

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CATHY GOODMAN, et al.,

Civil Action No. 2:22-CV-2926 (CLW)

Plaintiffs,

v.

CIVIL ACTION

INTERVET INC. d/b/a MERCK
ANIMAL HEALTH d/b/a HOME
AGAIN,

Hon. Cathy L. Waldor, U.S.M.J.

Defendant.

**ORDER CONDITIONALLY CERTIFYING SETTLEMENT CLASS,
PRELIMINARILY APPROVING CLASS SETTLEMENT, APPROVING FORM
OF NOTICE, DIRECTING DISSEMINATION OF NOTICE, AND
SCHEDULING FINAL FAIRNESS HEARING**

Plaintiffs have moved under Federal Rule of Civil Procedure 23(e) for an order, *inter alia*, conditionally certifying the Settlement Class for settlement purposes only, appointing them as representatives of the Settlement Class, appointing their counsel as Class Counsel, preliminarily approving the Settlement as set forth in the Settlement Agreement,

appointing Angeion Group, LLC as Settlement Administrator, and approving the form and procedure for distributing the Notice to the Settlement Class (ECF No. 74). Terms capitalized herein not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement. The Court has reviewed and considered all papers filed in connection with the motion, including the Settlement Agreement, and all exhibits attached thereto. On the basis thereof, and on all of the files, records, and proceedings herein, Plaintiffs' motion is **GRANTED**.

IT IS HEREBY FURTHER ORDERED THAT:

1. This Court has jurisdiction over the subject matter of this Action and jurisdiction over the Parties.
2. For settlement purposes only, this Action may be maintained as a class action under Federal Rule of Civil Procedure 23(b)(3) on behalf of the Settlement Class, defined as follows:

All persons who are members of any of the "Statewide Settlement Classes" defined on Appendix A to this Order. Excluded from the Settlement Class are all persons who are employees, directors, officers, and agents of Defendant or its parents, subsidiaries or affiliated companies, as well as the Court and its immediate family and staff.

3. In light of the agreement to settle the Action and the resulting elimination of any individual issues that Defendant would argue preclude certification of the Settlement Class for litigation purposes, the Court makes a preliminary finding that, for settlement purposes only, the prerequisites to class certification under Rule 23(a) are satisfied, to-wit:

- a. The Settlement Class is so numerous that joinder of all members is impracticable;
- b. There are questions of law and fact common to members of the Settlement Class;
- c. The claims of Plaintiffs are typical of the claims of members of the Settlement Class; and
- d. Plaintiffs and Class Counsel have fairly and adequately represented the interests of the Settlement Class and will continue to do so under the guidance of experienced counsel.

4. In light of the agreement to settle the Action and the resulting elimination of any individual issues that Defendant would argue preclude certification of the Settlement Class for litigation purposes, the

Court makes a preliminary finding that, for settlement purposes only, the prerequisites to class certification under Rule 23(b)(3) are satisfied, to-wit:

- a. Common questions of law and fact predominate over individual questions affecting individual members of the Settlement Class;
and
 - b. Certification of the Settlement Class is superior to other available methods for the fair and efficient resolution of this controversy.
5. If the Settlement set forth in the Settlement Agreement is not finally approved by the Court or for any reason the Effective Date does not occur, the Settlement Class shall be decertified, all Parties' rights to litigate all class certification and other issues will be restored to the same extent as if the Settlement Agreement had never been entered into, and no Party shall assert that another Party is estopped from taking any position relating to class certification based on the Settlement Agreement.

6. For the purposes of the Settlement and pursuant to Rule 23(a)(1), Plaintiffs Cathy Goodman, Matthew Inman, Dennis Canetty, Belinda Young, Ellen Berris, Gongjun Peng, Lyncia Sirmans, Kristi Schaller, Rachel Lesser, Kathryn Lyell, Jeffrey Henderson, CJ Ferry, Lydia Gomez, Larhonda Majied, Amy Crawford, Gail Hes, Carolyn Shepardson, Erin Radcliffe, Alison Barnum, and Kimberly Amacher are hereby appointed as representatives of the Settlement Class. The Court finds, for settlement purposes only, that Plaintiffs have fairly and adequately represented the interests of the Settlement Class.
7. For the purposes of the Settlement and pursuant to Rule 23(a)(1), the Court appoints Sophia Gold of KalieGold PLLC; Edwin E. Elliott and Andrew Shamis of Shamis & Gentile, P.A.; Scott Edelsberg of Edelsberg Law; and Rachel Dapeer of Dapeer Law, P.A. as counsel for the Settlement Class ("Class Counsel").
8. The Court affirms the authority of Class Counsel and Plaintiffs to execute the Settlement Agreement on behalf of themselves and the Settlement Class.

