

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL**

IN RE:

MDL CASE NO.: 3015

**JOHNSON & JOHNSON SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION**

THIS DOCUMENT RELATES TO: ALL CASES

**PLAINTIFFS' MOTION AND MEMORANDUM IN SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

Pursuant to Federal Rules of Civil Procedure 23(a), (b)(3) and (e), Plaintiffs Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, Carman Grisham, Heather Rudy, Fredric Salter, and Judith Barich on behalf of the putative classes (collectively, the "Plaintiffs"), respectfully move the Court to enter an order: (1) preliminarily certifying a proposed nationwide Class for settlement purposes only, and appointing the Plaintiffs as the representatives of the Class and the undersigned as counsel for the Class; (2) preliminarily approving the Parties' proposed Class Action Settlement Agreement, including all exhibits thereto (collectively, the "Settlement"); (3) approving the notice plan and forms of notice to the Class proposed by the Settlement; (4) appointing Rust Consulting as the Settlement Administrator; (5) setting dates and procedures for opt-outs, objections, and a final fairness hearing under Federal Rule of Civil Procedure 23(c)(2); and (6) issuing a preliminary injunction for purposes of protecting the Court's jurisdiction while the Court considers whether the settlement should be finally approved. This motion is based on the following Memorandum of Points and Authorities, the accompanying declaration of Attorneys' R. Jason Richards, Kiley Grombacher, David Byrne, Seth Meyer, and Alexandria Walsh and the exhibits attached thereto

(“Class Counsel Decl.”), the other pleadings on file in this matter, any other materials or testimony that may be submitted at the hearing, and any further argument that the Court might allow. The Parties’ proposed Settlement is attached as Exhibit 1 to the Declaration of Kiley Lynn Grombacher (“Grombacher Decl.”).

Prior to the filing of this motion, the undersigned conferred with counsel for Johnson & Johnson Consumer Inc. (hereafter “JJCI”) pursuant to Local Rule 7.1(a)(3) regarding this motion and the relief it seeks, and JJCI’s counsel stated their non-opposition to this motion for purposes of settlement only. Plaintiffs request oral argument on this motion, should the Court desire it, pursuant to Local Rule 7.1(b)(1). It is estimated that oral argument will require no more than one hour.

TABLE OF CONTENTS

TABLE OF CONTENTS.....	3
I. INTRODUCTION	4
II. PROCEDURAL BACKGROUND	8
III. THE PRIMARY TERMS OF THE SETTLEMENT.....	10
A. The Proposed Class	10
B. Opt-Out Provisions	11
C. Relief Provisions.....	11
D. Release.....	13
E. Notice and Settlement Administration	13
F. Incentive Awards to Named Plaintiffs.....	14
G. Attorneys’ Fees and Expenses	15
IV. THE CLASS SHOULD BE CONDITIONALLY CERTIFIED	15
A. The Class Is Sufficiently Numerous.....	16
B. The Commonality Requirement Is Satisfied	16
C. The Typicality Requirement Is Satisfied	17
D. The Plaintiffs and Settlement Counsel Are Adequate Representatives.....	18
E. The Class Satisfies Rule 23(b)(3)’s Requirements.....	20
1. Common Questions of Law and Fact Predominate	20
2. The Class Device is the Superior Method of Adjudication	22
V. PRELIMINARY APPROVAL OF THE SETTLEMENT IS WARRANTED	23
A. The Role of the Court	24
B. The Criteria for Preliminary Approval	25
C. The Settlement Is Procedurally Fair	27
D. The Settlement Is Substantively Fair.....	29
VI. THE PROPOSED NOTICE PLAN SHOULD ALSO BE APPROVED	31
A. The Content of the Proposed Notice Is Appropriate	33
VII. CONCLUSION.....	35
LOCAL RULE 7.1(a)(3) CERTIFICATION	36

MEMORANDUM OF POINTS AND AUTHORITIES

The Plaintiffs respectfully seek certification of the proposed Class for purposes of settlement, and request that the Court grant preliminary approval of the Parties' Settlement (attached to the Grombacher Decl. as Exhibit 1).¹

I. INTRODUCTION

The Plaintiffs brought this lawsuit on behalf of themselves and a putative class of consumers who purchased Neutrogena®- and Aveeno®-brand sunscreen products (hereafter "Sunscreen Products") allegedly contaminated and/or adulterated with benzene, a known human carcinogen. *See generally Serota v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), ECF No. 1, Compl. The Parties engaged in early settlement discussions, ultimately engaging in mediation before a neutral third party followed by numerous rounds of negotiations and voluntary informal disclosures of data, information, and witness statements by JJCI. Through these efforts, counsel for the Plaintiffs were able to assess the merits of their claims, JJCI's defenses, and the material facts regarding the nature and cause of the benzene contamination in the Sunscreen Products at issue in this case. *See Richards Class Counsel Decl.* at ¶ 8.

Specifically, the Plaintiffs determined that JJCI first became aware of the benzene contamination through the filing of Valisure's Citizen Petition with the FDA on May 25, 2021, wherein Valisure reported it had tested numerous lots of aerosol and lotion sunscreen products from various manufacturers and discovered that certain JJCI sunscreens contained benzene. Immediately thereafter, JJCI began a comprehensive investigation that has determined that the benzene identified in some product samples

¹ The Plaintiffs employ certain capitalized words and phrases in this memorandum that are defined in Section 2 of the Parties' Settlement.

stemmed from the isobutane used as a propellant in those aerosol product lines. JJCI's testing did not confirm the presence of benzene in samples of non-aerosol products.

Thereafter, on July 14, 2021, in consultation with the U.S. Food & Drug Administration ("FDA"), JJCI instituted a nationwide voluntary recall from all distribution channels of five product lines of aerosol sunscreen products that had been found to contain benzene, and instructed consumers in possession of such Sunscreen Products to stop using the products.² JJCI's lotions, sticks and face mist sunscreens and sunless tanning products were not impacted by the voluntary recall. On the same day JJCI instituted its recall, it announced it would offer full cash refunds for the full average retail selling price of the affected products, and established a process for claimants to obtain such refunds. That refund program is ongoing. Through due diligence and voluntary informal disclosures, the Plaintiffs have confirmed that millions of Sunscreen Products have been affected by the recall, resulting in refund requests from 323,028 claimants for refunds totaling \$9,284,264.58, and an average refund check of \$29.53. *See* Richards Class Counsel Decl. at ¶ 9.

Over the course of this litigation, JJCI has fully cooperated with the Plaintiffs in their effort to identify and investigate the benzene contamination issue; in identifying the number of lots potentially affected by contamination issue; and in developing a plan to remediate any potential benzene contamination in the Sunscreen Products in the future. In fact, the Parties agreed early on to attempt to reach a resolution of this matter through private mediation overseen by former United States District Judge John C. Lifland. Through that process, and the Parties' subsequent arms'-length negotiations

² The aerosol Sunscreen Products impacted by the recall were: (1) NEUTROGENA® Beach Defense® aerosol sunscreen; (2) NEUTROGENA® Cool Dry Sport aerosol sunscreen; (3) NEUTROGENA® Invisible Daily™ defense aerosol sunscreen; (4) NEUTROGENA® Ultra Sheer® aerosol sunscreen, and (5) AVEENO® Protect + Refresh aerosol sunscreen.

and voluntary informal disclosure efforts, the Parties reached the instant Settlement for which the Plaintiffs now seek preliminary approval.

The Parties' Settlement is a fair, reasonable and adequate compromise of the claims at issue in this lawsuit. Plaintiff Serota's operative complaint—the First Amended Class Action Complaint (ECF No. 4)—asserts claims on behalf of herself and a putative class of consumers for violations of various states' consumer protection and/or deceptive and unfair trade practices acts, unjust enrichment, negligent misrepresentation/omission, breach of express and implied warranties, strict product liability-failure to warn, and strict product liability-manufacturing defect. *See generally Serota v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), ECF No. 4, First Am. Compl. at ¶¶ 38-237. The relief sought under all of these claims is compensatory and injunctive in nature. It seeks, *inter alia*, an award of compensatory damages, interest, attorneys' fees and costs, as well as injunctive relief to prevent JJCI from continuing to market and sell Sunscreen Products that may be contaminated with benzene. *Id.* at ¶¶ 1, 36, 52.

In summary, the relief offered by the Settlement offers members of the Class a full accounting by (1) providing a full refund for those Sunscreen Products subject to JJCI's voluntary recall through January 14, 2022 and (2) providing a voucher equal to the average retail selling price of certain non-aerosol products which may be used toward the purchase of any Neutrogena or Aveeno product(s). The vouchers shall be transferable, may be aggregated and shall expire not less than twelve (12) months from their issuance.

The Settlement also offers injunctive relief that requires JJCI to direct its external manufacturer to (1) purge any existing inventory of isobutane intended for the use in Sunscreen Products; (2) adopt new testing protocols requiring any supplier of isobutane raw material intended for use in Sunscreen Products to test for the presence of benzene at no more than 1 part per million (PPM) and refrain from shipping such raw material unless the shipment has passed such test; and (3) engage an independent, ISO-certified

laboratory to test random samples from at least 25% of manufacturing lots of finished goods Sunscreen Products for the presence of benzene, and to withhold release of such finished goods from such lots unless all samples have passed the test.

The right of exclusion provided by the Settlement also permits those who are not satisfied with the Settlement's terms to exclude themselves from the Class, and thereby preserve their right to bring an individual lawsuit against JJCI if they choose to do so. Moreover, the Parties have agreed to retain a third-party administrator, Rust Consulting, to administer the Settlement and to provide the Class with notice *at JJCI's expense*. In other words, the Costs of Administration of the Settlement will not reduce the relief being offered to the Class Members, so the Class Members will have the opportunity to obtain a 100% refund for the recalled products and a voucher for the purchase price of replacement, non-recalled Neutrogena or Aveeno products (though the voucher can be applied to *any* Neutrogena or Aveeno product, not just sunscreen). The Plaintiffs and JJCI reached the Settlement through hard-fought, protracted, arm's-length negotiations that included a full day of mediation and several weeks of on-going negotiations thereafter.

The Settlement is supported by confirmatory due diligence verification of the critical facts through the voluntary informal exchange of information, and will be further subject to confirmatory discovery in the form of the depositions of JJCI representatives Derek Henderson and Carla Oliveira. Because the Settlement offers Class Members a 100% refund on recalled products, a voucher toward the purchase of replacement Neutrogena or Aveeno products, and requires JJCI to initiate a testing protocol to prevent benzene contamination in its Sunscreen Products in the future—all without the need, cost and risk of litigation over JJCI's defenses to the Plaintiffs' claims—it is clear that the Settlement represents a fair, reasonable and adequate compromise warranting preliminary approval and conditional class certification for purposes of settlement and notice. *Messineo v. Ocwen Loan Serv., LLC*, No. 15-cv-02076, 2017 WL 733219, at *9 (N.D. Cal. Feb. 24, 2017) (noting it is “a rare class action settlement which provides

complete relief for all alleged harms.”). Moreover, JJCI does not oppose this motion and will continue to cooperate in the settlement process. *See In re Mid-Atlantic Toyota Antitrust Litig.*, 564 F. Supp. 1379, 1386 (D. Md. 1983) (a defendant’s cooperation “is an appropriate factor for a court to consider in approving a settlement.”).

II. PROCEDURAL BACKGROUND

Plaintiff Serota initially commenced this action in this Court on May 25, 2021. *See generally* Compl., ECF No. 1. Serota’s case is the first filed of all cases seeking class relief arising out of the presence of benzene in JJCI’s Sunscreen Products. The Brennan Plaintiffs, also represented by undersigned counsel, filed their suit in California State Superior Court on May 26, 2021, which was subsequently removed by JJCI to the United States District Court for the Northern District of California, seeking to represent a putative California-only class. *See Brennan v. Johnson & Johnson Consumer Inc.*, 21-cv-5419 (N.D. Cal.), ECF No. 1. The Brennan action was the second filed case.

On July 14, 2021, JJCI announced it was initiating a voluntary recall of several of its aerosol Sunscreen Products due to the presence of benzene. Shortly thereafter, counsel for Plaintiffs in the Serota and Brennan actions began settlement discussions with JJCI. Then, on July 29, 2021, counsel for the plaintiffs in a parallel action filed papers before the Joint Panel on Multi-District Litigation (“JPML”) for transfer of the actions to the District of New Jersey. On July 30, 2021, the Serota Plaintiffs filed a first amended class action complaint adding an additional Florida plaintiff and plaintiffs from Colorado, Illinois, Maryland, Michigan, New York, Ohio, Oregon, and Washington. *See Serota v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), ECF No. 4, Am. Compl. The JPML issued its Transfer Order consolidating these cases before this Court on October 8, 2021. *See generally* ECF No. 1.

