMISSIONS

- New York
- Illinois
- Missouri
- United States District Court, Eastern District of New York
- United States District Court, Southern District of New York
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Third Circuit
- United States Supreme Court
- New York State Court, Appellate Division Second Judicial Department

PROFESSIONAL AFFILIATIONS

- National September 11 Memorial & Museum (Board Member)
- New York State Bar Association (Member)
- St. John's Loughlin Society (Benefactors' Council)
- St. John's University School of Law Dean's Advisory Counsel

PUBLICATIONS

- *The Cost of Contamination*, American Water Works Association Journal, *What's New in Water and Waste Water*, November 2012
- *Compensation through legislation for 9/11 responders and victims: An analysis of Zadroga* (Co-Author Brian Crosby), *Westlaw Journal - Toxic Torts*, Volume 29, Issue 8 / June 2011
- *Physician Liability In Diet Drug Litigation*, *NYLJ*, April 20, 1998

PROFILED IN

- Mundy, Alicia, *Dispensing with the Truth: The Victims, The Drug Companies, and the Dramatic Story Behind the Battle Over Fen-Phen*, St. Martin's Press, 2001.
- Depalma, Anthony, *CITY OF DUST: ILLNESS, ARROGANCE AND 9/11*, FT Press, 2010 ■

MORE | <http://bit.ly/29PcaGe>



LOUISE R. CARO, PARTNER



LOUISE R. CARO is the managing attorney for our Miami, Florida office. Her practice focuses on plaintiff's mass tort litigation, concentrating on helping people harmed by exposure to hazardous soil, water and air contaminants. Ms. Caro has represented clients harmed by a multitude of environmental pollutants and toxins such as arsenic, lead, and dioxin, in soils and public water supply wells.

MORE | <http://bit.ly/2abo3cp>



PATRICK N. HAINES, PARTNER



PATRICK N. HAINES is managing attorney for the firm's offices in Edwardsville, IL as well as in Austin, TX. His practice focuses on helping victims of asbestos and other toxic substances obtain compensation for their injuries. Patrick has represented over 1000 victims of mesothelioma from all over the U.S. and has successfully tried cases to verdict in Texas and Louisiana. His trial victories include the first asbestos verdicts ever against Borg Warner Corporation and Exxon Mobil. He has litigated cases involving injuries from vinyl chloride, benzene, carbon disulfide and drugs like Vioxx.

MORE | <http://bit.ly/29W6K0R>



JIM HEISMAN, PARTNER



JIM HEISMAN is the managing attorney for the Delaware office. He has been litigating complex commercial disputes on a national basis for over twenty years. His experience includes intellectual property litigation, unfair competition claims, trade secret and employee non-compete cases as well as construction and general business litigation. He is a frequent guest lecturer on topics involving patent litigation and construction law.

MORE | <http://bit.ly/29XE4BR>



NICHOLAS R. FARNOLO, PARTNER



NICHOLAS R. FARNOLO leads the Product Liability Department, handling all phases of litigation from intake to settlement or trial. Mr. Farnolo represents a variety of local, national and international clients in mass tort, class action, mechanical product liability, aviation, commercial, and personal injury matters. He was a Summer Associate in the Office of the Kings County District Attorney where he researched and wrote appellate briefs to the Appellate Division, Second Department and appeared on behalf of the People of the State of New York during arraignment proceedings.

MORE | <http://bit.ly/2awQOxR>



CHRISTOPHER R. LOPALO, PARTNER



CHRISTOPHER R. LOPALO is an experienced litigator who manages the firm's World Trade Center and Pharmaceutical Departments. His practice primarily focuses on the litigation of complex mass tort litigations involving products liability, personal injury, medical malpractice, wrongful death, environmental, negligence and class actions all over the country. Mr. Lopalo is an integral player in successfully recovering millions of dollars on behalf of the firm's clients.

MORE | <http://bit.ly/2aaSLRH>



SHAYNA E. SACKS, PARTNER



SHAYNA E. SACKS focuses her nationwide practice on obtaining the best results for her clients in the areas of mass tort litigation, including pharmaceutical products liability, personal injury, medical device and medical malpractice cases. She was recently appointed to serve as Plaintiffs' Liaison Counsel in the *In Re Plavix Product Liability and Marketing Litigation* by the Honorable Freda L. Wolfson of the United States District Court, District of New Jersey.

MORE | <http://bit.ly/29NHDMA>



PAUL B. MASLO, PARTNER AND GENERAL COUNSEL



PAUL MASLO is a Partner in the firm's Class Actions and Commercial Litigation Department. He is also the Department's Chair and the firm's General Counsel. Mr. Maslo has extensive experience representing plaintiffs and defendants in litigation involving securities fraud, antitrust violations, complex financial products, business torts, contractual disputes, valuation, partnership disputes, business dissolution, shareholder oppression, healthcare, and the sale of art.

MORE | <http://bit.ly/2a2hf1j>



MICHAEL Y. HAWRYLCHAK, DEPUTY GENERAL COUNSEL



MIKE HAWRYLCHAK is also part of the firm's Class Actions and Commercial Litigation Department. He has considerable experience representing plaintiffs and defendants in civil litigation, including securities fraud, civil rights, antitrust, and general commercial litigation. Mr. Hawrylchak has also clerked for Judge I. Leo Glasser in the U.S. District Court for the Eastern District of New York.

MORE | <http://bit.ly/2aftC8e>



VERDICTS AND SETTLEMENTS

Building on the firm's ongoing success, we represent clients in complex litigation, arbitration proceedings and mediations.



"The ability to help a client, often at a time when they need it most and have nowhere else to turn, is ultimately rewarding."

MARIE NAPOLI, PARTNER

\$ 30.75 Million Settlement

For a class of over 4500 Oklahoma royalty interest owners against several big oil companies for their unauthorized deduction from royalty payments owed to claimants.

\$ 650 Million Settlement

The firm negotiated this settlement to resolve the claims of approximately 4,000 Pradaxa® users who claimed to have been injured by the drug.

\$ 17 Million Settlement

This settlement was reached on behalf of four U.S. Military Servicemen who were killed in a UH-60A Blackhawk helicopter crash. The action alleged improper maintenance and servicing of the DynCorp International LLC accident aircraft.

Multi-Million Dollar Settlement

'Fracking' Settlement for over 50 residents of Dimock, PA, in actions against a natural gas companies for contamination of their drinking water supply wells. Featured in the award-winning 2010 documentary *Gasland* that focuses on the environmental impacts of natural gas drilling operations.

\$ 47.5 Million Settlement

For injuries sustained by Rescue and Recovery workers at ground zero from toxic dust recovered from The Port Authority of New York and New Jersey.

\$ 100 Million Settlement

This settlement was reached on behalf of the injured women who used the birth control device, NuvaRing®.

\$ 24.5 Million Settlement

For injuries sustained by Rescue and Recovery workers at Ground Zero from toxic dust at Fresh Kills landfill.

\$ 10 Million Settlement

For over 300 residents of Brooklyn, NY, in their action against several oil companies for personal injury and property damage caused by one of the longest ongoing oil spills in United States history.

\$ 8 Million Federal Court Settlement

The firm obtained this settlement on behalf of a senior citizen who was struck by a Mack truck tractor trailer while walking in a crosswalk. The pedestrian suffered a traumatic leg amputation after being run over by the truck.



“We combine strong trial advocacy with the unparalleled use of technology in order to give our clients the best representation available.”

HUNTER J. SHKOLNIK, PARTNER

\$ 816.45 Million Settlement

For injuries sustained by Firefighters, Police Officers and Construction Workers at Ground Zero from toxic dust.