9. The terms and conditions of the Settlement set forth in the Settlement Agreement place the Settlement within the range of fair and reasonable settlements, making appropriate further consideration at a hearing held pursuant to notice to the Settlement Class. The Court therefore preliminarily approves the Settlement and Settlement Agreement and directs the Parties to perform and satisfy the terms and conditions of the Settlement Agreement that are thereby triggered.

10. A hearing (the "Fairness Hearing") shall be held on **February 10, 2025, at 11:00 a.m.** before the undersigned in Courtroom No. 4D, Martin Luther King Building and United States Courthouse, 50 Walnut Street, Newark, New Jersey, 07102. All papers in support of Final Approval of the Settlement and in response to objections to the Settlement shall be filed no later than 120 days after the entry of this Order. Any motion for attorneys' fees and costs and expenses and/or any application for Class Representative Service Awards shall be filed no later than 110 days of entry of this Order.

11. The date of the Fairness Hearing will be included in the Notice. The purpose of the Fairness Hearing will be to, *inter alia*: (a) determine whether the Settlement set forth in the Settlement Agreement is fair, reasonable, and adequate, and should be finally approved; (b) determine whether the Final Order and Judgment should be entered dismissing this litigation with prejudice, forever releasing the Released Parties from all Released Claims, and permanently barring Settlement Class Members from bringing any lawsuit or other action based on the Released Claims; and (c) consider other Settlement-related matters, including an award of appropriate attorneys' fees and costs to Class Counsel, and class representative incentive awards to Plaintiffs.
12. The Court may adjourn, continue, and reconvene the Fairness Hearing pursuant to oral announcement without further notice to eligible members of the Settlement Class, and the Court may consider and grant final approval of the Settlement set forth in the Settlement Agreement, with or without minor modification agreed to by the Parties, and without further notice to eligible members of the Settlement Class.

13. The Court appoints Angeion Group, LLC to serve as Settlement Administrator.

14. The Court has reviewed the Notice exhibits to the Settlement Agreement, including the Email Notice, Long Form or Settlement Website Notice, Reminder Notice, Final Reminder Notice, and Postcard Notice. The Court approves the form and content of the Notice. The Court also approves the method of directing notice to eligible members of the Settlement Class, as set forth in in the Settlement Agreement. The Court finds that the Notice is reasonable; constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and that it meets the requirements of Due Process and Rule 23. Specifically, the Court finds that the Notice complies with Rule 23(e) as it is a reasonable manner of providing notice to the Settlement Class who would be bound by the Settlement. The Court also finds that the Notice complies with Rule 23(c)(2), as it is the most practicable notice under the circumstances, provides individual notice to members of the Settlement Class who can be identified through a reasonable effort, and is

reasonably calculated under the circumstances to apprise members of the Settlement Class of the pendency of this Action, the terms of the Settlement, and their right to object to the Settlement or exclude themselves from the Settlement Class.

15. Within forty-five (45) days after entry of this Order, the Settlement Administrator will disseminate individual copies of the Notice to be sent via email as provided in the Agreement.

16. The Court finds that the foregoing plan for notice to eligible members of the Settlement Class is reasonable; constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and is in compliance with the requirements of Rule 23 and applicable standards of Due Process. Specifically, the Court finds that the Notice and the plan for dissemination complies with Rule 23(e) as it is a reasonable manner of providing notice to members of the Settlement Class who would be bound by the Settlement. The Court also finds that the Notice complies with Rule 23(c)(2), as it is the most practicable notice under the circumstances, provides individual notice to all members of the

Settlement Class who can be identified through a reasonable effort, and is reasonably calculated under the circumstances to apprise members of the Settlement Class of the pendency of this Action, the terms of the Settlement, and their right to object to the Settlement or exclude themselves from the Settlement Class.

17. Prior to the Fairness Hearing, Class Counsel shall file with the Court an affidavit from a representative of the Settlement Administrator confirming that the plan for disseminating the Notice to the Settlement Class has been accomplished in accordance with this Order and the Settlement Agreement.