After initiating settlement discussions, in July 2021 the Parties agreed to jointly retain former United States District Court Judge John C. Lifland as the mediator in an attempt to reach a nationwide resolution. Confidential mediation statements were prepared by both Parties and submitted to Judge

Lifland prior to mediation. The mediation session took place on September 8, 2021, wherein the Parties discussed and evaluated the claims, damages, allegations and defenses, and were able to agree in principle on a general framework for global settlement, including with respect to retailer defendant Costco Wholesale Corporation (“Costco”).³ The Parties agreed to continue negotiations after the mediation to finalize the specific settlement terms, and for several weeks thereafter Settlement Counsel and JJCI’s counsel did so. During this process, Settlement Counsel also retained experienced experts and consultants to evaluate the claims asserted by JJCI. Richards Class Counsel Decl. at ¶8. Ultimately the Parties were able to reach an agreement in principle to settle the litigation on a classwide basis, which agreement was memorialized on October 21, 2021 via a Confidential Term Sheet. A Notice of Settlement was then drafted and filed with the Court on October 29, 2021. *See* ECF No. 25.

Following execution of the Confidential Term Sheet, the Parties began drafting the necessary documentation to allow for the voluntary disclosure of information. Settlement Counsel initially drafted and provided JJCI with a list of documents and data they requested be provided. That request was subsequently negotiated by the Parties and revised. Following an agreement on the initial voluntary disclosures to be provided, the Parties negotiated a Non-Disclosure Agreement, which was executed on November 20, 2021. On November 30, 2021, JJCI began its voluntarily disclosure of data, information and witness statements. Counsel for JJCI and the Class jointly drafted and then executed the Class Action Settlement Agreement that memorializes and governs the Settlement.

Over the course of the Parties’ negotiations, JJCI has voluntarily produced information by which Plaintiffs have been able to assess the merits of the claims and defenses. The type of information produced to the Plaintiffs included information regarding JJCI’s notice of benzene contamination,

³ Costco is named as a defendant in one of the Actions pending before this Court. *See McLaughlin v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-13710 (D.N.J.).

communications between JJCI and its affiliates concerning benzene contamination; information regarding studies and analysis performed by JJCI with respect to the benzene contamination; JJCI's communications with FDA regarding the contamination; information about JJCI's sunscreen manufacturers and raw material suppliers; and information on JJCI's refund program, including procedures and protocols for processing refunds, criteria for payment, number of claims made, refund amounts paid, consumer complaints made, and consumer communications. Richards Class Counsel Decl. at ¶9. The voluntary disclosure of information thus far provided is subject to further confirmatory discovery in the form of depositions, as discussed herein, prior to seeking final approval of the Settlement.

These voluntary exchanges of information were coupled with Plaintiff's independent investigation regarding their claims and JJCI's defenses. Such investigation included the testing of products using an independent third-party laboratory, consultations with experts in the fields of chemistry, cosmetics and toxicology and informal surveys of class members regarding issues such as the sufficiency of JJCI's voluntary refund/recall.

III. THE PRIMARY TERMS OF THE SETTLEMENT

The Settlement resolves all claims of the Plaintiffs and the Class against JJCI, excluding claims for personal injuries. The details are contained in the Settlement Agreement. *See generally* Exhibit 1 to Grombacher Decl. The primary terms of the Settlement are described below.

A. The Proposed Class

The proposed Class comprises all consumers who purchased Neutrogena and/or Aveeno Sunscreen Products at issue in this litigation, and is defined as:

All persons and entities in the United States who, at any time between May 26, 2015 and the Notice Date purchased one or more of the Aerosol Products or Non-Aerosol Products defined herein for personal, family, or household use and not for resale:

Neutrogena/Aveeno Aerosol Products: Neutrogena® Beach Defense® aerosol sunscreen,

Neutrogena® Cool Dry Sport aerosol sunscreen, Neutrogena® Invisible Daily™ defense aerosol sunscreen, Neutrogena® Ultra Sheer® aerosol sunscreen, and Aveeno® Protect + Refresh aerosol sunscreen.

Neutrogena/Aveeno Non-Aerosol Products: Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen, Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen, and Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion.⁴

Settlement at ¶ 11. Excluded from the Class are (a) all persons who are employees, directors, officers, and agents of JJCI, or its subsidiaries and affiliated companies; (b) persons or entities who purchased the Products primarily for the purposes of resale to consumers or other resellers; (c) governmental entities; (d) persons or entities who timely and properly exclude themselves from the Class as provided in this Settlement; and (e) the Court, the Court's immediate family, and Court staff. (*Id.*).

B. Opt-Out Provisions

The Settlement allows any Class Member to opt-out of the Settlement and the Class. Any Class Member who wishes to seek exclusion from the Class will be advised of his or her right to be excluded, and of the deadline and procedures for exercising that right. Settlement at ¶¶ 56, 76, 106.

C. Relief Provisions

a. Monetary Relief

The Settlement offers relief in the form of refunds to consumers for the full average retail selling price of the recalled aerosol Sunscreen Products. For refunds of three (3) or fewer items, no proof of purchase is required. Claimants seeking refunds for more than three units must submit some evidence of their purchases (e.g., a store receipt or photograph of the containers of Sunscreen Products). JJCI will continue the refund program until January 14, 2022. An independent, mutually agreed upon external

⁴ The Neutrogena and Aveeno products referenced in this class definition encompass the entire product lines of Sunscreen Products impacted by this Settlement.

ombudsman shall be retained to assist in resolving any complaints or concerns about, or claims submitted in connection with, the refund program, and JJCI shall inform claimants of the availability of the services of the ombudsman on its settlement website. In the event of a disagreement, the ombudsman shall retain final decision-making authority with respect to claims submitted pursuant to the refund program.

In addition, a voucher program has been incorporated into the Settlement to provide relief to consumers with respect to JJCI's non-aerosol Sunscreen Products (i.e. those Sunscreen Products not subject to JJCI's recall). Through this voucher program, JJCI will offer the purchaser a voucher equal to the average retail selling price of the non-aerosol Sunscreen Products, up to a maximum of two (2) such products per household, toward the purchase of any Neutrogena or Aveeno products (i.e., not limited to sunscreen). Vouchers shall be transferrable and shall expire not less than twelve (12) months from their issue date. The maximum face value of vouchers to be distributed by JJCI under the non-aerosol voucher program will be \$1.75 million, and each claim will be reduced on a *pro rata* basis in the event that claims exceed this amount. *See* Settlement at ¶ 53. Purchasers of non-aerosol Sunscreen Products will be informed that they may be eligible for partial compensation under the voucher program through the notice program described below.

b. Injunctive/Non-Monetary Relief

The Settlement also offers injunctive/non-monetary relief which is designed to appropriately address the benzene contamination issue in this litigation. Specifically, the Settlement provides injunctive relief that requires:

- (1) JJCI to direct its external manufacturer to purge any existing inventory of isobutane intended for the use in Sunscreen Products;
- (2) JJCI to adopt a new specification, applicable to any supplier of isobutane raw material for use in its Sunscreen Products, that requires such raw material to contain not more than one (1) part per million (PPM) benzene for a period of two (2) years from the date of execution of the Settlement;

(3) JJCI to direct its external manufacturer to require that, prior to dispatching any shipment of isobutane intended for use in Sunscreen Products, its raw material suppliers test for the presence of benzene at one (1) PPM or more in such material, and to refrain from shipping such raw material unless the shipment has passed such test;

(4) JJCI to require that, upon receipt of any shipment of raw material isobutane intended for use in Sunscreen Products, JJCI's external manufacturer test for the presence of benzene at one (1) PPM or more in such raw material, and to refrain from use of such raw material unless it has passed such test; and

(5) JJCI's external manufacturer to engage an independent, ISO-certified laboratory to test a reasonable number of random samples from at least 25% of manufacturing lots of finished goods Sunscreen Products for the presence of benzene for a minimum period of three (3) months from the execution of the Confidential Term Sheet, or until January 21, 2022, and to withhold release of such finished goods from such lots unless all samples have passed the test.

D. Release

In exchange for the relief described above, and upon entry of a Final Order and Judgment approving the Settlement, the Plaintiffs and the Class will release JJCI, Costco and their related and affiliated entities (the "Released Parties," as further defined in Paragraph 34 of the Settlement) from, *inter alia*, all claims (excluding claims for bodily injuries) for injunctive relief or economic loss arising out of or relating to the facts, activities, or circumstances alleged in the Action (as defined in Paragraph 1 of the Settlement). Settlement at ¶¶ 68-71. In other words, the Settlement contemplates a release specific to the subject matter addressed in this Action, and does not contemplate a general release of any and all claims of any kind against JJCI.

E. Notice and Settlement Administration

The Parties have agreed to the appointment of Rust Consulting to act as the Settlement

Administrator and to provide notice to the proposed Class. Settlement at ¶ 38. The costs of distributing notice and for settlement administration (up to a maximum of \$500,000) are to be paid separately by JJCI, outside of, and in addition to, the refund and voucher programs being offered to the Class Members. *Id.* at ¶ 58.

F. Incentive Awards to Named Plaintiffs

Under the Settlement, Settlement Counsel have reserved the right to seek reasonable Incentive Awards to named plaintiffs Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, Carman Grisham, Heather Rudy, Fredric Salter, and Judith Barich in the amount of \$250 each, for a total of \$3,000, for their services as the representatives of the Class. Settlement at ¶ 59. The Incentive Awards would be paid separately by JJCI from the relief being offered to the Class Members, and would be in addition to any relief the Plaintiffs may receive in the refund and/or voucher programs. *Id.* at ¶ 61.

The Incentive Awards are intended to recognize the time and effort expended by the Plaintiffs on behalf of the Class in assisting Class Counsel with the prosecution of this case and negotiating the relief the Settlement proposes to confer to the Class Members, as well as the exposure and risk the Plaintiffs incurred by participating and taking a leadership role in this litigation. *Id.* at ¶ 59; *see also, e.g., Walters v. Cook's Pest Control, Inc.*, No. 2:07-cv-00394, 2012 WL 2923542, at *14 (N.D. Ala. July 17, 2012) (“[T]here is ample precedent for awarding incentive compensation to class representatives at the conclusion of a successful class action.”) (quoting *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1218 (S.D. Fla. 2006)). *Accord* 2 JOSEPH M. MCLAUGHLIN, MCLAUGHLIN ON CLASS ACTIONS: LAW AND PRACTICE § 6:28 at 197 (10th ed. 2013) (“[T]here is near-universal recognition that it is appropriate for the court to approve an incentive award payable from the class recovery, usually within the range of \$1,000 - \$20,000.”). Plaintiffs are cognizant of the Eleventh Circuit’s opinion in *Johnson v. NPAS Sols., LLC*, 975 F.3d 1244 (11th Cir. 2020) and, while Plaintiffs are

hopeful that the petition for rehearing *en banc* will be granted, the Settlement is not conditioned upon any Incentive Award being approved by the Court. Settlement at ¶ 59.

G. Attorneys’ Fees and Expenses

Under the Settlement, Class Counsel have also reserved the right to petition the Court for an award of reasonable attorneys’ fees of up to \$2,500,000 and reimbursement of costs and expenses incurred in the prosecution of this case up to \$100,000. Settlement at ¶ 63. The Attorneys’ Fees and Expenses provision was separately and independently negotiated by the Parties apart from the class settlement provisions, in an arm’s-length negotiation. Any such Attorneys’ Fees and Expenses award would be paid separately by JJCI from the relief being offered to the Class Members. The Settlement is not conditioned upon any Attorneys’ Fees and Expenses award being approved by the Court. *Id.*

IV. THE CLASS SHOULD BE CONDITIONALLY CERTIFIED

Before evaluating the fairness, adequacy and reasonableness of the Parties’ Settlement, the Court must “make a preliminary determination” as to whether the proposed Settlement “satisfies the criteria [for class certification] set out in Rule 23(a) and at least one of the subsections of Rule 23(b).” MANUAL FOR COMPLEX LITIGATION (FOURTH) § 21.632 at 321 (2004). In other words, while “[p]ublic policy strongly favors the pretrial settlement of class action lawsuits,” *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992), a court must still “find that the prerequisites for class certification under Rule 23(a) and (b) of the Federal Rules of Civil Procedure are met.” *Burrows v. Purchasing Power, LLC*, No. 1:12-CV-22800, 2013 WL 10167232, at *1 (S.D. Fla. Oct. 7, 2013) (internal quotations omitted).⁵

⁵ See also *Wal-Mart Stores, Inc. v. Visa USA, Inc.*, 396 F.3d 96, 116 (2d Cir. 2005) (noting “the strong judicial policy in favor of settlements, particularly in the class action context.”); *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 311 (3d Cir. 2011) (there is a “strong presumption in favor of voluntary settlement agreements” which “is especially strong in class actions and other complex

To be certifiable, Rule 23(a) requires that a proposed class meet four requirements: (1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation. FED. R. CIV. P. 23(a)(1)-(4). In addition, where, as here, a plaintiff seeks certification of a class under Rule 23(b)(3), she must demonstrate “that questions of law or fact common to class members predominate over any questions affecting only individual members,” and that use of the class device “is superior to other available methods for fairly and efficiently adjudicating the controversy.” FED. R. CIV. P. 23(b)(3).