\$ 7.8 Million Settlement

Value on behalf of customers whose personal and financial information was compromised due to the company's failure to properly protect this information.

\$ 2.5 Million Settlement

Against an investment advisor firm for breach of their fiduciary duties to their clients.

\$ 52 Million Settlement

For environmental contamination of municipal water supplies of MTBE by Petroleum Refiners and Retailers.

\$ 11 Million Settlement

For a water district serving over 48,000 residents in an action against several industrial entities for contamination.

\$ 28 Million Settlement

For injuries sustained by Rescue and Recovery Workers at Ground Zero from Toxic Dust while working on the Barges and Piers.

\$ 2 Million Settlement

Our client was exposed to asbestos during his career as an insulator. At the direction of the owners and general contractors, he was brought into direct contact with asbestos-containing products through his work. The firm successfully obtained this settlement on behalf of our client and his family against major oil companies such as ExxonMobile, Shell Oil Co., and Chevron/Union Oil as well as major contractors and products manufacturers.

\$ 7 Million Settlement

For a water district and its more than 3,000 clients for damages resulting from MTBE contamination of drinking water supply wells in Rhode Island. ■

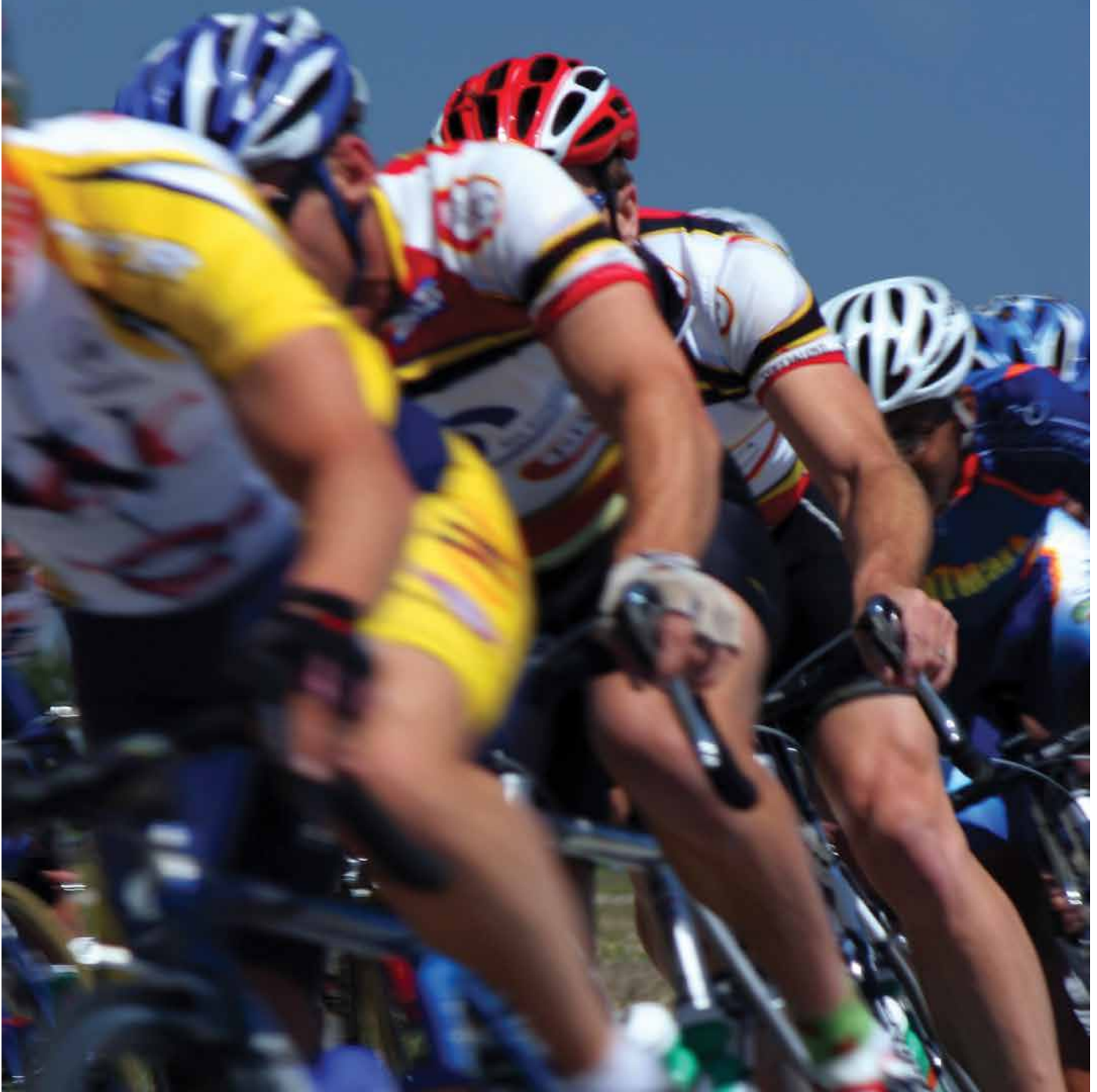
“Our firm’s continuing drive to provide the highest level of service maximizes our clients’ potential recovery.”

PAUL J. NAPOLI, OF COUNSEL



MEDIA EXCERPTS

Napoli Shkolnik PLLC partners and attorneys remain at the forefront of many litigations and therefore are sought after speakers. They have been interviewed in newspaper and magazine articles around the country on a variety of legal issues.



MAN WHOSE DOUBLE MURDER CONVICTION WAS OVERTURNED NOT IN THE CLEAR YET

Emily Saul

New York Post

July 21, 2016

"This is an 11-year-old botched investigation that is keeping my client behind bars," Napoli Shkolnik Attorney Craig Phemister said, addressing the judge. "...It would be unjust for my client to remain incarcerated."

A **BROOKLYN MAN** whose double murder conviction was overturned after 11 years in prison will have to wait another 13 days to learn if he'll be set free—or have to endure a second trial.

Wayne Martin was locked up for life without parole following his 2010 conviction for fatal shootings of East Flatbush tire shop owner Gary Turner and employee Ricardo Davis.

But Brooklyn Supreme Court Justice Matthew D'Emic overturned the conviction on July 7, after the DA's Conviction Review Unit announced an investigation into whether trial prosecutor Marc Fliedner—who has since retired— withheld potentially exculpatory evidence.

Martin appeared in court Thursday, flanked by two new defense attorneys, eager to walk out of court and into the arms of waiting family.

Yet assistant district attorney Mark Hale informed the gallery their investigation had hit a snag, given that a witness who had previously agreed to cooperate was now receiving death threats.

And Martin's new attorneys, James Henning and Craig

Phemister, said they had yet to receive files from their client's previous attorneys, and could not move forward until then.

"This is an 11-year-old botched investigation that is keeping my client behind bars," Phemister said, addressing the judge. "We're dealing with a lead investigator who obviously had some serious issues. It would be unjust for my client to remain incarcerated."

Fliedner, now in private practice, has said he's being lampooned by the DA's office because he publicly bashed DA Ken Thompson as a relentless politician in an interview after leaving the office.

Judge D'Emic declined to set bail Thursday, but indicated he did not want to keep Martin locked up "any longer than necessary."

Martin is currently scheduled to return to court August 3. ■

MORE | <http://nyp.st/2aagRLv>



FLINT FAMILIES PRESS CONGRESS FOR LEAD COMPENSATION

Keith Laing, Detroit News Washington Bureau

The Detroit News

July 12, 2016

Paul Napoli, who represented the Sept. 11 first responders in their push for compensation, said Tuesday “it’s certainly billions of dollars that would be required” to repay victims of the contaminated Flint water.

