

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/3/2022

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE: DEVA CONCEPTS PRODUCTS
LIABILITY LITIGATION**

Master File No. 1:20-cv-01234-GHW

This Document Relates To:

All Cases

**ORDER
GRANTING FINAL APPROVAL OF CLASS SETTLEMENT**

Before the Court is Plaintiffs’ motion requesting that the Court enter an Order granting final approval of the class action Settlement involving Plaintiffs and Deva Concepts, LLC, (“Defendant” or “DevaCurl”) as fair, reasonable, and adequate.

Having reviewed and considered the Settlement Agreement and the Motion for Final Approval of the Settlement, and having conducted a Final Approval Hearing, the Court makes the findings and grants the relief set forth below approving the Settlement upon the terms and conditions set forth in this Final Order and Judgment.

THE COURT not being required to conduct a trial on the merits of the case or determine with certainty the factual and legal issues in dispute when determining whether to approve a proposed class action settlement; and

THE COURT makes the findings and conclusions hereinafter set forth for the limited purpose of determining whether the Settlement should be approved as being fair, reasonable, adequate and in the best interests of the Settlement Class;

IT IS ON THIS 1st day of January, 2022,

ORDERED that:

1. The Settlement involves allegations in Plaintiffs' Consolidated Class Action Complaint that Defendant designed, formulated, manufactured, distributed and sold haircare products that are falsely and misleadingly labeled and sold as well as caused adverse reactions resulting in personal injuries to Plaintiffs and the Class.

2. The Settlement does not constitute an admission of liability by DevaCurl, and the Court expressly does not make any finding of liability or wrongdoing by DevaCurl.

3. Unless otherwise noted, words spelled in this Order with initial capital letters have the same meaning as set forth in the Settlement Agreement.

4. On July 30, 2021, the Court entered an Order which among other things: (a) approved the Notice to the Settlement Class, including approval of the form and manner of notice under the Notice program set forth in the Settlement Agreement; (b) provisionally certified a class in this matter, including defining the class, appointing Plaintiffs as the Settlement Class Representatives, and appointing Settlement Class Counsel; (c) preliminarily approved the Settlement; (d); set deadlines for opt-outs and objections; (e) approved and appointed the Claims Administrator; and (f) set the date for the Final Approval Hearing.

5. In the Order Granting the Motion for Preliminary Approval of Class Settlement Agreement, pursuant to Rule 23(b)(3) and 23(e), for settlement purposes only, the Court certified the Settlement Class, defined as follows:

All persons who purchased and/or used any of the Products in the United States between February 8, 2008 and such date that is thirty (30) days after the Preliminary Approval Date, excluding (a) any officers, directors or employees, or immediate family members of the officers, directors or employees, of Defendant or any entity in which Defendant has a controlling interest, (b) any legal counsel or employee of legal counsel for Defendant, (c) the presiding Judge in the Lawsuit, as well as the Judge's staff and their immediate family members, and (d) all persons who timely and properly exclude themselves from the Class as provided in the Settlement.

6. The Court, having reviewed the terms of the Settlement Agreement submitted by the Parties pursuant to Rule 23(e), grants final approval of the Settlement Agreement and defines the Settlement Class as defined therein and in the Preliminary Approval Order, and finds that the Settlement is fair, reasonable, and adequate and meets the requirements of Rule 23.

7. The Settlement Agreement provides, in part, and subject to a more detailed description of the Settlement terms in the Settlement Agreement, for:

- a. A process for Settlement Class Members to submit claims for compensation that will be evaluated by a Claims Administrator mutually agreed upon by Settlement Class Counsel and Defendant's Counsel.
- b. Labeling changes to Defendant's Products.
- c. Defendant to pay all Notice and Claims Administration costs from the Common Fund.
- d. Defendant to pay a Court-approved amount for Attorneys' Fees and Costs of Settlement Class Counsel and other Plaintiffs' counsel from the Common Fund not to exceed \$1,733,160, constituting 33 and 1/3% of the Common Fund.
- e. Defendant to pay a Service Award not to exceed \$600 to each of the Class Representatives from the Common Fund.