A. The Class Is Sufficiently Numerous

Rule 23(a)’s numerosity requirement is met if the potential class is so numerous that the alternative—joinder of individual plaintiffs—is “impracticable.” FED. R. CIV. P. 23(a)(1). “While there is no predetermined threshold number of plaintiffs required to certify a class, in the Eleventh Circuit, a prospective class consisting of more than forty members is generally deemed sufficient.” *Navelski v. Int’l Paper Co.*, No. 3:14-cv-445, 2017 WL 1132569, at *15 (N.D. Fla. Mar. 25, 2017) (citing *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986)).

Here, the Class is comprised of hundreds of thousands of consumers that purchased Sunscreen Products potentially contaminated with benzene. Richards Class Counsel Decl. at ¶ 9. Accordingly, the proposed Class easily satisfies Rule 23(a)’s numerosity requirement.

B. The Commonality Requirement Is Satisfied

Rule 23(a)(2) requires there be some “questions of law or fact common to the class.” FED. R. CIV. P. 23(a)(2). In other words, not all questions of law and fact at issue in a case need to be common—instead, “for purposes of Rule 23(a)(2) even a single common question will do.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011). A question of law or fact will be common to the class if it is “of such a

cases”); *Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977) (“Particularly in class action suits, there is an overriding public interest in favor of settlement.”).

nature that it is capable of classwide resolution,” meaning that “determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* at 350; *see also Navelski*, 2017 WL 1132569, at *15.

Here, the claims of the Plaintiffs and the Class present a number of common factual and legal questions, including but not limited to:

- whether JJCI’s Sunscreen Products contained benzene;
- whether JJCI’s omissions are misleading, or objectively reasonably likely to deceive;
- whether the alleged conduct constitutes violations of the laws asserted;
- whether JJCI’s alleged conduct violates public policy;
- whether JJCI engaged in false or misleading advertising;
- whether JJCI was unjustly enriched as a result of its labeling, marketing, advertising and/or selling of the Sunscreen Products; and
- whether Plaintiffs and the Class members are entitled to damages and/or restitution and the proper measure of that loss.

In other words, this case presents *several* common questions of law and fact. These issues are susceptible to classwide proof, and their resolution would “affect all or a significant number of the putative class members” in a manner “apt to drive the resolution of th[is] litigation.” *Wal-Mart Stores*, 564 U.S. at 350. Because these common issues can be resolved for all members of the proposed Class in a single adjudication, through common class-wide proof, and are the central focus of this litigation, Rule 23(a)(2)’s commonality requirement is also satisfied.

C. The Typicality Requirement Is Satisfied

Rule 23(a)(3) requires that “the claims or defenses of the representative parties [be] typical of the claims or defenses of the class.” FED. R. CIV. P. 23(a)(3). Therefore, “[a] class representative must

possess the same interest and suffer the same injury as the class members.” *Cooper v. Southern Co.*, 390 F.3d 695, 713 (11th Cir. 2004). “Yet, the ‘[c]lass members’ claims need not be identical to satisfy the typicality requirement; rather, there need only exist a sufficient nexus between the legal claims of the named class representatives and those of individual class members to warrant class certification.” *Ault v. Walt Disney World Co.*, 692 F.3d 1212, 1216 (11th Cir. 2012) (quotation omitted). Typicality therefore exists where “the claims of the class and its representatives arise from the same events, practice, or conduct and are based on the same legal theories.” *Navelski*, 2017 WL 1132569, at *15.

Here, the Plaintiffs’ claims arise from the same events, practices, and conduct that give rise to the claims of all other Class Members. The Plaintiffs and the members of the proposed Class purchased JJCI’s Sunscreen Products without knowledge that they were contaminated with benzene, and they all suffered financial harm as a result. But for JJCI’s misconduct, Plaintiffs and the members of the proposed Class would not have purchased JJCI’s Sunscreen Products. In other words, “the same unlawful conduct affected both [the Plaintiffs] and the rest of the [proposed C]lass.” *Navelski*, 2017 WL 1132569, at *15. And the Plaintiffs’ claims and those of the members of the proposed Class are based on the same legal theories—that JJCI wrongfully failed to disclose that its Sunscreen Products contained benzene, in violation of applicable law, and Plaintiffs would not have purchased the Sunscreen Products had they known they contained benzene. Because the claims of the Plaintiffs and the absent class members concern the same alleged conduct by JJCI, allege the same harm, and arise from the same legal theories, Rule 23(a)(3)’s typicality requirement is satisfied.

D. The Plaintiffs and Settlement Counsel Are Adequate Representatives

“Rule 23(a)(4) requires that both the named plaintiffs and their counsel will ‘fairly and adequately protect the interests of the class.’” *Navelski*, 2017 WL 1132569, at *16 (quoting FED. R. CIV. P. 23(a)(4)). “The adequacy of representation requirement encompasses two separate inquiries: (1) whether any substantial conflicts of interest exist between the representatives and the class; and (2) whether the

representatives will adequately prosecute the action.” *Busby v. JRHBW, Realty, Inc.*, 513 F.3d 1314, 1323 (11th Cir. 2008).

Here, no conflict exists between the named and unnamed Class members because their interests are aligned. The Plaintiffs are members of the Class they seek to represent. They and the members of the proposed Class all purchased Sunscreen Products allegedly contaminated with benzene, suffering financial harm. As a result, “[t]he economic interests and litigation objectives of [the Plaintiffs and] all class members are . . . entirely consistent,” even though their “damages will differ in degree.” *Navelski*, 2017 WL 1132569, at *16.

Moreover, the Plaintiffs have and will continue to adequately protect the interests of the Class. The Plaintiffs were integral in timely coming forward with Sunscreen Products allegedly contaminated with benzene and providing information with respect to their purchases, and they continue to stay actively involved in the litigation. *See* Declarations of Plaintiffs Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, Heather Rudy, Judith Barich, Fredric Salter, and Carman Grisham. *see also Spinelli v. Capital One Bank*, 265 F.R.D. 598, 602 (M.D. Fla. 2009) (holding class representative who was knowledgeable about the case and lacked any conflict of interest with the class was adequate representative); *Manno v. Healthcare Revenue Recovery Group, LLC*, 289 F.R.D. 674, 688 (S.D. Fla. 2013) (holding class representative with “no antagonism between [his] interests and those of the putative class members” met the adequacy requirement). Further, while the Settlement provides Class Counsel with the right to seek \$250 Incentive Awards payable to each named class representative, “[i]ncentive payments to class representatives do not, by themselves, create an impermissible conflict between class members and their representatives.” *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 943 (9th Cir. 2015); *see also In re Checking Account Overdraft Litig.*, No. 1:09-MD-02036, 2014 WL 12557836, at *9 (S.D. Fla. Apr. 1, 2014) (approving \$5,000 service award to class representative, and noting “[t]here is ample precedent for awarding incentive

compensation to class representatives at the conclusion of a successful class action.”) (quotation omitted); *Walters*, 2012 WL 2923542, at *14 (same). Here, the Plaintiffs understand that, despite their efforts and the risks assumed on behalf of the Class, they may not be eligible for an Incentive Award pending the Eleventh Circuits disposition of the petition for rehearing *en banc* in *Johnson v. NPAS Sols., LLC*, 975 F.3d 1244 (11th Cir. 2020).

Additionally, Class Counsel are qualified and competent, and will continue to adequately protect the interests of the proposed Class. Counsel regularly engage in the litigation of class action and complex litigation lawsuits. *See* Richards Class Counsel Decl. at ¶ 7, Aylstock Decl. at ¶¶ 6-7; Grombacher Decl. at ¶¶ 6-11; Meyer Decl. at ¶¶ 4-12; Byrne Declaration at ¶¶; Birchfield Decl. ¶¶ 5-6; Walsh Decl. at ¶¶ 3-8; *see also City of St. Petersburg v. Total Containment, Inc.*, 265 F.R.D. 630, 651 (S.D. Fla. 2010) (“Counsel will be deemed adequate if they are shown to be qualified, adequately financed, and possess sufficient experience in the subject matter of the class action.”). Moreover, Class Counsel have diligently investigated, prosecuted and dedicated substantial resources to this litigation both before, during and after mediation, and will continue to do so throughout the pendency of this case. *See* Richards Class Counsel Decl. at ¶¶ 9, 10. As such, the Plaintiffs and Class Counsel will adequately represent the members of the Class and their interests.

E. The Class Satisfies Rule 23(b)(3)’s Requirements

In addition to the four requirements of Rule 23(a), the proposed class must also satisfy at least one provision of Rule 23(b). *Carriuolo v. Gen. Motors Co.*, 823 F.3d 977, 984 (11th Cir. 2016). Here, certification of the Class is sought under Rule 23(b)(3), which requires that (1) the questions of law or fact common to the members of the class predominate over any questions affecting only individual class members; and (2) use of the class device is the superior method for the fair and efficient adjudication of the controversy. FED. R. CIV. P. 23(b)(3). Both requirements are met here.

1. Common Questions of Law and Fact Predominate

The predominance requirement focuses on whether the proposed class is “sufficiently cohesive to warrant adjudication by representation.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 623 (1997). Such cohesiveness exists where questions of law or fact common to the class will turn on “the same evidence,” *Brown v. Electrolux Home Prods., Inc.*, 817 F.3d 1225, 1234 (11th Cir. 2016), and their resolution will “have a direct impact on every class member’s effort to establish liability that is more substantial than the impact of individualized issues in resolving the claim or claims of each class member.” *Carriuolo*, 823 F.3d at 985 (quotation omitted). In other words, a common question of law or fact will predominate if “the addition or subtraction of any of the plaintiffs to or from the class [will] not have a substantial effect on the substance or quantity of evidence offered” to resolve that question. *Vega v. T-Mobile USA, Inc.*, 564 F.3d 1256, 1270 (11th Cir. 2009) (quotation omitted).

Rule 23(b)(3) requires only “a showing that questions common to the class predominate, not that those questions will be answered, on the merits, in favor of the class.” *Amgen Inc. v. Conn. Ret. Plans & Trust Funds*, 113 S. Ct. 1184, 1191 (2013). And a plaintiff is not required “to prove that each element of her claim is susceptible to classwide proof.” *Id.* at 1196. Rather, she need only show that common questions will predominate with respect to her case as a whole. *Id.* In making this determination, the individualized nature of damage calculations alone cannot “preclude class certification.” *Carriuolo*, 823 F.3d at 988 (collecting cases); *see also Brown*, 817 F.3d at 1239; *Allapattah Servs., Inc. v. Exxon Corp.*, 333 F.3d 1248, 1261 (11th Cir. 2003) (“[T]he presence of individualized damages issues does not prevent a finding that the common issues in the case predominate.”).

Here, the commonality requirement is easily met. The evidence necessary to prove liability for the Plaintiffs’ claims is the same as it would be for each Class Member. The question whether JJCI failed to disclose the presence of benzene in its Sunscreen Products, in violation of applicable law, are not only common to the Class, but are the predominate consideration in deciding whether JJCI is liable to the Plaintiffs and Class Members. *See, e.g., Demsheck v. Ginn Dev. Co., LLC*, No. 3:09-CV-335-J-25TEM,

2013 WL 12177811, at *3 (M.D. Fla. Sept. 30, 2013) (common questions predominated because the “crux of all class members’ claims” was an allegation that the defendant treated them identically in failing to provide them with a property report before they signed a real estate purchase contract). And those questions are susceptible to resolution through common, generalized proof—namely, by looking at the Sunscreen Products labeling in conjunction with applicable disclosure requirements. In other words, the evidence the Plaintiffs would offer at an individual trial to establish liability would be the same sort of evidence that every member of the proposed Class would also have to offer at their own individual trials.

2. The Class Device is the Superior Method of Adjudication

The superiority prong of Rule 23(b)(3) requires a court to determine whether use of the class action device “is superior to other available methods for fairly and efficiently adjudicating the controversy.” FED. R. CIV. P. 23(b)(3). “The focus of this inquiry is on the relative advantages of a class action suit over whatever other forms of litigation might be realistically available to the plaintiffs.” *Navelski*, 2017 WL 1132569, at *18 (quotation omitted). Factors relevant to the superiority analysis include: (1) the class members’ interests in individually controlling the prosecution or defense of separate actions; (2) the extent and nature of any litigation concerning the controversy already begun by or against class members; and (3) the desirability or undesirability of concentrating the litigation of the claims in the particular forum. FED. R. CIV. P. 23(b)(3).⁶

Here, use of the class action device is superior to other available procedural methods for adjudicating the claims at issue in this case. The damages or other financial detriment suffered by the Plaintiffs and other Class Members are relatively small compared to the burden and expense that would be entailed by individual litigation of their claims against JJCI. Thus, members of the Class would have

⁶ Rule 23(b)(3) also lists a fourth factor—the likely difficulties in managing a class action. However, when “[c]onfronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems.” *Amchem*, 521 U.S. at 620.

little interest in pursuing their own separate actions given that “this matter involves relatively small individual claims compared to the cost of litigating complexing legal issues against a relatively large corporate entity like [JJCI].” *Naveiski*, 2017 WL 1132569, at *18; *see also Amchem*, 521 U.S. at 617 (“The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights.”). And although the membership of the Class is readily identifiable, the joinder of even a fraction of Class Members is impracticable.