WASHINGTON — Three Flint families are pushing Congress to establish a compensation fund for victims of the city’s lead-contaminated water crisis.

The families say that the city’s 100,000 residents should be able to access a compensation fund that is similar to the one that was set up for first responders of the Sept. 11, 2001, terrorist attacks to make up for the hardships they still are experiencing from the water crisis.

“It’s been just a constant headache dealing with the water, wall-to-wall (bottled) water,” said Vance Griffis, who said his daughters Kareemah, 6, and Yanni, 14, have tested positive for lead.

“Having to get up and brush your teeth with the (bottled) water every morning, because when I wake up every morning, I think bottled water now to brush the teeth, to take the bath,” he added. “Then they’re talking about cutting the (bottled) water (distribution) down, all which is ridiculous.”

Griffis said a compensation fund “should be a given” with Gov. Rick Snyder and the mayor of Flint “...because of the simple fact it is a mistake they all made.”

Griffis’ family was one of three that traveled to Washington on Tuesday to meet with lawmakers about the possibility of setting up the compensation fund. They met with U.S. Sens. Debbie Stabenow, D-Lansing, and Gary Peters, D-Bloomfield Township, and Rep. Dan Kildee, D-Flint Township.

Stabenow said discussions with the families included expanding Medicaid for children and providing Ready to Feed formula for mothers.

“During the meeting, we reiterated our support for the state of Michigan to create a future fund to compensate victims affected by this terrible crisis,” Stabenow said.

Peters promised to “continue working to secure federal resources to help upgrade infrastructure and expand critical services like Head Start.”

“The state of Michigan has a responsibility to ensure Flint families, especially children who were exposed to lead, have the support and resources they need to rise above this tragedy, and that includes setting aside sufficient resources in a reserve fund to meet the long-term health and educational needs of Flint’s children,” said Peters.

Kildee, meanwhile, said “the Flint water crisis is an ongoing public health emergency and the residents of Flint are American citizens and deserve help from both their state and federal government.”

Melissa Lightfoot of Flint said the grades of her daughters Kamryn, 8, and Payton, 5, have dropped and they have exhibited behavioral issues since they were exposed to lead in the city’s containment water.

“For everybody else, water is something you don’t think much of, because you go to your faucet for a cup of water, you can just go on about your day,” she said. “For us, we’re not able to do that. We have to go ‘Oh, I have to go to my basement and get another thing of bottled water because we used all the ones that we had.’” ■

MORE | <http://detne.ws/29MB1cH>



NAPOLI SHKOLNIK PLLC FILES CLASS ACTION AGAINST QUEST DIAGNOSTICS AND EXAMONE

Benzinga

July 6, 2016

The plaintiff is possibly one of thousands of New York and national employees who work or worked for Quest as Mobile Examiners and were not paid in accordance with federal and state law.

NAPOLI SHKOLNIK PLLC filed a class action lawsuit in the Southern District of New York on behalf of lead plaintiff and New York County resident, Maria Vecchio, and on behalf of all others similarly situated, against Quest Diagnostics Inc., ExamOne World Wide Inc., and ExamOne LLC. Our firm is also seeking to represent other current and former Mobile Examiners who worked for Quest and affiliated Quest entities across the country. Our lawsuit alleges the following violations:

- not paying overtime wages;
- not paying New York and federal minimum wage;
- not providing employees proper wage statements (pay stubs); and
- not reimbursing business expenses.

Ms. Vecchio and her attorneys believe that Quest and its subsidiaries have violated the above state and federal labor laws. She is possibly one of thousands of New York and national employees who work or worked for Quest as Mobile Examiners and were not paid in accordance with federal and state law. This action is presented as an opt-in collective action on behalf of herself and all similarly affected individuals for violations of the federal Fair Labor Standards Act, as well as a class action for Quest's violations of state labor law.

Mobile Examiners who worked for Quest within the past 6 years, and you believe their rights were violated as described above or in any other way, are encouraged to contact an NS attorney today. ■

NAPOLI SHKOLNIK PLLC ATTORNEY JENNIFER LIAKOS NAMED TO PLAINTIFFS' EXECUTIVE STEERING COMMITTEE IN VIAGRA PRODUCTS LIABILITY ACTION

MarketWired

June 24, 2016

"The allegations in the Viagra cases are very serious. Melanoma is the most severe type of skin cancer and often requires treatment with chemotherapy and radiation. This litigation presents a great chance to work with a group of very capable lawyers representing clients who have been seriously wronged," says Ms. Liakos.

CONGRATULATIONS TO Napoli Shkolnik attorney Jennifer Liakos for being appointed on the Plaintiffs' Executive Steering Committee in the *In re Viagra (Sildenafil Citrate) Products Liability Litigation (MDL 2)* by United States District Judge Richard Seeborg of the United States District Court of California.

Earlier this year, plaintiffs in seven actions filed to have this litigation centralized under a MDL in the Northern District of California. Since the filing of the motion, an additional fifteen related actions in seven additional districts have been taken into account. On the basis of the papers filed and the hearing session held, it has been decided that these actions consider common questions of fact, and that centralization will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual questions arising out the allegation that Viagra (Sildenafil Citrate) causes or increases the risk of developing melanoma and that the defendant failed to warn

consumers and health care providers of the alleged risk.

As a member of the Plaintiffs' Executive Steering Committee, Jennifer Liakos will continue to investigate and develop the claims while also initiating, coordinating, and conducting all informational discoveries on behalf of the plaintiffs. Her practice focuses primarily on mass tort litigation, including pharmaceutical product liability, personal injury, and medical device litigation making Jennifer a more than suitable member on the steering committee. As an attorney in our Pharmaceutical Litigation Department based in the El Segundo, California office, Jennifer Liakos is a proud representative of Napoli Shkolnik PLLC.

"The allegations in the Viagra cases are very serious. Melanoma is the most severe type of skin cancer and often requires treatment with chemotherapy and radiation. This litigation presents a great chance to work with a group of very capable lawyers representing clients who have been seriously wronged," says Ms. Liakos. ■

MY KID GOT SUNBURNED BECAUSE OF MISLABELED SUNSCREEN

Ross Toback

New York Post

June 22, 2016

Additional reporting by Jody Godoy and Joe Van Acker. Editing by Ben Guilfooy.

Hunter Shkolnik accuses the company, which rakes in \$25 million in sales each year of “defrauding unsuspecting customers.”

JUMPING ON A REPORT that found many sunscreens overstate their protection factors, a Brooklyn parent has filed a class-action lawsuit against the makers of Banana Boat Sunscreen, saying he bought a bottle of kids lotion that was supposed to be SPF 50 but turned out to only have an SPF of 12.

“Defendants have known, or should have known, for years that Banana Boat Kids SPF 50 products contain less UV protection than Defendants advertise,” reads the lawsuit, which was filed Wednesday against Playtex Products, Edgewell Personal Care Company and Sun Pharmaceutical.

Paul Lambrakis purchased the tube of Banana Boat Kids SPF 50 in May after a Consumer Reports study found that it and many other sunscreens were overstating their protection factor. He sent the tube to a laboratory in Winston Salem, N.C., to have tested, according to the lawsuit filed in Brooklyn federal court.

The results found that the bottle had an actual SPF that wasn’t even half as strong as advertised, court papers say.