18. Members of the Settlement Class who wish to exclude themselves from the Settlement Class must request exclusion within sixty (60) days after the Notice Date and in accordance with the instructions set forth in the Notice. Settlement Class Members who do not submit timely and valid requests for exclusion will be bound by the terms of the Settlement Agreement in the event it is finally approved by the Court and the Effective Date occurs, and by any orders and judgments subsequently

entered in the Action, whether favorable or unfavorable, regardless of whether they submit a Claim to the Settlement Administrator. Members of the Settlement Class who submit timely and valid requests for exclusion will not be bound by the terms of the Settlement Agreement or by any orders or judgments subsequently entered in the Action, and they may not submit a Claim to the Settlement Administrator.

19. Members of the Settlement Class who do not request exclusion may submit written comments on or objections to the Settlement no later than the date that is 60 days after the Notice Date. Any Member of the Settlement Class who has not requested exclusion may also attend the Fairness Hearing, in person or through counsel, and if he/she has submitted written objections, may pursue those objections. No Settlement Class Member, however, shall be entitled to contest the foregoing matter in writing and/or at the Fairness Hearing unless he/she has served and filed with the Court by **December 26, 2024**, copies of the statement of objection, together with any supporting brief and all other papers he/she wishes the Court to

consider. To be valid and considered by the Court, an objection must state: (i) the full name, address, email and telephone number of the objecting Settlement Class Member; (ii) a written statement of all grounds for the objection accompanied by any legal support for the objection (if any); (iii) copies of any papers, briefs or other documents upon which the objection is based; (iv) a list of all persons who will be called to testify in support of the objection (if any);(v) a statement of whether the Settlement Class Member intends to appear at the Fairness Hearing; (vi) proof of membership in the Settlement Class; (vii) a list of all objections filed by the objector and his or her counsel to class action settlements in the last ten years; and (viii) the signature of the Settlement Class Member and her or his counsel, if any. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court by the Objection Deadline as ordered by the Court in this Order and served concurrently therewith upon Class Counsel, Defendant's Counsel, and the Settlement Administrator.

20. If the objection is made by or through an attorney, the written objection must also include: (1) the identity and number of the Settlement Class Members represented by objector's counsel; (2) the number of such represented members of the Settlement Class who have opted out of the Settlement Class; and (3) the number of such represented Settlement Class Members who have remained in the Settlement Class and have not objected. If the attorney intends to seek fees and expenses from anyone other than the objectors he or she represents, the attorney shall also file with the Court and serve upon Class Counsel and Defendant's Counsel, not later than forty-five (45) days before the Final Fairness Hearing or as the Court may otherwise direct, a document containing the following: (i) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (ii) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (iii) the number of hours already spent by the attorney and an estimate of the hours to be spent in the

future; and (iv) the attorney's hourly rate.

21. Any such objection, brief, notice of appearance, or other related document must be mailed to the Court at the following address: Martin Luther King Federal Building & U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07101 and served upon each of the following persons:

- a. Settlement Class Counsel: Sophia G. Gold, Kaliel Gold PLLC, 1100 15th Street, NW, 4th Floor, Washington, D.C. 20005;
- b. Defendant's Counsel: Kristofor T. Henning & Mark M. Makhail, McCarter & English, LLP, 4 Gateway Center, 100 Mulberry Street, Newark, NJ 07102; and
- c. Settlement Administrator at the address provided in the Notice.

22. Unless otherwise directed by the Court, any Settlement Class Member who does not submit a statement of objection in the manner specified above will be deemed to have waived any objection to the Settlement.

23. The Court establishes the following schedule consistent with the Parties' Settlement Agreement:

Event	Calendar Days After Entry of This Order	Date
Initial Administration Payment	30 days	October 14, 2024
Notice Date	45 days	October 28, 2024
Exclusion Deadline	105 days	December 26, 2024
Objection Deadline	105 days	December 26, 2024
Plaintiffs' Application for Attorneys' Fees and Costs, and for Service Awards for the Named Plaintiffs	110 days	December 31, 2024
Motion for Final Approval	120 days	January 10, 2025
Claims Deadline	135 days	January 27, 2025
Final Approval Hearing	150 days (or when convenient for the Court)	February 10, 2025 at 11:00 a.m.

24. Pending the Fairness Hearing: (i) all proceedings in this Action, other than proceedings necessary to carry out the terms and provisions of the Settlement Agreement, or as otherwise directed by the Court, are hereby stayed and suspended; and (ii) the Releasing Parties are prohibited from

initiating or pursuing any Released Claim against any of the Released Parties.