At the same time, the use of the class action mechanism is likely the only practical way of resolving the claims of the hundreds of thousands of Class Members, while at the same time avoiding the potential for repetitious litigation and inconsistent adjudications if the claims were pursued individually. Individual litigation against JJCI could result in inconsistent judgments. Under these circumstances, use of the class mechanism is the superior alternative for resolving this dispute as it will “achieve economies of time, effort, and expense, and promote uniformity of decision as to persons similarly situated.” *Fifth Moorings Condo., Inc. v. Shere*, 81 F.R.D. 712, 719 (S.D. Fla. 1979). After all, “[w]here it is not economically feasible to obtain relief within the traditional framework of a multiplicity of small individual suits for damages, aggrieved persons may be without effective redress unless they may employ the class-action device.” *Deposit Guaranty Nat’l Bank, Jackson, Miss. v. Roper*, 445 U.S. 326, 339 (1980).

Accordingly, use of the class action mechanism here is the superior method for adjudicating this controversy, and because all other requirements for class certification under Rule 23 are met, the proposed Class should be conditionally certified for purposes of settlement only.

V. PRELIMINARY APPROVAL OF THE SETTLEMENT IS WARRANTED

After the Court makes a determination that the proposed class satisfies the requirements for certification under Rule 23, the Court must then make a “preliminary fairness evaluation” of the proposed class settlement based on the “briefs, motions, [and] informal presentations by parties.” MANUAL FOR

COMPLEX LITIGATION (FOURTH) § 21.632 at 320-21 (2004).

Here, the Court should preliminarily approve the Settlement not only because public policy favors the settlement of complex class actions such as this one, but also because the Settlement offers full reimbursement for the purchase price of recalled Sunscreen Products, a voucher towards the purchase of Sunscreen Products not subject to recall, and injunctive relief which addresses the cause of the contamination and implements new protocols and procedures to remedy it and prevent it from recurring. As previously noted, the relief sought in this Action is both compensatory and injunctive in nature. *See generally* ECF No. 4, First Am. Compl. And it is “a rare class action settlement which provides complete relief for all alleged harms.” *Messineo*, 2017 WL 733219, at *9 (noting class settlement recoveries of 9% are generally considered a “substantial achievement,” and approving settlement that offered class members the opportunity to submit claims “to remediate any actual damages they may have suffered”). At the same time, the Settlement allows Class Members dissatisfied with the Settlement’s terms to exclude themselves from the Class to pursue their own lawsuit against JJCI.

A. The Role of the Court

Federal Rule of Civil Procedure 23(e) requires judicial approval of any compromise of claims brought on a class action basis. Such review involves a well-established two-step process involving (1) preliminary approval of the settlement and the method and form of class notice; and (2) final approval after notice and a fairness hearing. *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982). The purpose of the first step of preliminary approval “is to ascertain whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing.” *Id.* at 621 n.3. In this regard, the Settlement should be preliminarily approved if it (i) “appears to fall within the range of possible approval,” and (ii) “does not disclose grounds to doubt its fairness or other obvious deficiencies.” *In re Inter-Op Hip Prosthesis Liab. Litig.*, 204 F.R.D. 330, 350 (N.D. Ohio 2001); *see also Family Med. Pharm., LLC v. Holdings*, 2016 WL 7320885, at *5 (S.D. Ala. Dec. 14, 2016)

(“Preliminary approval . . . does not involve a determination of the merits of the proposed settlement or affect the substantive rights of any class member. . . . [T]he court simply determines whether the proposed settlement falls within the range of possible approval.”); *Smith v. Wm. Wrigley Jr. Co.*, 2010 WL 2401149, at *2 (S.D. Fla. June 15, 2010) (“Preliminary approval is appropriate where the proposed settlement is the result of the parties’ good faith negotiations, there are no obvious deficiencies and the settlement falls within the range of reason.”).

Approval of a proposed class action settlement is a matter within the discretion of the court. *Bennett v. Behring Corp.*, 737 F.2d 982, 986 (11th Cir. 1984). Such discretion is conferred in recognition that “evaluation of [a] proposed settlement in this type of litigation . . . requires an amalgam of delicate balancing, gross approximations and rough justice.” *City of Detroit v. Grinnell Corp.*, 356 F. Supp. 1380, 1385 (S.D.N.Y. 1972), *rev’d on other grounds by* 495 F.2d 448 (2d Cir. 1974); *see also Poertner v. Gillette Co.*, 618 F. App’x 624, 627 (11th Cir. 2015). In exercising that discretion, courts have recognized that as a matter of sound public policy, settlements of disputed claims are encouraged and the settlement approval process should “not be turned into a trial or rehearsal for trial on the merits.” *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982) (“[I]t must not be overlooked that voluntary conciliation and settlement are the preferred means of dispute resolution. This is especially true in complex class action litigation”); *accord In re U.S. Oil and Gas Litig.*, 967 F.2d 489, 493 (11th Cir. 1992) (“Public policy strongly favors the pretrial settlement of class action lawsuits.”). Recognizing that a settlement represents an exercise of judgment by the parties, it has been consistently held that the function of a court reviewing a settlement is neither to rewrite the parties’ agreement nor to try the case by resolving issues left unresolved by the settlement. *See, e.g., Holmes v. Continental Can Co.*, 706 F.2d 1144, 1160 (11th Cir. 1983) (“Courts are not permitted to modify settlement terms or in any manner to rewrite the agreement reached by the parties.”).

B. The Criteria for Preliminary Approval

To grant preliminary approval, the Court need only find that the terms of the Settlement fall within the range of possible final approval. MANUAL FOR COMPLEX LITIGATION (FOURTH) § 21.632 at 320-21. The range “recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion.” *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972); *see also In re Corrugated Container Antitrust Litig.*, 659 F.2d 1322, 1325 (5th Cir. 1981) (“[T]he essence of a settlement is compromise. A just result is often no more than an arbitrary point between competing notions of reasonableness.”).

Thus, “[i]t is neither required, nor is it possible for a court to determine that the settlement is the fairest possible resolution of the claims of every individual class member; rather, the settlement, taken as a whole, must be fair, adequate and reasonable.” *Shy v. Navistar Int’l Corp.*, No. C-3-92-333, 1993 WL 1318607, at *2 (S.D. Ohio May 27, 1993) (citation omitted). The Court should instead “consider the vagaries of litigation and compare the significance of immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation,” because it is “proper to take the bird in hand instead of a prospective flock in the bush.” *Nat’l Rural Telecomm. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004).

Accordingly, the relevant inquiry is “whether the recovery falls within that range of reasonableness, [and] not whether it is the most favorable possible result of litigation.” *Lazy Oil Co. v. Wotoco Corp.*, 95 F. Supp. 2d 290, 338 (W.D. Pa. 1997), *aff’d*, 166 F.3d 581 (3d Cir. 1999). In addition, courts should also assess whether “the proposed settlement appears to be the product of serious, informed, non-collusive negotiations,” and whether it “improperly grant[s] preferential treatment to class representatives or segments of the class” to ensure the Settlement’s procedural fairness. *In re NASDAQ Market-Makers Antitrust Litig.*, 176 F.R.D. at 102.

In making any preliminary approval determination, the Court need not reach any ultimate conclusions on the substantive factual or legal issues presented in the case. *Carson v. Am. Brands, Inc.*,

450 U.S. 79, 88 n.14 (1981) (in considering whether to approve a class settlement, courts “do not decide the merits of the case or resolve unsettled legal questions.”). “It is not necessary in order to determine whether an agreement of settlement and compromise shall be approved that the Court try the case which is before it for settlement . . . such procedure would emasculate the very purpose for which settlements are made.” *Grinnell Corp.*, 495 F.2d at 462. Nor should the court “make the proponents of the agreement justify each term of settlement against a hypothetical or speculative measure of what concessions might have been gained; inherent in compromise is a yielding of absolutes and an abandoning of highest hopes.” *Milstein v. Werner*, 57 F.R.D. 515, 524-25 (S.D.N.Y. 1972).

C. The Settlement Is Procedurally Fair

To warrant preliminary approval, the terms of a class action settlement should reveal that it is “the product of serious, informed, non-collusive negotiations.” *In re NASDAQ Market-Makers Antitrust Litig.*, 176 F.R.D. at 102. In making this determination, courts begin with a presumption of good faith in the negotiating process. *See Lee v. Ocwen Loan Serv., LLC*, No. 14-CV-60649, 2015 WL 5449813, at*11 (S.D. Fla. Sept. 14, 2015) (“Where the parties have negotiated at arm’s length, the Court should find that the settlement is not the product of collusion.”); *Saccoccio v. JP Morgan Chase Bank, NA*, 297 F.R.D. 683, 692 (S.D. Fla. 2014) (“There is a presumption of good faith in the negotiation process.”).

Here, the record supports the procedural fairness of the proposed Settlement. The Parties were separately represented by able and experienced counsel in complex actions and consumer litigation, and “a presumption of fairness, adequacy and reasonableness may attach to a class settlement reached in arms-length negotiations between experienced, capable counsel.” MANUAL FOR COMPLEX LITIGATION (THIRD) § 30.42. The Parties’ negotiations were protracted, continuing over a four-month period, with the assistance of experts working closely with a significant amount of data produced in the initial voluntary disclosures and due diligence process with respect to the claims at issue, which will be subject to confirmatory discovery in the form of future depositions of JJCI representatives Derek

Henderson and Carla Oliveira. *See* Settlement ¶ 118 . Thus, the Parties were not “groping in the darkness” during their negotiations, *Cotton v. Hinton*, 559 F.2d 1326, 1332 (5th Cir. 1977), and the Settlement was certainly not “the product of uneducated guesswork.” *In re Corrugated Container Antitrust Litig.*, 643 F.2d 195, 211 (5th Cir. 1981); *accord Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009) (“We put a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution”). On top of that, the Parties’ negotiations occurred within the context of mediation conducted by retired United States District Judge John C. Lifland. The participation of such a respected neutral in the settlement negotiation process should give the Court “confidence that [the negotiations] were conducted in an arm’s-length, non-collusive manner.” *In re AMF Bowling*, 334 F. Supp. 2d 462, 465 (S.D.N.Y. 2004); *see also Faught v. Am. Home Shield Corp.*, No. 2:07-CV-1928, 2010 WL 10959223, at *21 (N.D. Ala. Apr. 27, 2010) (fact that “negotiations were supervised by a highly experienced mediator” evidenced arms-length nature of class settlement), *aff’d*, 68 F.3d 1233 (11th Cir. 2011).

In addition, there is no evidence suggesting that the Plaintiffs or Class Counsel are unfairly benefiting at the expense of the Class. The proposed compensation to Class Counsel of up to \$2,500,000 in attorneys’ fees and expenses and up to \$100,000 in costs reimbursement is sufficiently reasonable at this stage to warrant preliminary approval, in light of the total potential economic impact in terms of the relief being offered to the Class. *See Waters v. Int’l Precious Metals Corp.*, 190 F.3d 1291, 1295-96 (11th Cir. 1999) (affirming fee award of 33 1/3% of settlement value); *Wolff v. Cash 4 Titles*, No. 03-22778-CIV, 2012 WL 5290155, at *5 (S.D. Fla. Sept. 26, 2012) (approving 33% award, and noting “[t]he requested fee is entirely consistent with fee awards in comparable cases nationwide, within the Eleventh Circuit, and within the Southern and Middle Districts of Florida.”). The proposed Settlement does not grant preferential treatment to the Plaintiffs, who may receive up to \$250 individually as an incentive award as compensation for their time, effort, and inconvenience in connection with acting as class representatives in this matter. *Sawyer v. Intermex Wire Transfer, LLC*, 2020 WL 5259094, at *2 (S.D.

Fla. Sept. 3, 2020) (awarding \$15,000 to plaintiff as class representative); *Cabot E. Broward 2 LLC v. Cabot*, 2018 WL 5905415, at *11 (S.D. Fla. Nov. 9, 2018) (awarding each class representative a \$50,000.00 incentive award); *Almanzar v. Select Portfolio Serv., Inc.*, 2016 WL 1169198, at *4 (S.D. Fla. Mar. 25, 2016) (\$5,000 service award “fair, reasonable, and adequate”). There is nothing collusive about the Plaintiffs and Settling Class Counsel’s reservation of the right to seek such awards. Accordingly, there is no evidence or settlement term that suggests the Settlement is tainted by fraud or collusion. Furthermore, the Settlement is not conditioned on the Court’s approval of the incentive award. Therefore, if the Court rejects the incentive award under *Johnson*, 975 F.3d 1244, the remainder of the Settlement should still be approved.