“The investigation concluded that Banana Boat Kids SPF 50 sunscreen, clearly labeled as containing SPF 50, shockingly contained only an SPF of 12.69 and a measured UVA protection factor of 4.88,” the lawsuit reads.

Now Lambrakis is alleging that he and others in the class action suit were forced to “overpay for the sunscreen based upon false, inflated SPF,” according to the

documents.

“They were unhappy when the suntan lotion was a complete lie,” Lambrakis’s lawyer, Hunter Shkolnik, said.

“They were putting this stuff on their children. They made a point to buy it. They were getting burnt.”

He accused the company, which rakes in \$25 million in sales each year, of “defrauding” unsuspecting customers.

“You don’t want to think it’s wrong but there’s no quality control,” he said. “This is a straight-forward case. People are spending money for this stuff!”

Playtex, Edgewell and Sun Pharmaceutical did not immediately respond to requests for comment.

The lawsuit comes after a Consumer Reports investigation found that 43 percent of the more than 60 sunscreens they tested failed to measure up to the SPF claims advertised on their bottles.

“In May of 2016, Consumer Reports research revealed that among ‘the most problematic products were Banana Boat Kids Tear-Free, Sting-Free Lotion...which [was] labeled as SPF 50 but [was] found to have only SPF 8,’” the lawsuit reads.

“Defendants have been notified of the false advertisement but have not remedied the problem.” ■

MORE | <http://nyp.st/2ahwXVm>



MORE UBER DRIVERS OBJECT TO \$100M SETTLEMENT

Matthew Bultman

Law360

May 6, 2016

Additional reporting by Linda Chiem and Kerry Benn, Editing by Stephen Berg

“Uber has a long, long road to travel before it is in compliance with the labor laws,” Paul J. Napoli of Napoli Shkolnik PLLC, an attorney for Alcala and Borgen, told Law360 on Friday. “Technology cannot erase an employer’s obligations to maintain a workers basic rights.”

THE LIST OF OBJECTIONS to Uber Technologies Inc.’s \$100 million settlement of a pair of high profile driver class actions continues to grow in California federal court as more people speak out against the deal, including two drivers who on Thursday called the payout “insultingly low.”

Leticia Alcala and Marc Borgen said that the settlement, which would end a legal battle over claims that Uber misclassified drivers as independent contractors and denied them proper tips, has caused an uproar due to its unfairness.

Under the deal, which was announced in late April, Uber would pay 385,000 California and Massachusetts drivers \$84 million, with an additional \$16 million to come if the company goes public and meets certain performance metrics.

Alcala and Borgen, who called it a “sweetheart deal” between Uber and lawyers for the class of drivers, said that based on information provided by the plaintiffs, more than half the settlement class could receive an average of \$24 or less.

“Only plaintiffs’ counsel and the class representatives — who could receive upward of \$73,000 — stand to make any real money in this deal,” the two wrote.

How much of the settlement each driver receives will be based on the number of miles he or she has driven

during the relevant time period. The deal, which still needs to be

approved by a federal judge, also includes several non-monetary provisions, such as Uber agreeing to provide drivers with more information about their individual ratings and introducing a policy that explains the circumstances under which they could be deactivated from the service.

The settlement notably does not resolve the central issue in the litigation of whether Uber drivers should be classified as employees rather than independent contractors.

Alcala and Borgen called those nonmonetary provisions “mere window dressing for an otherwise deficient agreement,” noting that they are set to expire within two years. Ubermay, however, choose to keep them in place after that.

“Since its announcement, the proposed settlement has received a negative reaction from Uber drivers and the press,” they wrote, citing as evidence a poll on Uberpeople.net, a forum for Uber drivers, in which more than 53 percent of the drivers polled felt the settlement was a “setback.” ■

[MORE | http://bit.ly/1UgsuBq](http://bit.ly/1UgsuBq)

TRIO OF PLAINTIFFS' FIRMS PICKED TO LEAD DAILY FANTASY MDL

Pete Brush

Law360

March 31, 2016

Editing by Catherine Sum

"This slate of attorneys (including Hunter Jay Shkolnik) also appears to have broad support among the plaintiffs' attorneys as a whole, further supporting a conclusion that they will fairly and adequately represent the interests of any plaintiff class," the judge wrote.

THE BOSTON FEDERAL JUDGE handling some 86 suits including class actions accusing daily fantasy sports giants DraftKings and FanDuel of fraud and other illegal conduct picked attorneys from Jones Ward PLC, Napoli Shkolnik PLLC and Stull Stull & Brody on Thursday as co-lead counsel tasked with coordinating a slew of pretrial matters.

The task falls to Jasper D. Ward of Jones Ward PLC, Hunter Jay Shkolnik of Napoli Shkolnik PLLC and Melissa R. Emert of Stull Stull & Brody, according to an order from U.S. District Judge George A. O'Toole Jr., who picked up the multidistrict case Feb. 4.

"This slate of attorneys also appears to have broad support among the plaintiffs' attorneys as a whole, further supporting a conclusion that they will fairly and adequately represent the interests of any plaintiff class," the judge wrote.

The group will handle matters including discovery on a wide range of cases with differing theories of liability.

There are "insider trading" cases claiming the companies allowed their employees to gain an unfair advantage in competitors' fantasy contests by using inside information, illegal gambling" cases accusing the companies of violating various antigambling laws and "bonus fraud" cases over an allegedly misleading promotional program used by DraftKings.

A competing motion to appoint John Roddy of Bailey &

Glasser LLP, Brendan Glackin of Lieff Cabraser Heimann & Bernstein LLP and Amy Williams Derry of Keller Rohrbach LLP as co-lead counsel was denied.

The co-leads said they were honored to have been appointed.

"We have a very committed group who are dedicated to pursuing this case," Emert said.

Christopher Weld Jr. of Todd & Weld was selected as liaison counsel. An executive committee, to be chaired by the three co-leads, will be comprised of attorneys John A. Yanchunis of Morgan & Morgan, Jennifer L. Duffy, D. Todd Mathews of Gori Julian & Associates PC, W. Lewis Garrison Jr. of Heninger Garrison & Davis LLC, Kevin S. Hannon, Robert K. Shelquist of Lockridge Grindal Nauen & Holstein, Michael J. Flannery of Cuneo Gilbert & LaDuca LLP, Alan Carl Milstein of Sherman Silverstein Kohl Rose & Podolsky, and Richard S. Cornfeld, according to Judge O'Toole.

Two other applications, one filed by Guy M. Burns of Johnson Pope Bokor Ruppel & Burns LLP and one filed by Frank L. Watson III of Watson Burns PLLC, were also denied. Burns had sought a co-lead spot or a spot on an attorney executive committee, and Watson had sought a spot on the executive committee. ■

MORE | <http://bit.ly/1S2XEYo>



LAWYERS FOR FLINT WATER VICTIMS HIRE D.C. LOBBYISTS

Catherine Ho

The Washington Post

March 16, 2016

If approved by Congress, the fund could draw from federal and state money to pay for residents' health care costs.

A PERSONAL INJURY LAW FIRM representing Flint residents has hired Washington lobbyists to push Congress to create a victim compensation fund for people affected by the Michigan city's contaminated drinking water.

Attorneys at the law firm Napoli Shkolnik previously secured millions of dollars in settlements for firefighters, police officers and other Ground Zero workers for ailments related to the 9/11 terrorist attacks.

This month Napoli hired lobbyists at the boutique D.C. firm Envision Strategy as it pushes to get similar type of relief for the 1,000 Flint residents it represents who are dealing with health issues caused by the city's poisoned water supply.

If approved by Congress, the fund could draw from federal and state money to pay for residents' health care costs.