25. If the proposed Settlement Agreement is not finally approved by the Court or for any reason the Effective Date does not occur, the Settlement Agreement will be regarded as nullified, certification of the Settlement Class for settlement purposes will be vacated, and the steps and actions taken in connection with the proposed Settlement (including this Order (except as to this paragraph and paragraph 1) and any judgment entered herein) shall become void and have no further force or effect. In such event, the Parties and their counsel shall take such steps as may be appropriate to restore the pre-settlement status of the litigation.

26. Neither the Settlement Agreement nor the provisions contained therein, nor any negotiations, statements, or proceedings in connection therewith shall be construed, or deemed to be evidence of, an admission or concession on the part of any of the Plaintiffs, Class Counsel, Defendant, any Settlement Class Member, or any other person, of any liability or wrongdoing by any of them, or of any lack of merit in their

claims or defenses, or of any position on whether any claims may or may not be certified as part of a class action for litigation purposes.

27. The Court retains jurisdiction over this action, the Parties, and all matters relating to the Settlement Agreement.

IT IS SO ORDERED.

Date: September 12, 2024

s/ Cathy L. Waldor
The Honorable Cathy L. Waldor
United States Magistrate Judge

APPENDIX A

1. All residents of Alabama who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

2. All residents of Alaska who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

3. All residents of Arizona who paid Defendant for a HomeAgain premium service membership between May 19, 2021, and September 12, 2024;

4. All residents of Arkansas who paid Defendant for a HomeAgain premium service membership between May 19, 2017, and September 12, 2024;

5. All residents of California who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

6. All residents of Colorado who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

7. All residents of Connecticut who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

8. All residents of Delaware who paid Defendant for a HomeAgain premium service membership between May 19, 2017, and September 12, 2024;

9. All residents of the District of Columbia who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

10. All residents of Florida who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

11. All residents of Georgia who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

12. All residents of Hawaii who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

13. All residents of Idaho who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

14. All residents of Illinois who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

15. All residents of Indiana who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

16. All residents of Iowa who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and

September 12, 2024;

17. All residents of Kansas who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

18. All residents of Kentucky who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

19. All residents of Louisiana who paid Defendant for a HomeAgain premium service membership between May 19, 2021, and September 12, 2024;

20. All residents of Maine who paid Defendant for a HomeAgain premium service membership between May 19, 2016, and September 12, 2024;

21. All residents of Maryland who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

22. All residents of Massachusetts who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

23. All residents of Michigan who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

24. All residents of Minnesota who paid Defendant for a HomeAgain premium service membership between May 19, 2016, and September 12, 2024;

25. All residents of Mississippi who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

26. All residents of Missouri who paid Defendant for a HomeAgain premium service membership between May 19, 2017, and September 12, 2024;

27. All residents of Montana who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and

September 12, 2024;

28. All residents of Nebraska who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

29. All residents of Nevada who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

30. All residents of New Hampshire who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

31. All residents of New Jersey who paid Defendant for a HomeAgain premium service membership between May 19, 2016, and September 12, 2024;

32. All residents of New Mexico who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

33. All residents of New York who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

34. All residents of North Carolina who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

35. All residents of North Dakota who paid Defendant for a HomeAgain premium service membership between May 19, 2016, and September 12, 2024;

36. All residents of Ohio who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

37. All residents of Oklahoma who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

38. All residents of Oregon who paid Defendant for a HomeAgain premium service membership between May 19, 2021, and

September 12, 2024;

39. All residents of Pennsylvania who paid Defendant for a HomeAgain premium service membership between May 19, 2016, and September 12, 2024;

40. All residents of Rhode Island who paid Defendant for a HomeAgain premium service membership between May 19, 2012, and September 12, 2024;

41. All residents of South Carolina who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024;

42. All residents of South Dakota who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

43. All residents of Tennessee who paid Defendant for a HomeAgain premium service membership between May 19, 2017, and September 12, 2024;

44. All residents of Texas who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

45. All residents of Utah who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

46. All residents of Vermont who paid Defendant for a HomeAgain premium service membership between May 19, 2016, and September 12, 2024;

47. All residents of Virginia who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024;

48. All residents of Washington who paid Defendant for a HomeAgain premium service membership between May 19, 2018, and September 12, 2024;

49. All residents of West Virginia who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and

September 12, 2024;

50. All residents of Wisconsin who paid Defendant for a HomeAgain premium service membership between May 19, 2019, and September 12, 2024; and

51. All residents of Wyoming who paid Defendant for a HomeAgain premium service membership between May 19, 2020, and September 12, 2024.