D. The Settlement Is Substantively Fair

In evaluating whether to grant preliminary approval, the Court need only determine whether the terms of the Settlement fall within the range of possible final approval. *See, e.g., Lazy Oil Co.*, 95 F. Supp. 2d at 338 (in considering a class settlement, the inquiry properly is “whether the recovery falls within th[e] range of reasonableness, not whether it is the most favorable possible result of litigation”). After a settlement in principle was negotiated, the Parties worked to craft terms of the proposed Settlement and a plan for notice to the Class. The Settlement affords relief that is not only within the range of possible final approval, but which closely tracks what is arguably the best possible recovery available to the Plaintiffs and the Class Members if they were to successfully litigate this Action through trial. The Plaintiffs’ claim that they and the other Class Members were subjected to the same unlawful conduct by JJCI. ECF No. 4 ¶ 31. The primary objective of this Action was compensatory and injunctive: to reimburse consumers for their purchase of contaminated Sunscreen Products and to ensure that corrective action is taken to prevent it from happening again. *Id.* ¶¶ 36, 59. The relief offered by the Settlement accomplishes the stated objectives for each consumer encompassed within the Class. Through the Settlement, Class Members can receive reimbursement for recalled products *and* a voucher toward the

purchase of other Neutrogena or Aveeno products not subject to recall *and* ensure that corrective action is taken to prevent future contamination.

In purely quantitative terms, settlement relief is unquestionably an excellent result for the Class Members. Since 1995, class action settlements typically “have recovered between 5.5% and 6.2% of the class members’ estimated losses.” *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 715 (E.D. Pa. 2001). The Settlement here offers a 100% recovery of actual damages for recalled products, a recovery for non-recalled products in the form of a voucher that can be used for any Neutrogena or Aveeno product (not just sunscreens), and injunctive relief, rendering it “a rare class action settlement which provides complete relief for all alleged harms.” *Messineo*, 2017 WL 733219, at *9.

Qualitative considerations further bolster the reasonableness of the Settlement. If not settled, there exists real potential for years of further litigation, as well as a possibility that JJCI could prevail on the merits or defeat contested class certification. JJCI’s defenses include the fact that benzene was largely undetectable in the non-aerosol products and thus, consumers, in fact, received the product as advertised, labeled and bargained for. Accordingly, liability was not a foregone conclusion. Such facts could also undercut Plaintiffs’ ability to satisfy the ascertainability requirement and secure class certification. Moreover, JJCI could assert that benzene is not an “ingredient” in any JJCI sunscreen products (*see* Settlement at [Page#]), so there is no need to label benzene as an ingredient on Sunscreen Products under applicable regulations. Another potential JJCI defense is that applicable product standards, in particular United States Pharmacopeia (“USP”) <467>, arguably set a 2ppm limit for benzene as a residual solvent in products. Thus, JJCI could argue, as other manufacturers of benzene contaminated sunscreen have done, that the presence of benzene in sunscreen products is permitted at levels up to 2 ppm. *See, e.g. Bowen v. Energizer Holdings, Inc.*, Central District of California, Case No., 2:21-cv-04356-MWF-AGR, ECF Dkts. 50, 58, 62. In other words, JJCI could argue that its Sunscreen Products may contain up to 2 ppm benzene, without the need to disclose the presence of benzene in its products. Additionally, JJCI

could also attempt to invoke the primary jurisdiction doctrine and potentially delay the litigation indefinitely. Although the Plaintiffs are confident that they could successfully overcome JJCI's defenses, if the Court agreed with JJCI on any of its defenses, certification could be denied or class members could be left with no compensation for non-recalled products or an injunctive component that is less than adequate. *See, e.g., Nat'l Rural Telecomm. Coop.*, 221 F.R.D. at 526 (noting that in the class action settlement context, it is "proper to take the bird in hand instead of a prospective flock in the bush."); *Pinto v. Princess Cruise Lines*, 513 F. Supp. 2d 1334, 1338 (S.D. Fla. 2007) (noting that settlement was approved where "the risk of going forward was substantial" despite the court's belief that the case had merit).

Finally, "[i]t is neither required, nor is it possible, for a court to determine that the settlement is the fairest possible resolution of the claims of every individual class member, rather the settlement, *taken as a whole*, must be fair, adequate and reasonable." *Shy v. Navistar Int'l Corp.*, No. C-3-92-333, 1993 WL 1318607, at *2 (S.D. Ohio May 27, 1993). This Settlement is sufficiently within the range of possible final approval to justify its preliminary approval.

VI. THE PROPOSED NOTICE PLAN SHOULD ALSO BE APPROVED

The threshold inquiry concerning the sufficiency of class notice is whether the notice is reasonably calculated to apprise the class of the pendency of the action, of the terms of the proposed settlement, and of the class members' rights to opt out or object. *Eisen v. Carlisle & Jaqueline*, 417 U.S. 156, 173-74 (1974); *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950). Notice of a class settlement ensures that the due process rights of class members are protected. *See, e.g., Pearson v. Ecological Sci. Corp.*, 522 F.2d 171, 176-77 (5th Cir. 1975). Accordingly, a court should ensure that "the best notice that is practicable under the circumstances" is disseminated "in a reasonable manner to all class members who would be bound by the proposal," including through "individual notice to all [class] members who can be identified through reasonable effort." FED. R. CIV. P. 23(c)(2)(B),(e)(1). Further,

notice can be conveyed by various means, including electronically. *Id.*

The Court is vested with considerable discretion in fashioning notice—both in terms of the notice’s content and manner of distribution. 7B CHARLES A. WRIGHT, ARTHUR R. MILLER & MARY K. KANE, *FEDERAL PRACTICE AND PROCEDURE* § 1797.6, at 200 (3d ed. 2005). This is particularly true within the context of a class action settlement. *See, e.g., Handschu v. Special Serv. Div.*, 787 F.2d 828, 833 (2d Cir. 1986); *In re Oil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico*, 910 F. Supp. 2d 891, 913 (E.D. La. 2012), *aff’d*, 739 F.3d 790 (5th Cir. 2014), *cert. denied*, 135 S. Ct. 754 (2014). Such discretion is limited only by the requirement that the contents of the notice “inform the class members of the nature of the pending action, the general terms of the settlement, that complete and detailed information is available from the court files, and that any class member may appear and be heard at the [settlement fairness] hearing.” 2 HERBERT NEWBERG & ALBA CONTE, *NEWBERG ON CLASS ACTIONS (FOURTH)* § 8:32 (2002).

After all, Rule 23(e) notice is designed to be only a summary of, and not a complete recitation regarding, the litigation and proposed settlement. *Grunin v. Int’l House of Pancakes*, 513 F.2d 114, 122 (8th Cir. 1975) (“Class Members are not expected to rely upon the notices as a complete source of settlement information.”). As such, the notice need not be unduly specific, or reference every term of the proposed settlement. *Faught v. Am. Home Shield Corp.*, 668 F.3d 1233, 1239 (11th Cir. 2011) (“The standard for the adequacy of a settlement notice . . . is measured by reasonableness,” and “the notice need not include ‘every material fact’ or be ‘overly detailed.’”); *Churchill Vill., LLC v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) (“Notice is satisfactory if it generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.”). This is in keeping with the principle that Rule 23(e) notice is bound only by Constitutional Due Process principles, such that the notice need only be “reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the [settlement proposed] and afford them an opportunity to

present their objections.” *Mullane*, 339 U.S. at 314 (citation omitted).

A. The Content of the Proposed Notice Is Appropriate

As a general rule, Rule 23 notice should:

- (1) define the class, and disclose whether certification is limited or conditional in nature;
- (2) describe the litigation, including the allegations of the complaint;
- (3) summarize the essential terms of the proposed settlement;
- (4) describe the options available to each class member under the proposed settlement, along with any deadlines;
- (5) disclose any requested allowances for attorneys’ fees and special benefits to the class representatives;
- (6) indicate the time and place of the fairness hearing and describe its purpose;
- (7) describe the procedures for filing appearances and objections;
- (8) disclose how class members can contact class counsel; and
- (9) explain how class members may inspect and obtain documents relating to the settlement and the entire litigation.

MANUAL FOR COMPLEX LITIGATION (FOURTH) § 21.312 at 295-96; 2 NEWBERG ON CLASS ACTIONS (FOURTH) § 8:32. “It is not the function of the settlement notice to fully inform the class of all the details of the settlement, but merely to put class members on notice of the general parameters of the settlement and to inform them of where information as to the specifics may be obtained.” *Bennett v. Behring Corp.*, 96 F.R.D. 343, 353 (S.D. Fla. 1982), *aff’d*, 737 F.2d 982 (11th Cir. 1984); *accord Faught*, 668 F.3d at 1239-40.

Here, the class notice proposed by the Parties satisfy all the requirements and guidelines associated with Rule 23. Specifically, the notice:

- defines the Class and discloses that it has been certified for purposes of settlement only;

- discloses each Class Member's right to opt-out of the Settlement and the method and deadlines for doing so;
- describes the litigation and the allegations;
- summarizes the key terms of the Settlement, and disclose that the notice is merely a summary of the Settlement's actual and complete terms;
- provides information to Class members on how they may obtain additional information and inspect additional documents relating to the Settlement and the Action generally;
- describes the relief to be offered to Class Members under the Settlement, their options under the Settlement, and the procedures for filing appearances and objections;
- identifies and explain the scope of the Release and Released Claims;
- discloses that incentive awards to the Plaintiffs, and attorneys' fees and expenses to Class Counsel, will be sought (and the maximum amounts that will be sought), but that such awards must be approved by the Court; and
- provides the time and location of the Fairness Hearing, along with a description of that hearing's purpose. *See* Grombacher Decl., Exhibits A and B to Exhibit 1.

The Settlement also calls for the notices to be distributed to the Class Members within ten (10) days following the entry of the Preliminary Approval Order. Settlement, at ¶ 45. The Settlement establishes, and the notices disclose, that the deadline for Class Members to exclude themselves from or object to the Settlement will be the deadline provided in the Court's Preliminary Approval Order before the Fairness Hearing. *Id.* ¶ 111. As a result, Class Members will be afforded a sufficient amount of time, as determined by the Court, to request exclusion or object to the Settlement. *Greco v. Ginn Devel. Co., LLC*, 635 F. App'x 628, 6234 (11th Cir. 2015) (collecting cases, and concluding 45 day response period adequate); *accord Kubiak v. S.W. Cowboy, Inc.*, 164 F. Supp. 3d 1344, 1352 (M.D. Fla. 2016) (approving notice plan affording class members 60 day response period); *Lusby v. GameStop Inc.*, No. C12-03783, 2015 WL 1501095, at *7 (N.D. Cal. Mar. 31, 2015) (same).

At bottom, the proposed notices provide Class Members with sufficient information to make an

informed and intelligent decision about the Settlement. The proposed notices satisfy the requirements of Rule 23 and Due Process. Accordingly, the Court should approve the form and content of the Paid- Off Notice and Active/Transfer Notice proposed by the Settlement.

B. The Plan for Disseminating the Notices Is Also Appropriate

The Court should also approve the Parties' plan for disseminating the notices to the Class Members. "The analysis for purposes of due process is on the notice plan itself, and actual receipt of notice by each individual class member is not required." *Adams v. S. Farm Bureau Life Ins. Co.*, 417 F. Supp. 2d 1373, 1380 n. 6 (M.D. Ga. 2006) *aff'd*, 493 F.3d 1276 (11th Cir. 2007); *see also Juris v. Inamed Corp.*, 685 F.3d 1294, 1321 (11th Cir. 2012) ("Courts have consistently recognized that, even in Rule 23(b)(3) class actions, due process does not require that class members actually receive notice.").

Here, the Sunscreen Products were distributed nationwide through a variety of retail channels. As such, the Parties have agreed to provide notice to the Class by various electronic means designed to provide the best notice that is practicable under the circumstances. The details of the notice plan are set out in the Class Notice/Long Form Notice. *See* Grombacher Decl., Exhibits A and B to Exhibit 1. The Settlement also calls for the Settlement Administrator to create an internet website dedicated to the Settlement, and to post and make available on it various documents and information relating to the Settlement and claim process. *See* Settlement ¶¶ 55, 56. A toll-free telephone number will also be available to Class Members. *Id.* ¶¶ 76, 84.

Accordingly, the Court should approve not only the form and content of the proposed notices, but also the means proposed by the Parties for distributing those notices to the Class Members.