"The game plan is to try and figure out what the needs are of the people of Flint," said Brett Heimov, a lobbyist at Envision and a former aide to Rep. Jerrold Nadler (D-N.Y.) who previously lobbied for legislation authorizing the 9/11 Victim Compensation Fund. "We'll sit down and reach out to the Michigan delegation to craft legislation to try to make it happen."

The other lobbyists working on the Flint matter are Steve Schultz, Carol Pineau and Steve Stallmer.

The public health crisis in Flint occurred after the city switched to a new water source, the Flint River, in 2014 as a moneysaving measure. But local officials failed to

treat the water with a chemical that would have prevented lead in the pipes from corroding and contaminating the water. As a result, thousands of residents were exposed to dangerous levels of lead. For months, residents complained about the taste, odor and color of the water. But officials repeatedly downplayed the concerns.

At a House hearing Tuesday, lawmakers criticized former Michigan officials and a former Environmental Protection Agency regional administrator for their roles in the decisions that led to the water contamination in Flint and how they deal with its aftermath.

"You screwed up and you ruined people's lives," House Oversight and Government Reform Chairman Jason Chaffetz (R-Utah) told former EPA official Susan Hedman, who resigned in February in the wake of the crisis.

Michigan Gov. Rick Snyder, who is under pressure to resign, is scheduled to appear before the committee Thursday.

Last month, a bipartisan group of senators led by Michigan Democrats Debbie Stabenow and Gary Peters and Environment and Public Works Committee Chairman James M. Inhofe (R-Okla.), reached a deal to provide funding to help Flint and other cities struggling to replace aging pipes. The deal includes \$70 million in credit subsidies for water infrastructure projects, \$100 million in subsidized loans for water infrastructure improvements and \$50 million for public health programs. The aid package would be offset by rescinding \$250 million in loan credits for a program that was intended to help auto companies develop fuel economy technology. ■

HELICOPTER CRASH LAWSUIT REVIVED AGAINST SOFFER

Celia Ampel

Daily Business Review, an ALM Web Site

February 18, 2016

Hunter Shkolnik represents Gogoleva in the federal case and said his client was pleased the Third DCA ruled in her favor. "Now a jury can consider their claim that she was not advised that Mr. Soffer was the pilot when her husband died," he said.

A **STATE APPELLATE COURT** on Wednesday revived a lawsuit accusing billionaire developer Jeffrey Soffer of causing a fatal helicopter crash.

The Third District Court of Appeal will allow Daria Gogoleva, whose attorney-husband died in the crash, to amend her complaint against Soffer and others on the other helicopter. The court reversed Miami-Dade Circuit Judge Daryl Trawick's dismissal of wrongful death, conspiracy and fraud claims.

Soffer led the \$1 billion expansion of the Fontainebleau Miami Beach, and his family developed much of Aventura.

"We are thrilled that the appellate court thoughtfully and carefully reviewed all of the arguments, ruled in our favor and provided our clients with the ability to have their day in court," said Gary Phillips of Phillips, Cantor, Shalek, Rubin & Pfister in Hollywood, who represented Gogoleva with his colleague Edward Pfister.

The helicopter carrying Gogoleva's husband, tax attorney Lance Valdez, crashed on Thanksgiving Day 2012 in the Bahamas. Gogoleva's complaint alleges Soffer, who was in the co-pilot's seat, was controlling the helicopter when it crashed. He is a licensed pilot but was not licensed to fly the Aerospatiale Twin Star helicopter.

Pilot David Pearce flew for "at least part of the flight" until it approached the landing site and crashed, killing Valdez and injuring Soffer, Pearce and passengers Paula and Daniel Riordan, according to the decision. Daniel

Riordan is an executive with Turnberry Associates, the Soffer family's real estate company.

The helicopter was covered by a \$2 million North American Elite Insurance Co. insurance policy, and the survivors agreed Gogoleva and her three children should collect the full amount. Her signed release contained an "unusual feature," the Third DCA noted. It included a promise that Gogoleva, Soffer and the Riordans would release each other from future legal claims. All four of them were represented by the same lawyer, Steve Marks of Podhurst Orseck in Miami.

Marks didn't tell Gogoleva there could be a conflict of interest or let her know she wasn't required to release Soffer and the Riordans to receive the \$2 million, she claims. Marks is not a party to the lawsuit.

Gogoleva sued Soffer, the Riordans and Alex Krys, a senior executive with Soffer's real estate group who allegedly told Gogoleva she should join the crash survivors in retaining Marks.

Gogoleva claimed the defendants lied to her about who caused the crash and conspired to get her to release them from liability. She also sought to rescind the part of the agreement that released Soffer and the Riordans. ■

[MORE | http://bit.ly/1PYDdSi](http://bit.ly/1PYDdSi)

REPORT: PAYMENT PROCESSOR DEALS ANOTHER BLOW TO DAILY FANTASY SITES

A.J. Perez and Brent Schrottenboer

USA Today Sports

January 29, 2016

Hunter Shkolnik is a lawyer representing a New York resident who claims the companies illegally issued loans and collected gambling debts.

DAILY FANTASY SPORTS sites DraftKings and FanDuel have been sued by athletes and users and declared illegal under the laws of a handful of states in recent months.

But arguably the biggest blow came Friday as a major payment processing company declared it would no longer process payments for daily fantasy sites in the U.S. beginning next month.

According to the New York Times, Vantiv Entertainment Solutions told customers in the United States it will stop processing on behalf of daily fantasy sports sites as of Feb. 29.

Firms such as Vantiv handle the deposits and payments for daily fantasy sites. Minus payment processing companies, the sites have no intermediary between themselves and players — a cog that puts the viability of daily fantasy sports sites in question.

While the attorneys general for New York, Texas, Hawaii, Mississippi and Illinois have deemed daily fantasy sports illegal under state law, those who follow the industry have kept an eye on the payment processing companies.

Payment processors such as Vantiv, PayPal and PaySafe — along with credit card companies — have been targets of lawsuits seeking class action status filed on behalf of daily fantasy sports players.

"I don't think they need to take the risk until the issue is resolved," Hunter Shkolnik, a lawyer representing a New York resident who claims the companies illegally issued

loans and collected gambling debts, told USA TODAY Sports on Friday. "There is no upside for them. I think they want to see where this is all going. They don't want it to appear that they're facilitating illegal gambling."

PayPal said in a statement to USA TODAY Sports that it was "aware" of Vantiv's decision to withdraw from the daily fantasy sports processing business.

"We continue to review and consider ongoing developments in relation to daily fantasy sports, including this one, in assessing our position and obligations in relation to providing payment services to fantasy sports merchants," PayPal said in the statement. "We will take the time necessary to carefully review ongoing developments and will be notifying our merchants and customers if and when we make any decisions that involves the provision of PayPal services to fantasy sports services."

While Mississippi and Hawaii this week became the latest states to declare daily fantasy sports unlawful, only one state so far has sought to halt daily fantasy sports from operating. New York Attorney General Eric Schneiderman was granted an injunction to prevent FanDuel and DraftKings from operating, although the injunction was stayed pending ongoing appeals sought by the sites.