8. The terms of the Settlement Agreement are fair, reasonable, and adequate and are hereby approved, adopted, and incorporated by the Court. The Parties, their respective attorneys, and the Claims Administrator are hereby directed to consummate the Settlement in accordance with this Order and the terms of the Settlement Agreement.

9. Notice of the Final Approval Hearing, the proposed motion for Attorneys' Fees and Costs, and the proposed Service Award payment to Class Representatives have been provided to Settlement Class Members as directed by this Court's Orders, and an affidavit or declaration of the Settlement Administrator's compliance with the Notice program has been filed with the Court. *See Declaration of H. Jake Hack Re: Notice Procedures.*

10. The Court finds that such Notice, as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Rule 23(c)(2).

11. As of the final date of the Opt-Out Period, 179 potential Settlement Class Members have submitted a valid Opt-Out Request to be excluded from the Settlement. The names of those persons are set forth in Exhibit A to this Order. Those persons are not bound by this Final Order and Judgment, as set forth in the Settlement Agreement.

12. The Court has considered all the documents filed in support of the Settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the Final Approval Hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

13. Pursuant to the Settlement Agreement, Defendant and the Settlement Administrator shall implement the Settlement in the manner and time frame as set forth therein.

14. Pursuant to the Settlement Agreement, Plaintiff and the Settlement Class Members release claims against Defendants and all Released Parties, as defined in the Settlement Agreement, as follows: As of the entry of the Final Judgment and Order, Plaintiffs and the Class Members release Defendant and the Released Parties from any and all claims, demands, actions, causes of actions, individual actions, class actions, damages, obligations, liabilities, appeals, reimbursements, penalties, costs, expenses, attorneys' fees, liens, interest, injunctive or equitable claims and/or administrative claims, whether known or unknown, filed or unfiled, asserted or unasserted, regardless of the legal theories involved, that were brought or could have been brought in the Litigation that relate in any manner to the subject matter of the Litigation, including, but not

limited to, design, manufacture, distribution, sale, and use of the Subject Products by any Class Member.

15. Released Claims shall not include the right of any Settlement Class Member or any of the Released Parties to enforce the terms of the Settlement contained in the Settlement Agreement and shall not include the claims of those persons to this Order who have timely and validly requested exclusion from the Settlement Class as identified in Exhibit G to the Declaration of H. Jake Hack Re: Notice Procedures and attached to this Order as Exhibit A.

16. On the Effective Date and in consideration of the promises and covenants set forth in the Settlement Agreement, (i) Plaintiffs and each Settlement Class Member, and each of their respective spouses and children with claims on behalf of the Settlement Class Member, executors, representatives, guardians, wards, heirs, estates, successors, predecessors, next friends, co-borrowers, co-obligors, co-debtors, legal representatives, attorneys, agents, and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf (including the government in the capacity as *parens patriae* or on behalf of creditors or estates of the releasors), and each of them (collectively and individually, the “Releasing Persons”), and (ii) Settlement Class Counsel, other plaintiff’s counsel who have asserted claims in the Litigation, and each of their past and present law firms, partners, or other employers, employees, agents, representatives, successors, or assigns will be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, completely, and forever released and discharged the Released Parties from the Released Claims.

17. The matter is hereby dismissed with prejudice and without costs except that the Court reserves jurisdiction over the consummation and enforcement of the Settlement.


18. In accordance with Rule 23, this Final Order and Judgment resolves all claims

against all Parties in this Action and is a final order. There is no just reason to delay the entry of final judgment in this matter, and the Clerk is directed to file this Order as the final judgment in this matter.

The Clerk of Court is instructed to terminate the motion at Dkt. No. 124.

SO ORDERED.

Dated: January 3, 2022
New York, New York



GREGORY H. WOODS
United States District Judge