VII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court conditionally certify the Class for settlement purposes, appoint the Plaintiffs as class representatives and the undersigned as Class Counsel for the Class, preliminarily approve the Settlement, approve the proposed plan of notice to the

Class, and schedule a hearing pursuant to Federal Rule of Civil Procedure 23(e) to determine whether the proposed Settlement is fair, reasonable and adequate and should be given final approval.

LOCAL RULE 7.1(a)(3) CERTIFICATION

Counsel for Plaintiffs has conferred with Defendants' counsel and Defendants do not oppose the relief requested herein for purposes of settlement only.

Dated: December 17, 2021.

By: R. Jason Richards
AYLSTOCK, WITKIN, KREIS & OVERHOLTZ,
PLLC

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rfisher@bradleygrombacher.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2021, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

By: R. Jason Richards
AYLSTOCK, WITKIN, KREIS & OVERHOLTZ,
PLLC
R. JASON RICHARDS (FL Bar # 18207)
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle**

IN RE: JOHNSON & JOHNSON AEROSOL SUNSCREEN MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION _____/	MDL CASE NO.: 3015
THIS DOCUMENT RELATES TO: ALL CASES _____/	

**COMPENDIUM OF PLAINTIFFS DECLARATIONS IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL
OF ATTORNEYES' FEES, COST AND SERVICE AWARD**

Plaintiffs hereby submit the following Compendium of Declarations in Support of Motion for Preliminary Approval of Class Action Settlement.

DOCUMENT	TAB
Declaration of Katherine Brennan	1
Declaration of Michelle Mang	2
Declaration of Meredith Serota	3
Declaration of Jacob Somers	4
Declaration of Lauren Harper	5
Declaration of Dina Casaliggi	6

Declaration of Kelly Granda	7
Declaration of Kyra Harrell	8
Declaration of Heather Rudy	9
Declaration of Judith Barich	10
Declaration of Carman Grisham	11

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF KATHERINE BRENNAN IN SUPPORT OF UNOPPOSED
MOTION FOR ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS
SETTLEMENT, APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE
CLASS, AND SCHEDULING FAIRNESS HEARING**

I, Katherine Brennan, named Plaintiff in the matter of *Brennan, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-04869 (N.D. Cal.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. In or around April 2018, I purchased Beach Defense® Water + Sun Protection Sunscreen Spray Broad Spectrum SPF 70 from Costco Wholesale in San Leandro, located in Alameda County, California. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased Defendants'

Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 26, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously

represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 13 day of December 2021.


Katherine Brennan (Dec 13, 2021 14:56 PST)
KATHERINE BRENNAN
Proposed Class Representative

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF MICHELLE MANG IN SUPPORT OF UNOPPOSED MOTION
FOR ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Michelle Mang, named Plaintiff in the matter of *Brennan, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-04869 (N.D. Cal.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. Between 2017 and 2019, I purchased Neutrogena Cool Dry Sport Water-Resistant Sunscreen Spray SPF 50, Beach Defense® Water + Sun Protection Sunscreen Spray Broad Spectrum SPF 70, and Ultra Sheer Dry-Touch Water Resistant Sunscreen Lotion SPF 70 at Walmart, 600 Showers Dr., Mountain View, CA 94040 and Target, 555 Showers Dr., Mountain View, CA 94040. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have

purchased Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 26, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.


10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 14 day of December 2021.


Michelle Mang (Dec 14, 2021 6:04 PST)

MICHELLE MANG
Proposed Class Representative

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF MEREDITH SEROTA IN SUPPORT OF UNOPPOSED MOTION
FOR ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Meredith Serota, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. In or around March 20, 2020, I purchased Neutrogena Ultra Sheer® Weightless Sunscreen Spray SPF 100+ (Qty 2) and Neutrogena Ultra Sheer Face Mist SPF 55 (Qty 4) from Target, located at 3599 W. Hillsboro Blvd. Deerfield Beach, Florida 33442, in Broward County. I paid approximately \$8.99 each for the Neutrogena Ultra Sheer® Weightless Sunscreen Spray SPF 100+ and \$12.99 each for the Neutrogena Ultra Sheer Face Mist SPF 55. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate

and that the products were unadulterated, safe and effective. I would not have purchased Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action Complaint.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that I fully approve the Settlement. I expressed my approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 13 day of December 2021.

Meredith J. Serota
Meredith J. Serota (Dec 13, 2021 20:15 EST)

MEREDITH SEROTA
Proposed Class Representative

EXHIBIT 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF JACOB SOMERS IN SUPPORT OF UNOPPOSED MOTION FOR
ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Jacob Somers, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. Within the past 4 years, I purchased numerous Neutrogena sunscreen products, including Neutrogena Beach Defense SPF 100, from Walmart in Escambia County, Florida. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have

purchased absent Defendants' conduct as alleged in my First Amended Class Action Complaint.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that


fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 14 day of December 2021.


Jacob Somers (Dec 14, 2021 09:40 CST)

JACOB SOMERS

Proposed Class Representative

EXHIBIT 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF LAUREN HARPER IN SUPPORT OF UNOPPOSED MOTION FOR
ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Lauren Harper, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. Within the past four years, I purchased Neutrogena Beach Defense Sunscreen Spray SPF 70 from Target, located at 1985 Sheridan Blvd., Edgewater, Colorado 80214, in Jefferson County, Colorado. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase

products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class

that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 13 day of December 2021.



Lauren Harper (Dec 13, 2021 18:15 MST)
LAUREN HARPER
Proposed Class Representative

EXHIBIT 6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF DINA CASALIGGI IN SUPPORT OF UNOPPOSED MOTION
FOR ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Dina Casaliggi, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. In or around 2020, I purchased Neutrogena Beach Defense Sunscreen Spray SPF 50 in Brooklyn, New York. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to

purchase products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved

by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award

Executed this ____ day of December 2021.


Dina Casaliggi (Dec 14, 2021 11:03 EST)
DINA CASALIGGI
Proposed Class Representative

EXHIBIT 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF KELLY GRANDA IN SUPPORT OF UNOPPOSED MOTION FOR
ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Kelly Granda, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. In or around July 1, 2021, I purchased Neutrogena Beach Defense Sunscreen Spray SPF 50 for \$13.91 from Sam's Club, located in Brooklyn, Ohio. In or around June 24, 2021, I purchased Neutrogena Beach Defense Sunscreen Spray SPF 30 for \$12.99 and Neutrogena Wet Skin Kids Sunscreen Spray SPF 70 for \$13.99 from FSStore.com, an online retailer. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased

Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.


10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award

Executed this 13 day of December 2021.


Kelly Granda (Dec 13, 2021 23:35 EST)

KELLY GRANDA
Proposed Class Representative

EXHIBIT 8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF KYRA HARRELL IN SUPPORT OF UNOPPOSED MOTION FOR
ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Kyrá Harrell, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. In or around March 2021, I purchased Neutrogena Ultra Sheet Sunscreen Spray SPF 100+ from Walmart, located at 2295 Gable Road, St. Helens, Oregon 97051. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have

purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 15 day of December 2021.


Kyra Harrell (Dec 15, 2021 08:10 PST)

KYRA HARRELL
Proposed Class Representative

EXHIBIT 9

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

_____ /

THIS DOCUMENT RELATES TO: ALL CASES

_____ /

**DECLARATION OF HEATHER RUDY IN SUPPORT OF UNOPPOSED MOTION FOR
ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Heather Rudy, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. Within the past four years, I purchased numerous Neutrogena sunscreen products, including Neutrogena Beach Defense Sunscreen Spray SPF 100 and Neutrogena Beach Defense Sunscreen Spray SPF 30, from Walgreens in Gurney, Illinois and Walmart in Waukegan, Illinois. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased Defendants' Sunscreen Products had I known there was a risk the products may

contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 14th day of December 2021.


DocuSigned by:

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HEATHER RUDY
Proposed Class Representative

EXHIBIT 10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

_____ /

THIS DOCUMENT RELATES TO: ALL CASES

_____ /

**DECLARATION OF JUDITH BARICH IN SUPPORT OF UNOPPOSED MOTION FOR
ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Judith Barich, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. Within the past four years, I purchased numerous Neutrogena sunscreen products, including Neutrogena Beach Defense Sunscreen Spray SPF 100 and Neutrogena Beach Defense Sunscreen Spray SPF 70, from Walgreens, located at 8720 W. Grand River Rd., Brighton, Michigan 48116 and/or Meijer, located at 8650 Grand River Ave., Brighton, Michigan 48116. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased

Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.

10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this 14th day of December 2021.

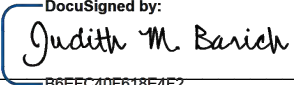
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JUDITH BARICH
Proposed Class Representative

EXHIBIT 11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF CARMEN GRISHAM IN SUPPORT OF UNOPPOSED MOTION
FOR ENTRY OF AN ORDER PRELIMINARILY APPROVING CLASS SETTLEMENT,
APPOINTING CLASS COUNSEL, DIRECTING NOTICE TO THE CLASS, AND
SCHEDULING FAIRNESS HEARING**

I, Carmen Grisham, named Plaintiff in the matter of *Serota, et al. v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), hereby declare as follows:

1. I respectfully submit this declaration in support of Plaintiffs' Unopposed Motion for Entry of an Order Preliminarily Approving Class Settlement, Appointing Class Counsel, Directing Notice to the Class, and Scheduling a Fairness Hearing. I further submit this declaration in support of my proposed appointment as a Class Representative.

2. Within the past four years, I purchased numerous Neutrogena sunscreen products, including Neutrogena Beach Defense SPF 60+ (Qty 2) and Neutrogena Beach Defense SPF 70 within the State of Washington. During that time, I was unaware that Defendants' Sunscreen Products may be adulterated with benzene. I purchased the Defendants' Sunscreen Products on the assumption that the labeling of Defendants' Sunscreen Products was accurate and that the products were unadulterated, safe and effective. I would not have purchased Defendants' Sunscreen Products had I known there was a risk the products may contain benzene. As a result, I suffered injury in fact when I spent money to purchase

products I would not otherwise have purchased absent Defendants' conduct as alleged in my First Amended Class Action.

3. Shortly after learning of the benzene contamination in Defendants' Sunscreen Products, I decided to join the litigation and pursue claims against Defendants. I felt that the company had deceived me and other consumers and I wanted to put an end to what I believed were deceptive practices.

4. When I agreed to represent other consumers, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written interrogatories and questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in Court, if necessary. I understood that I needed to maintain awareness of the status and progress of the lawsuit.

5. At that time, I also realized I was taking a significant amount of risk in filing class action claims against Defendants. I understood that, in bringing this case, my name would be part of the public record in connection with this lawsuit. I decided to proceed anyway because I wanted to stand up for the rights of consumers in addition to my own.

6. Since filing this class action lawsuit on May 25, 2021, I have fully participated in the litigation, maintained regular contact with the proposed Class Counsel, and stayed informed about the progress of the case.

7. Further, I remained informed throughout the negotiations surrounding the proposed Class Settlement by having regular communications with the proposed Class Counsel.

8. I believe that the proposed Class Counsel have adequately and vigorously represented me and the proposed Settlement Class throughout the entirety of the settlement negotiations.

9. I understand the Parties have reached a proposed class-wide Settlement that, if approved by the Court, will provide valuable monetary and equitable relief to the individual consumers who purchased Defendants' benzene-contaminated sunscreen products.


10. I believe that the Settlement is an outstanding result for the proposed Settlement Class that confers significant monetary, equitable and prospective relief without the need for trial such that fully approve the Settlement. I expressed by approval of the Settlement's terms and benefits to my proposed Class Counsel prior to the Parties reaching an agreement.

11. Further, I believe that the terms of the proposed Settlement are fair, reasonable, and adequate and provide meaningful and immediate relief to the proposed Settlement Class.

12. Therefore, I respectfully request that the Court grant preliminary approval of the proposed Settlement in the Consolidated Actions; direct notice of the Settlement to the Settlement Class; appoint me as a Class Representative; and, appoint R. Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC and Kiley Grombacher of Bradley/Grombacher LLP as Class Counsel, in addition to any other Class Counsel approved by the Court.

13. I acknowledge and understand that Class Counsel may seek compensation in the form of an incentive award for my services as a putative class representative and I further acknowledge and understand that the Settlement is not contingent on my receiving any such incentive award.

Executed this ^{15 15} ____ day of December 2021.


Carmen Grisham (Dec 15, 2021 09:01 MST)

CARMEN GRISHAM
Proposed Class Representative

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF R. JASON RICHARDS IN SUPPORT OF MOTION
TO APPOINT INTERIM CLASS COUNSEL UNDER RULE 23(g) AND CLASS
COUNSEL AS REQUESTED IN THE MOTION FOR PRELIMINARY APPROVAL**

I, R. Jason Richards, hereby declare as follows:

1. I am a partner at Aylstock, Witkin, Kreis & Overholtz, PLLC (“AWKO”), counsel of record for Plaintiffs Meredith Serota, Jacob Somers, Lauren Harper, Heather Rudy, Fredric Salter, Judith Barich, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham (the “*Serota* Plaintiffs”), and Katherine Brennan and Michelle Mang (the “*Brennan* Plaintiffs”). Plaintiff Merideth Serota’s case was the first filed of all cases seeking relief arising out of the presence of benzene in defendants’ sunscreen products. The *Brennan* Plaintiffs class action suit was the second filed case. I am submitting this declaration in support of Plaintiffs’ Motion to Appoint Interim Class Co-Lead Counsel and Interim Class Liaison Counsel under Federal Rule of Civil Procedure 23(g). The following statements are based on my personal knowledge and review of the files and, if called on to do so, I could and would testify competently thereto.