Earlier this week, former Northern Illinois University running back Akeem Daniels sued FanDuel and DraftKings, alleging the sites made millions off the use of his name. Washington Redskins wide receiver Pierre Garçon filed a similar lawsuit against both companies on behalf of NFL players in October. ■

SOUTHWEST AIRLINES PILOTS FOUND RESPONSIBLE FOR HARD LANDING CRASH AT NEW YORK'S LAGUARDIA AIRPORT THAT INJURED PASSENGERS

PRLog

December 17, 2015

NAPOLI SHKOLNIK PLLC filed a lawsuit for serious injuries sustained by a passenger when Southwest Airlines Flight 345 had a hard landing at New York's LaGuardia Airport on July 22, 2013 resulting in the planes landing gear crashing into the planes passenger compartment. Recently the NTSB determined the cause of the crash was the result pilot error.

According to the NTSB, On July 22, 2013, a Boeing 737, Southwest Airlines flight 345, landed hard, nose-first, on Runway 4 at LGA. Of the 144 passengers and five crewmembers on board, eight sustained injuries and the airplane was substantially damaged. The NTSB found that contributing to the accident was the captain's failure to comply with standard operating procedures during the approach. NTSB found that the first officer was conducting the approach, and the captain took control away from the first officer, but not un-

til the plane was 27 feet above the ground. This late transfer of control from the first officer to the captain resulted in neither pilot being able to effectively monitor the airplane's altitude and pitch attitude. According to the Southwest Airlines Flight Operations Manual, the captain should have called for a go-around well before this point in the approach instead of trying to salvage the landing.

Dr. Kenneth Kochman suffered serious spinal injury resulting in extended periods of loss of work for weeks and months after the landing.

These events are particularly troubling since many passengers may not realize they have experienced a hard landing and suffered injury until weeks or months later. A knowledgeable aviation attorney is able to identify and determine if a hard landing occurred and whether it was due to pilot error or mechanical issues. ■

FORMER NEW YORK CITY COMPTROLLER JOHN LIU WILL JOIN CHINESE ACTRESS VERONICA WU (YIP) TO SPEAK ABOUT 9/11 RELATED CANCERS IN CHINATOWN

The World Journal

December 7, 2015

MOST OF THE RESIDENTS of Chinatown are not aware that they may be eligible for compensation if they developed cancer after 9/11 and lived or worked below Canal Street. Almost all of Chinatown in New York is in the exposure zone. Those individuals who were in the exposure zone between September 11, 2001 and May 30, 2002 may be eligible for compensation.

Former New York City Comptroller, Mayoral Candidate and New York City Council Representative John Liu will be joining Ms. Wu at Napoli Peterson PLLC located at 1301 Avenue of the Americas, 10th Floor New York, New York 10019 on December 9, 2015 at 2PM.

"You don't need to be a rescue worker or have been injured during the attacks. If you worked or lived below Canal Street during the period of September 11th, 2001 and 2002, and developed cancer, even years later, you may be eligible for cancer compensation." Says Veronica Wu (Yip). Yip continues, "This compensation is a significant monetary program of which the Federal government has not adequately advised Chinatown residents. Additionally almost all of the Chinatown residents are unaware that they are eligible for free medical monitoring and treat-

ment through the World Trade Center Health Program."

"Residents of Chinatown are eligible for the 9/11 Victim Compensation Fund which provides money to individuals who developed cancer or relatives of deceased individuals who died of cancer even years after the attacks." Stated 9/11 lawyer Marie Napoli. "But people must act quickly since the compensation program may be soon shutting down."

Mr. Liu was the first Asian American in history to be elected to the NYC city council. Along with Hong Kong Actress and 2nd runner-up in the 1985 Miss Asia Pageant Veronica Wu (Yip), he wants to bring awareness of the 9/11 Victim Compensation Fund to all residents of Chinatown. Although almost all of the residents of Chinatown are in the exposure zone, most of them have never heard of the 9/11 Victim Compensation Fund or the World Trade Center Health Program. The residents of Chinatown have not been adequately informed of the 9/11 related benefits available to them through the James Zadroga 9/11 Health and Compensation Act. Although some deadlines have passed, there still may be some time for a lot of the Chinatown residents to apply for Compensation and health benefits. ■

50 CENT CLAIMS HE OWES CREDITORS OVER \$28 MILLION

Julia Marsh

NYPost.com (Page Six)

July 17, 2015

Hunter Shkolnik, an attorney for the Florida woman who won the \$5 million sex-tape jury verdict scoffed at his (50 Cent's) bankruptcy plea, saying he is crying poverty to dodge the payout.

FOR A GUY whose motto is "Get Rich Or Die Tryin'," 50 Cent sure wants everyone to think he's broke.

The rapper on Thursday released a list of his top 20 creditors, to whom he says he owes \$28,478,920 — and 75 cents, to be exact.

Fitty — who recently lost a \$5 million suit over a sex tape — made the filing in his bankruptcy case, which will be heard in a Connecticut court Friday.

He says his biggest creditor is Sleek Audio, a Florida headphone maker that won a \$18,428,257 judgment against him for stealing its design.

The rapper, whose real name is Curtis Jackson, lists other debts for luxuries one might expect for a hip-hop star: \$137,880 to Bentley Financial Services for a car lease, \$64,909.04 to American Express for his credit card, and \$5,245.66 to a Park Avenue stylist.

Other debts are to law firms, including \$568,304 to Reed Smith.

Jackson, reportedly worth \$155 million, has not filed a list of assets.

In his original bankruptcy filing Monday, Jackson said he owed up to 49 creditors between \$10 million and \$50 million.

Lawyers for the Florida woman who won the \$5 million sex-tape jury verdict scoffed at his bankruptcy plea, saying he is crying poverty to dodge the payout.

"The 20 largest creditors include \$1,700 to his [grandfather] and a \$400 bill," said Hunter Shkolnik, an attorney for Lastonia Leviston. "This is stretching credulity."

Shkolnik also said the bankruptcy filing "could not have been made in good faith," noting Jackson mocked his finances with late-night host Conan O'Brien this week.

"Yeah, I need protection," Jackson had said on "Conan." "You get a bull's-eye painted on your back when you're successful, and it's public. You become the ideal person for lawsuits."

He then posted a photo on his Instagram account of him next to a Smart car with the caption, "Times are hard out here LMAO." ■

CALIFORNIA MODEL SUES KOTEX AFTER ALLEGEDLY LOSING LEG, CONTRACTING TOXIC SHOCK SYNDROME FROM TAMPON

Melissa Chan

New York Daily News

June 18, 2015

Lauren's lawyer, Hunter J. Shkolnik, is accustomed to seeing the darker side of products that most people assume are safe.

A CALIFORNIA MODEL is suing Kotex after allegedly losing her leg from contracting toxic shock syndrome from a tampon and being on the brink of death.

Lauren Wasser, 27, a stellar athlete and longtime model, said her life flipped upside down in 2012 when using a Kotex Natural Balance tampon left her "10 minutes from death" and resulted in the amputation of her right leg, Vice reported.

"I wanted to kill myself when I got home," she told the website. "I was this girland then all of a sudden I don't have a leg, I'm in a wheelchair, I have half a foot, I can't even walk to the bathroom. I'm in a bed, I can't move, and I felt like those four walls were my prison."

The Santa Monica woman said she changed her tampon three times that day, but felt sick and went to bed. She suffered a massive heart attack, shutting down her organs, according to Vice.

The tampon that was inside of her tested positive for toxic shock syndrome, a serious disease caused by a toxin produced by some types of bacteria that affects body organs.

Lauren's lawyer, Hunter J. Shkolnik, is accustomed to seeing the darker side of products that most people assume are safe. For example, he handled the litigation

over an ingredient in cough syrup that gave people strokes. "I wish I could say [Lauren's case] shocked me, but it doesn't," he says. "The tampon has not been changed since the day of the original TSS epidemic. All they did was put on the label, 'Oh, you can get toxic shock.' The material has gone unchanged for decades." To avoid the wrath of the FDA, he says, companies simply put a warning on the outside of their tampon boxes. He calls this a "get-out-of-jail-free card."