EXPERIENCE OF COUNSEL

2. AWKO is a national law firm with experience in products liability law, mass torts, class actions, insurance law, and personal injury matters. AWKO has extensive experience litigating claims in multidistrict litigations as well as experience in consumer class actions. AWKO also employs on-site IT specialists and a database administrator and software developer. Details on the work, experience and accomplishments of the firm can be found at www.awkolaw.com.

3. I have been a member of the State Bar of Colorado since 2001 and a member of the State Bar of Florida since 2005. I hold the following degrees: B.A., University of Alabama at Birmingham; B.A., University of Alabama at Birmingham; M.A., University of Colorado; J.D., University of Illinois Chicago School of Law; L.L.M., DePaul University College of Law. My involvement in various forms of multidistrict litigation and class action litigation spans more than a 15 years during which time I have litigated hundreds of cases.

4. I served as a Deputy District Attorney in Colorado prosecuting misdemeanor and felony cases before joining AWKO as an associate attorney in 2004. I became an equity partner at AWKO in 2008. Since joining AWKO, I have specialized in products liability, class actions, and insurance law.

5. I have argued cases before trial courts and courts of appeal, and have served as lead counsel in approximately a dozen trials. I have authored briefs submitted to the United States Supreme Court on behalf of Plaintiff Steering Committees in multidistrict litigations as well as in individual matters before other federal district courts, federal circuit courts, and state appellate courts. I have published over 20 peer-reviewed law review/journal articles during my career which have been cited as authority in over a dozen state and federal court opinions, including federal circuit court opinions. My publications are varied and include class action and

product liability issues. I have been asked to speak on various legal topics at numerous professional conferences, CLE seminars, law schools and colleges. I have also been honored by Super Lawyer's Magazine in the area of products liability. I have an AV® Peer Review Rating from Martindale-Hubbell, serve as an Adjunct Professor at the University of West Florida, and serve as a member of the UWF Legal Studies Advisory Board. From 2012-2018, I was a member of the Florida Bar Journal's Editorial Board, serving as its Chair from 2015-2016.

6. Myself, along with my partners, have significant multidistrict litigation and class action experience. Notable examples of this experience include:

Class Actions

- *Hinote, et al. v. Ford Motor Company, et al.*, Circuit Court, Escambia County, Florida, Case No. 2004- CA-01658;
- *In re: MCI Non-Subscriber Telephone Rates Litigation*, MDL Docket No. 1275 (S.D. Ill);
- *In re: America Online, Inc. Version 5.0 Software Litigation*, MDL Docket No. 1341 (S.D. Fla);
- *Ouellette v. Wal-Mart*, Circuit Court, Washington County, Florida, Case No. 67-01-CA-32;
- *In re: DryClean USA Litigation*, Circuit Court, Dade County, Florida, Case No. 02-27169-CA-27;
- *In re: Shell Defective Gas Litigation*, Circuit Court, Dade County, Florida, Case No. 04-12297-CA-10; and
- *Begley v Ocwen Loan Servicing, LLC*, United States District Court for the Northern District of Florida, Case No. 3:16-cv-00149.

Members of the firm have also litigated other national class action cases, including: *In re: Honey Transshipping Litigation*, 13-cv-02905, (N.D. Ill.); *Cottrell, et al. v. Alcon Laboratories, et al.*, 3:14- cv-05859 (D. N.J.); *In re: Microsoft Antitrust Litigation*, MDL Docket No. 1332

(D. Md.), as well as numerous state court class actions such as *In re: Baker v. Baptist Hospital, Inc.*, Circuit Court, Santa Rosa County, Florida, Case No. 2010-CA-1591; *Patel v. Citizens Property Ins. Corp.*, Circuit Court, Escambia County, Florida, No. 05-284; and *Lowry v. Vanguard Fire & Cas. Co.*, Circuit Court, Santa Rosa County, Florida, Case No. 05-674.

Courts around the country have appointed the firm's attorneys to positions of leadership in a variety of national litigations. Examples include:

Multidistrict Litigations

- *In re: 3M Combat Arms Earplug Prods. Liab. Litig.*, MDL 2885 (Lead Counsel)
- *In re: Abilify Products Liab. Litig.*, MDL 2734 (Liaison Counsel)
- *In re: Ethicon, Inc., Pelvic Repair System Prod. Liab. Litig.*, MDL 2327 (Co-Lead Counsel);
- *In re: Avandia Marketing, Sales Practices and Prod. Liab. Litig.*, MDL 1871 (Co-Lead Counsel);
- *In re: Mentor Corp. Obtape Transobturator Sling Prod. Liab. Litig.*, MDL 2004 (Co-Lead Counsel);
- *In re: Effexor (Venlafaxine Hydrochloride) Prod. Liab. Litig.*, MDL 2458 (Co-Lead Counsel and Multi-District Coordinating Counsel);
- *In re: Mentor Corp. Obtape Transobturator Sling Prod. Liab. Litig.*, MDL 2004 (Co-Lead);
- *In re: Zoloft (Sertraline Hydrochloride) Prod. Liab. Litig.*, MDL 2342 (Coordinating Counsel);
- *In re: Incretin Mimetics Prod. Liab. Litig.*, MDL 2452 (Plaintiffs' Executive Committee);
- *In re: Pradaxa (Dabigatran Etexilate) Prod. Liab. Litig.*, MDL 2385 (PEC);
- *In re: Actos (Pioglitazone) Product Liability Litigation*, MDL 2299 (PSC and Plaintiffs' Settlement Review Committee);
- *In re: Viagra Products Liability*, MDL 1724 (PSC and Co-Lead Settlement Counsel);

- *In re: Biomet M2a Magnum Hip Implant Prod. Liab. Litig.*, MDL 2391 (PSC);
- *In re: Stryker Rejuvenate and ABGII Hip Implant Prod. Liab. Litig.*, MDL 2441 (PSC);
- *In re: Ethicon, Inc. Power Morcellator Prod. Liab. Litig.*, MDL 2652 (PSC);
- *In re: Xarelto (Rivaroxaban) Prod. Liab. Litig.*, MDL 2592 (PSC);
- *In re: Zimmer NexGen Knee Implant Prod. Liab. Litig.*, MDL 2272 (PSC);
- *In re: Biomet M2a Magnum Hip Implant Prod. Liab. Litig.*, MDL 2391 (PSC);
- *In re: Stryker Rejuvenate and ABGII Hip Implant Prod. Liab. Litig.*, MDL 2441 (PSC)
- *In re: Fleet Oral Sodium Phosphate Litigation*, MDL 2066 (PSC); and
- *In re: Trasylol Prod. Liab. Litig.*, MDL 1928 (PSC).

7. Additionally, I have personally served in leadership positions in numerous complex cases, including class actions and multidistrict litigations, where I worked collaboratively and cooperatively with co-counsel to bring about an efficient and beneficial resolution for class members and/or individuals in consolidated proceedings. For example, in *Baker, et al. v. Baptist Hospital, Inc.*, I served as lead counsel in a certified class action in Florida seeking, among other things, injunctive relief as it related to enforcement of allegedly invalid hospital liens. Permanent injunctive relief was ultimately granted on behalf of the class after an appeal. My appointments to positions of leadership in multidistrict litigations include:

- *In re: Fluoroquinolone Prods. Liab. Litig.*, MDL 2642 ((Plaintiffs' Executive Committee);
- *In re: Effexor (Venlafaxine Hydrochloride) Prods. Liab. Litig.*, MDL 2458 (Plaintiffs' Steering Committee);
- *In re: Zoloft (Sertraline Hydrochloride) Prods. Liab. Litig.*, MDL 2342 (Plaintiffs' Discovery, Marketing and Law and Briefing Committees);
- *In re: Avandia Marketing, Sales Pract. and Prods. Liab. Litig.*, MDL 1871 (Plaintiffs' Law and Briefing Committee); and

- *In re: Viagra Prods. Liab. Litig.*, MDL 1724 (Plaintiffs' Discovery/Law and Briefing Committee).

8. Our office has performed substantial work in this litigation to identify, investigate and prosecute the potential class action claims in this case. This has included pre-filing investigation and research into the claims in this case; communications with the named Plaintiffs; testing sunscreen products; legal research concerning the claims that should be brought in the initial and amended complaint; drafting and filing the initial class action complaints in Florida and California as well as the amended complaints; communications with class members; surveying of class members; drafting and service of pre-suit disclosure letters; preparation of document requests; extensive and multiple written and telephonic meet and confers with defendants; consultation with potential experts regarding the issues in this case, including the evaluation of claims asserted by JJCI; conferring with defense counsel and other plaintiffs' attorneys concerning case management and organization; hosting a webinar to educate other counsel on the litigation; engaging in motion practice, including in the JPML in support of consolidation; preparing for and engaging in a mediation; assessing the merits of JJCI's claims and defenses; and engaging in extensive telephonic settlement discussions with defendants culminating in a tentative class-wide settlement. Such work has provided an unsurpassed base of knowledge about this case.

9. Through due diligence and voluntary informal disclosures, our office has confirmed that millions of Sunscreen Products have been affected by the recall, resulting in refund requests from more than 333,028 claimants for refunds totaling \$9,284,264.58, and an average refund check of \$29.53. My office has also received informal disclosures revealing information about JJCI's notice of the benzene contamination, communications between JJCI

and its affiliates concerning the benzene contamination; information regarding studies and analysis performed by JJCI with respect to the benzene contamination; JJCI's communications with FDA regarding the benzene contamination; information about JJCI's sunscreen manufacturers and raw material suppliers; and information on the JJCI's refund program, including procedures and protocols for processing refunds, criteria for payment, number of claims made, refund amounts paid, consumer complaints made, and consumer communications.

10. My office and I are committed to continuing to prosecute the case vigorously on behalf of the named Plaintiffs and putative class. We have a wealth of experience in false advertising and product liability class action litigation, and will commit the resources necessary to achieve the best result we can for the class. As in our other class action cases, we are committed to fairly and adequately representing the interests of the class here.

11. As discussed further in the accompanying motion, in our judgment as experienced class action litigators, Kiley Grombacher and I believe that the appointment of our firms as Interim Co-Lead Counsel is critical to safeguard the important substantive rights of absent class members. The prompt designation of capable counsel, such as our firm now, which is able to proceed forcefully and promptly to help protect the prospective class, will expedite this litigation.

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

Executed this 17th day of December 2021, at Pensacola, Florida.

/s/R. Jason Richards

AYLSTOCK, WITKIN, KREIS & OVERHOLTZ, PLLC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL**

IN RE:

MDL CASE NO.: 3015

**JOHNSON & JOHNSON SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION**

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF BRYAN AYLSTOCK IN SUPPORT OF MOTION
TO APPOINT INTERIM
CLASS COUNSEL UNDER RULE 23(g) AND CLASS COUNSEL AS REQUESTED
IN THE MOTION FOR PRELIMINARY APPROVAL**

I, Bryan Aylstock, hereby declare as follows:

1. I am a founding partner at Aylstock, Witkin, Kreis & Overholtz, PLLC (“AWKO”), counsel of record for Plaintiffs Meredith Serota, Jacob Somers, Lauren Harper, Heather Rudy, Fredric Salter, Judith Barich, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham (the “*Serota* Plaintiffs”), and Katherine Brennan and Michelle Mang (the “*Brennan* Plaintiffs”). Plaintiff Merideth Serota’s case was the first filed of all cases seeking relief arising out of the presence of benzene in defendants’ sunscreen products. The *Brennan* Plaintiffs class action suit was the second filed case. I am submitting this declaration in support of Plaintiffs’ Motion to Appoint Interim Class Co-Lead Counsel and Interim Class Liaison Counsel under Federal Rule of Civil Procedure 23(g). The following statements are based on my

personal knowledge and review of the files and, if called on to do so, I could and would testify competently thereto.

EXPERIENCE OF COUNSEL

2. AWKO is a national law firm with experience in products liability law, mass torts, class actions, insurance law, and personal injury matters. AWKO has extensive experience litigating claims in multidistrict litigations as well as experience in consumer class actions. AWKO also employs on-site IT specialists and a database administrator and software developer. Details on the work, experience and accomplishments of the firm can be found at www.awkolaw.com.