Tampon boxes have been required to print these warning labels since the 80s, but Shkolnik argues that the warnings on Lauren's tampon box weren't clear enough, especially about leaving tampons in at night. Here's the language: "Change your tampon every four to eight hours, including overnight." The family argues that these instructions are unclear. They plan to argue that "overnight" can mean longer than eight hours, especially when it comes to young girls, who can easily sleep nine or ten hours on a weekend. "[Tampon companies] should be telling you, 'Don't sleep in it. Use a pad,'" says Shkolnik. ■

MORE | <http://nydn.us/29PB3ld>



SETTLEMENTS REACHED BY WORKERS CLAIMING 9/11-RELATED ILLNESSES

Joel Stashenko

New York Law Journal

March 23, 2015

"It's the last bit of litigation that remains in the World Trade Center catastrophe," Napoli said...

A **FEDERAL JUDGE** has approved settlements reached by 78 workers who claimed toxic substances causes their respiratory and intestinal problems as they cleaned private buildings near the World Trade Center after 9/11.

Southern District Judge Alvin Hellerstein said the settlements in *In Re World Trade Center Disaster Site Litigation*, 21-mc-102, met the standards for fairness that have been spelled out in other federal cases, including in the related 9/11-worker matter of *In Re World Trade Ctr. Disaster Site Litig.*, 21-mc-100 (SDNY 2010).

Hellerstein said the settlements involving the 78 workers were found to be fair because they involved adversarial negotiations, no evidence of collusion and were resolved with discovery far enough along for the parties to have fairly evaluated their prospects of success.

"Because the settlements are the result of a fair process, the consideration to be paid is presumably also fair, adequate, and reasonable," Hellerstein wrote.

The terms of the settlements were not disclosed, though Hellerstein said they "compare favorably" in the aggregate and individually to the settlement in *In Re World Trade Ctr. Disaster Site Litig.*, 21-mc-100, over which Hellerstein is also presiding.

That case, in which Hellerstein approved a settlement in 2010, involved more than 10,000 people who worked at the site in the wake of 9/11 and who also experienced respiratory, intestinal and other health problems (NYLJ, March 12, 2010).

Of the 78 plaintiffs involved in the latest settlement, 26

settled their cases entirely and 52 reached partial settlements. All are represented by attorney Paul Napoli of Worby Groner Edelman and the Napoli Firm.

They are part of a larger group of about 1,100 workers who claim injuries from cleaning about 100 private buildings around the site of the wrecked twin towers after 9/11. There are about 345 defendants in the claim.

Napoli said his firm continues to represent about 900 plaintiffs in the case before Hellerstein and plans to proceed to trial against two of the largest defendants, Blackmon Mooring Steamatic Catastrophe and Weston Solutions.

The plaintiffs claim that neither company took steps to properly protect workers from exposure to dangerous materials during the cleanup after 9/11 in the World Financial Center and other buildings around the World Trade Center.

Napoli said Hellerstein has scheduled a three-day settlement conference in the case this week.

"It's the last bit of litigation that remains in the World Trade Center catastrophe," Napoli said in an interview Friday. "There is no more litigation after this that has been filed. There's the potential in the future for cancer cases to be filed, but for what's been filed, this is it."

Hellerstein had been presiding over the World Trade Center Disaster Site litigation since Congress... ■

MORE | <http://bit.ly/1O9ssqi>



RECENT COMMITMENTS

Napoli Shkolnik PLLC is proud of its tradition of sponsoring honorable institutions.

WE STRONGLY BELIEVE in organizations that encourage educational opportunities, provide the inspirational tools needed for true progress and then recognize the achievements.

In a rapidly changing and challenging world, we think it is important to support positive development and goals. We are happy to provide assistance to organizations in order to realize their Missions of helping individuals, neighborhoods and communities. ■

National September 11 Memorial and Museum

An educational and historical institution honoring the victims and examining 9/11 and its continued global significance. As a Board Member, Paul is very involved in realizing the organization's message of volunteerism, education and remembrance.

9/11 Memorial 5K Run/Walk

The firm is always proud to be a Mile Marker sponsor! Our firm teams participate as runners and walkers at the event and locally in their hometowns.

New York City Marathon

In honor of Paul's fight against leukemia and to support the families of other patients, Marie collected over \$50,000 in pledges to support the foundation's programming by completing the 2015 NYC Marathon.

New York City Police Museum

The partners are actively committed to helping the Museum realize its Mission to preserve the history of the New York City Police Department through educational programming and exhibitions.

The Police Athletic League (PAL) – NYC

We are proud supporters of this not-for-profit organization's belief that "young people's individual strengths and capabilities can guide them to mature, productive adulthood" with encouragement and commitment.

The Bone Marrow Foundation

The BMF helps families improve their odds of finding a donor and receive the necessary support as their loved one receives treatment. When Paul Napoli was diagnosed with leukemia and was told he need a life-saving bone marrow transplant, the BMF provided information and support.

Long Island Go Red for Women

This organization seeks to increase public awareness of cardiovascular disease and risk factors particularly as they apply to women and the firm is happy to be involved in such a worthy message.

Swing for a Cure

This charity golf outing benefits the Breast Cancer Research Foundation and in keeping with tradition, Napoli Shkolnik has sponsored a Tee for the event.

Mental Health Association of Nassau County

We are glad that we can make a difference with the MHA, which is a not-for-profit membership organization dedicated to improving mental health in the community through advocacy, education, program development and the delivery of direct services.

Italian Heritage & Culture Committee of New York, Inc. (IHCC)

The firm is happy to support the IHCC-NY's continuing efforts of providing concerts, exhibits, and lectures of the Italian culture to the community.

St. John's University President's Dinner

The firm is proud to be an annual Sponsor of the Annual President's dinner; an event committed to raising scholarship money in order to provide financial assistance to deserving students.

Pencil: Transforming Schools. Together[®]

We are excited to be supporting this organization, which creates innovative and impactful models of collaboration between the business and education communities by bringing together school needs and business expertise.

Save the Children

Through our support of Save the Children, we are part of a program that gives children in the United States and around the world “a healthy start, the opportunity to learn and care when disaster strikes.”

“Being part of the process of helping to turn dreams into realities is a responsibility we take seriously. We are grateful to be included in creating a positive future.”

Marie Napoli, Partner

Trey Whitfield Foundation, Inc.[®]

The Foundation aims to motivate, support and encourage children and young adults from across the country pursue their dream of furthering their education. Our commitment to positive youth development aligns with their message.

Nassau County Law Enforcement Exploring Program

This youth program emphasizes Career Opportunities, Life Skills, Citizenship, Character Education and Leadership Experience. It is rewarding to see participants blossom with these characteristics.

Holiday Mail for Heroes Program

The firm participates in this wonderful program every year; contributing over 300 cards of thanks and support to members of the armed forces, veterans and their families.

Annual Food Drive

Every year each of the firm's office locations organizes a food drive to support a local soup kitchen, meals on wheel program or shelter. We were able to donate over 30 large boxes full of non-perishable items last year and we hope the generosity only continues to grow.



**NAPOLI
SHKOLNIK** PLLC
ATTORNEYS AT LAW

WE HOPE YOU FIND
THIS INFORMATIVE AND
WE LOOK FORWARD TO
WORKING ALONGSIDE YOU.



360 LEXINGTON AVENUE, 11TH FLOOR, NEW YORK, NEW YORK 10017

(212) 397-1000 NAPOLILAW.COM

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION**

Rachael Cronin,

Plaintiff,

V.

EOS Products, LLC,

Defendant.

Lead Case No. 2:16-cv-00235-JAK-JEM

**DECLARATION OF JOHN R. CLIMACO IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF PROPOSED
CLASS ACTION SETTLEMENT**

Date: November 21, 2016

Time: 9:30 a.m.

Room: 750

Judge: Hon. John A. Kronstadt

I, John R. Climaco, declare as follows:

1. I am the founding partner of the law firm Climaco, Wilcox, Peca, Tarantino & Garofoli Co., LPA (“CWPTG”), counsel for Plaintiff Carolyn Bevins, in these Actions. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto. I submit this declaration in support of the contemporaneously filed Plaintiffs’ Motion for Preliminary Approval of Proposed Class Action (the “Motion”).¹

2. The schedule below indicates the attorneys, paralegals and other professionals of my firm who performed work in this litigation through the present. The schedule includes the name of each person who worked on the case, hourly

¹ All capitalized terms have the same meaning as set forth in the Settlement Agreement.

billing rates, and the number of hours expended to date. The backgrounds and qualifications of the attorneys who worked on the matter are set forth in the Firm Resume attached hereto as Exhibit A. The lodestar calculation is based on my firm's current billing rates, including for attorneys and employees no longer employed by the firm, at the firm's customary hourly rates charged to our fee-paying clients, and which have been accepted as reasonable by this District and other district courts in numerous other class action litigations. *See, e.g., Eliason, et al., v. Gentek Building Products, Inc., et al.*, Case No. 1:10-cv-2093 (N.D. Ohio E.D.).

3. The total number of hours expended on this litigation by CWPTG from January 15, 2016 through September 30, 2016 is 71.8 hours. The total lodestar for CWPTG to date is \$64,915.00. CWPTG will submit an updated declaration, conformed to the Court's Exhibit H of its Standing Order, with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its hours expended in the litigation.

NAME	HOURS	RATE	LODESTAR
Climaco, John R. (Partner)	14.00	800.00	\$11,200.00
Warner, Patrick G (Associate)	122.10	650.00	\$42,445.00
Leist, Darrin C. (Associate)	15.80	650.00	\$10,270.00
Bruno, Gina M. (Paralegal)	5.00	200.00	\$1,000.00
TOTAL	156.90		\$64,915.00

4. **CWPTG's** lodestar figures do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates. Plaintiffs' Counsel's expenses in this matter are being separately reimbursed by Defendant and are included in the sum of \$1,850,000

being requested by Plaintiffs' Counsel for their fees and expenses. CWPTG will submit an updated declaration with Plaintiffs' Motion for Final Approval of Class Action Settlement detailing its expenses. Such expenses may include such items as on-line legal research, reproduction/duplication, postage/overnight courier, telephone/fax, filing/service fees, travel/transportation/meals, litigation support-related fees, expert/consulting fees, and other compensable expense items.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 24th day of October, 2016.

/s/ John R. Climaco

CERTIFICATE OF SERVICE*Gilsleider, et al. v. EOS Products, LLC***UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA**

Case No. 8:16-cv-00283-JAK-JEM

*Cronin, et al. v. EOS Products, LLC***UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA**

Case No. 2:16-cv-00235-JAK-JEM

I am employed in the County of Orange, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1301 Dove Street, Suite 120, Newport Beach, CA, 92660.

On November 1, 2016, I served true copies of the following document(s) described as:

- **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT;**
- **PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THEIR MOTION FOR PRELIMINARY APPROVAL FOR PROPOSED CLASS ACTION SETTLEMENT;**
- **PROPOSED ORDER;**
- **SETTLEMENT AGREEMENT;**
- **APPENDIX A- SETTLEMENT AGREEMENT EXHIBIT LIST AND EXHIBITS 1-6;**
- **DECLARATION OF LORI G. FELDMAN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT;**
- **DECLARATION OF LORI G. GELDMAN IN SUPPORT OF PLAINTIFFS' MOTIN FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT;**
- **DECLARATION OF JANINE L. POLLACK IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT;**
- **DECLARATION OF JERUSALEM F. BELIGAN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT;**
- **DECLARATION OF BEN J. MEISELAS;**
- **DECLARATION OF BEN MEISELAS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT;**
- **DECLARATION OF R. SETH CROMPTON IN SUPPORT OF PLAINTIFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT;**
- **DECLARATION OF JOSHUA H. EGGNATZ IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT;**
- **DECLARATION OF HUNTER SHKOLNIK IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT; AND**
- **DECLARATION OF JOHN E. CLIMACO IN SUPPORT OF PLAINIFFS' MOTION FOR PRELIMINARY APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

(XX) **VIA CM/ECF ELECTRONIC FILING SYSTEM:** I transmitted via the Internet a true copy(s) of the above-entitled documents(s) to the CM/ECF system of the United States District Court for the Central District of California and concurrently caused the above-entitled documents(s) to be sent to the recipients listed above pursuant to the Service List maintained by and as it exists on that database. This will constitute service of the above-listed document(s).

() **BY MAIL**, by placing a true copy thereof, in a sealed envelope to the addressee(s) below, and depositing the same into the United States mail at the address located set forth herein above, with sufficient first-class postage thereon pre-paid.

() **BY OVERNIGHT PRIORITY MAIL WITH NEXT DAY DELIVERY GUARANTEED** by placing a true copy thereof, in an sealed envelope to the addressee(s) below, and depositing the same into the **OVERNIGHT EXPRESS** mail drop at the address located set forth herein above, with postage pre-paid.

() **BY PERSONAL SERVICE**, by personally delivering the same to the parties mentioned below.

() **BY FACSIMILE**, by transmitting by facsimile transmission a true and correct copy of the same to the addressee(s) listed above

() **BY EMAIL**, a true and correct copy of the same to the addressee(s) listed BELOW.

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

Executed on November 1, 2016, at Newport Beach, California.

/s/Javier R. Ruiz

Javier R. Ruiz

SERVICE LIST

Gilsleider, et al. v. EOS Products, LLC
**UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA**
Case No. 8:16-cv-00283-JAK-JEM
Cronin, et al. v. EOS Products, LLC
**UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA**
Case No. 2:16-cv-00235-JAK-JEM

QUINN EMANUEL URQUHART AND SULLIVAN LLP SHON MORGAN JOHN WALL BAUMANN 865 South Figueroa Street 10th Floor Los Angeles, CA 90017-2543 213-443-3000 Fax: 213-443-310	Attorneys for Defendants
Wolf Haldenstein Adler FREEMAN & HERZ LLP JANINE L. POLLACK (<i>pro hac vice</i>) pollack@whafh.com 270 Madison Avenue New York, New York 10016 Telephone: 212/545-4600 Facsimile: 212/545-4653	Co-Counsel for Plaintiff
LEVI & KORSINKSY LLP LORI G. FELDMAN (<i>pro hac vice</i>) lfeldman@zlk.com 30 Broad Street, 24th Floor New York, NY 10004 Telephone: 232/363-7500 Facsimile: 866/367-6510	Co-Counsel for Plaintiff
GERAGOS & GERAGOS APC MARK J. GERAGOS (SBN 108325) BEN J. MEISELAS (SBN 277412) Historic Engine Co. No. 28 644 South Figueroa Street Los Angeles, CA 90017 Telephone: 213/625-3900 Facsimile: 213/232-3255 geragos@geragos.com	Additional Plaintiffs' Counsel