3. I have been a member of the State Bar of Florida since 1996, a member of the State Bar of Alabama since 1999, and a member of the State Bar of Mississippi since 2002. I hold the following degrees: B.A., University of North Florida; J.D., University of Florida College of Law. My involvement in various forms of multidistrict litigation and class action litigation spans more than 25 years during which time I have litigated thousands of cases.

4. During my legal career, I have been directly involved in the negotiation of multiple mass tort settlements and class action settlements. Two recent examples of class action settlements negotiated and approved by the United States District Court include: *Ricky Williams, on Behalf of Himself and Others Similarly Situated v. Gulf Coast Pain Consultants, LLC d/b/a Clearway Pain Solutions Institute*, (N.D. FL), Case No. 3:19-cv-1659-RV-HTC (Vinson, J), and *John Robert Begley and Carrie Bell Begley, on Behalf of Themselves and all Others Similarly Situated v. Ocwen Loan Servicing, LLC*, (N.D. FL), Case No. 3:16-cv-149-MCR-CJK (Rodgers, J). With regard to mass tort settlements I have successfully negotiated dozens of settlements on behalf of tens of thousands of individual plaintiffs. Most recently, through my role as the court appointed

liaison counsel in the *In Re: Abilify Products Liability Litigation*, MDL 2734, before the Honorable M. Casey Rodgers, I led the settlement negotiations that resulted in a global settlement for all claims in that multi-district litigation.

5. I have argued cases before trial courts and courts of appeal, and have served as lead counsel in multiple jury trials. I have authored briefs submitted to the United States Supreme Court on behalf of Plaintiff Steering Committees in multidistrict litigations as well as in individual matters before other federal district courts, federal circuit courts, and state appellate courts. I have been asked to speak on various legal topics at numerous professional conferences, CLE seminars, law schools and colleges.

6. Myself, along with my partners, have significant multidistrict litigation and class action experience. Notable examples of this experience include:

Class Actions

- *Hinote, et al. v. Ford Motor Company, et al.*, Circuit Court, Escambia County, Florida, Case No. 2004- CA-01658;
- *In re: MCI Non-Subscriber Telephone Rates Litigation*, MDL Docket No. 1275 (S.D. Ill);
- *In re: America Online, Inc. Version 5.0 Software Litigation*, MDL Docket No. 1341 (S.D. Fla);
- *Ouellette v. Wal-Mart*, Circuit Court, Washington County, Florida, Case No. 67-01-CA-32;
- *In re: DryClean USA Litigation*, Circuit Court, Dade County, Florida, Case No. 02-27169-CA-27;
- *In re: Shell Defective Gas Litigation*, Circuit Court, Dade County, Florida, Case No. 04-12297-CA-10; and
- *Begley v Ocwen Loan Servicing, LLC*, United States District Court for the Northern District of Florida, Case No. 3:16-cv-00149.

Members of the firm have also litigated other national class action cases, including: *In re: Honey Transshipping Litigation*, 13-cv-02905, (N.D. Ill.); *Cottrell, et al. v. Alcon Laboratories, et al.*, 3:14-cv-05859 (D. N.J.); *In re: Microsoft Antitrust Litigation*, MDL Docket No. 1332 (D. Md.), as well as numerous state court class actions such as *Baker v. Baptist Hospital, Inc.*, Circuit Court, Santa Rosa County, Florida, Case No. 2010-CA-1591; *Patel v. Citizens Property Ins. Corp.*, Circuit Court, Escambia County, Florida, No. 05-284; and *Lowry v. Vanguard Fire & Cas. Co.*, Circuit Court, Santa Rosa County, Florida, Case No. 05-674.

Courts around the country have appointed the firm's attorneys to positions of leadership in a variety of national litigations. Examples include:

Multidistrict Litigations

- *In re: 3M Combat Arms Earplug Prods. Liab. Litig.*, MDL 2885 (Lead Counsel and Plaintiffs' Joint Settlement Committee);
- *In re: Abilify Products Liab. Litig.*, MDL 2734 (Liaison Counsel);
- *In re: Ethicon, Inc., Pelvic Repair System Prod. Liab. Litig.*, MDL 2327 (Co-Lead Counsel);
- *In re: Avandia Marketing, Sales Practices and Prod. Liab. Litig.*, MDL 1871 (Co-Lead Counsel);
- *In re: Mentor Corp. Obtape Transobturator Sling Prod. Liab. Litig.*, MDL 2004 (Co-Lead Counsel);
- *In re: Effexor (Venlafaxine Hydrochloride) Prod. Liab. Litig.*, MDL 2458 (Co-Lead Counsel and Multi-District Coordinating Counsel);
- *In re: Mentor Corp. Obtape Transobturator Sling Prod. Liab. Litig.*, MDL 2004 (Co-Lead);
- *In re: Zoloft (Sertraline Hydrochloride) Prod. Liab. Litig.*, MDL 2342 (Coordinating Counsel);
- *In re: Incretin Mimetics Prod. Liab. Litig.*, MDL 2452 (Plaintiffs' Executive Committee);

- *In re: Pradaxa (Dabigatran Etexilate) Prod. Liab. Litig.*, MDL 2385 (PEC);
- *In re: Actos (Pioglitazone) Product Liability Litigation*, MDL 2299 (PSC and Plaintiffs' Settlement Review Committee);
- *In re: Viagra Products Liability*, MDL 1724 (PSC and Co-Lead Settlement Counsel);
- *In re: Biomet M2a Magnum Hip Implant Prod. Liab. Litig.*, MDL 2391 (PSC);
- *In re: Stryker Rejuvenate and ABGII Hip Implant Prod. Liab. Litig.*, MDL 2441 (PSC);
- *In re: Ethicon, Inc. Power Morcellator Prod. Liab. Litig.*, MDL 2652 (PSC);
- *In re: Xarelto (Rivaroxaban) Prod. Liab. Litig.*, MDL 2592 (PSC);
- *In re: Zimmer NexGen Knee Implant Prod. Liab. Litig.*, MDL 2272 (PSC);
- *In re: Biomet M2a Magnum Hip Implant Prod. Liab. Litig.*, MDL 2391 (PSC);
- *In re: Stryker Rejuvenate and ABGII Hip Implant Prod. Liab. Litig.*, MDL 2441 (PSC);
- *In re: Fleet Oral Sodium Phosphate Litigation*, MDL 2066 (PSC); and
- *In re: Trasylol Prod. Liab. Litig.*, MDL 1928 (PSC).

7. Additionally, I have personally served in leadership positions in numerous complex cases, including class actions and multidistrict litigations, where I worked collaboratively and cooperatively with co-counsel to bring about an efficient and beneficial resolution for class members and/or individuals in consolidated proceedings. My appointments to positions of leadership in multidistrict litigations include:

- Plaintiffs' Lead Counsel and as a member of the Court-appointed Settlement Committee in *In re: 3M Combat Arms Earplug Prods. Liab. Litig.*, MDL 2885, pending before the Honorable M. Casey Rodgers in the Northern District of Florida
- Plaintiffs' Liaison Counsel and as a member of the Fee & Common Benefit Fund Committee in the *In Re: Abilify (Aripiprazole) Products Liability Litigation*, MDL 2784, resolved before the Honorable M. Casey Rodgers in the Northern District of Florida; Status: global settlement reached (unofficially a member of the settlement committee)

- Coordinating Co-Lead Counsel – Transvaginal Mesh; MDLs 2187 (Bard); 2327 (Ethicon); 2326 (Boston Scientific); 2387 (Coloplast); 2325 (re AMS); Status: reached settlements with all defendants and settlements are in the final phases processing
- Co-Lead Counsel and Co-Chair of Discovery Committee – *In re: Avandia Marketing Sales Practices and Products Litigation*; MDL 1871; Status: settled; Subject Matter: Diabetes/Heart Attacks
- Multi-district coordinator – *In re: Zoloft (Sertraline Hydrochloride) Products Liability Litigation*; MDL 2342; Status: closed – cases dismissed following appeal; Subject Matter: Anti-Depressant/Birth Defects
- Co-Lead counsel and Executive Committee Member – *In re: Effexor (Venlafaxine Hydrochloride) Products Liability Litigation*; MDL 2458; Status: Completed; Subject Matter: Anti-Depressant/Birth Defects

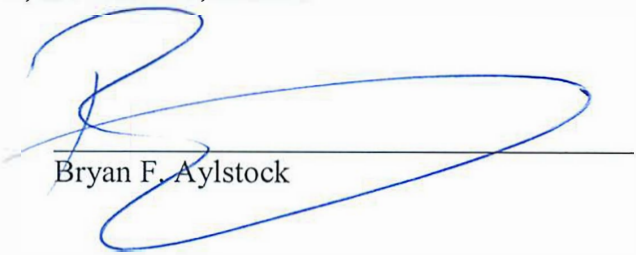
8. Our office has performed substantial work in this litigation to identify, investigate and prosecute the potential class action claims in this case. This has included pre-filing investigation and research into the claims in this case; communications with the named Plaintiffs; testing sunscreen products; legal research concerning the claims that should be brought in the initial and amended complaint; drafting and filing the initial class action complaints in Florida and California as well as the amended complaints; communications with class members; surveying of class members; drafting and service of pre-suit disclosure letters; preparation of document requests; extensive and multiple written and telephonic meet and confers with defendants; consultation with potential experts regarding this case; conferring with defense counsel and other plaintiffs' attorneys concerning case management and organization; hosting a webinar to educate other counsel on the litigation; engaging in motion practice, including in the JPML in support of consolidation; preparing for and engaging in a mediation; and engaging in extensive telephonic settlement discussions with defendants culminating in a tentative class-wide settlement. Such work has provided an unsurpassed base of knowledge about this case.

9. My office and I are committed to continuing to prosecute the case vigorously on behalf of the named Plaintiffs and putative class. We have a wealth of experience in false advertising and product liability class action litigation, and we have and will continue to commit the resources necessary to achieve the best result we can for the class. As in our other class action cases, we are committed to fairly and adequately representing the interests of the class here.

10. As discussed further in the accompanying motion, in our judgment as experienced class action litigators, Jason Richards, Kiley Grombacher, and I believe that the appointment of our firms as Class Counsel is critical to safeguard the important substantive rights of absent class members. The prompt designation of capable counsel, such as our firm now, which is able to proceed forcefully and promptly to help protect the prospective class, will expedite this litigation.

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

Executed this 17th day of December 2021, at Pensacola, Florida.



Bryan F. Aylstock

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF DAVID B. BYRNE, III IN SUPPORT OF MOTION TO APPOINT
INTERIM CLASS COUNSEL UNDER RULE 23(g) AND CLASS COUNSEL AS
REQUESTED IN THE MOTION FOR PRELIMINARY APPROVAL**

I, David B. Byrne, III, declare as follows:

1. I am an attorney and partner with the law firm of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. I am admitted *pro hac vice* to appear and practice before this Court as Counsel for Plaintiffs in the matter of *Goodwin, et al. v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61890-AHS (S.D. Fla.) (the “*Goodwin* Plaintiffs”). By order of this Court, the *Goodwin* Plaintiffs’ action was consolidated with *Serota v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61103-AHS (S.D. Fla.). The *Serota* action was the first filed case seeking class relief arising out of the presence of benzene in Defendants’ sunscreen products. I am also Counsel for Plaintiffs in the matter of *Dominguez, et al. v. Johnson & Johnson Consumer Inc.*, 4:21-cv-05419-JD (N.D. Cal.) (the “*Dominguez* Plaintiffs”). The *Dominguez* Plaintiffs’ action was consolidated with *Brennan, et al. v. Johnson & Johnson Consumer, Inc.*, 4:21-cv-04869-KAW (N.D. Cal.). The *Brennan* action was the second filed case seeking class relief arising out of the presence of benzene in Defendants’ sunscreen products. The *Brennan* and *Dominguez* cases were transferred to this Court for consolidated pre-trial proceedings pursuant to the JPML’s October 8, 2021, Transfer Order.

2. I have prepared this Declaration in Support of Plaintiffs' Unopposed Motion for Appointment as Interim Class Counsel, Pursuant to Federal Rule of Civil Procedure 23(g), which is filed contemporaneously herewith. Plaintiffs' Motion respectfully seeks the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and, Kiley Grombacher of Bradley/Grombacher LLP as interim co-lead class counsel; and, David B. Byrne, III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as interim class liaison counsel. I have personal knowledge of the facts stated herein. If called upon, I would competently testify that the facts set forth herein are true and correct.

EXPERIENCE OF COUNSEL

3. Beasley, Allen, Crow, Methvin, Portis, & Miles, P.C. ("Beasley Allen") is a national law firm with extensive experience handling complex litigation, attorney general litigation, multi-district litigation throughout the U.S., including district and federal courts, *qui tam* litigation, and class-action lawsuits. Beasley Allen has successfully represented the states of Alabama, Louisiana, Mississippi, Alaska, Hawaii, South Carolina, Kansas, Utah, and Kentucky involving various issues within the healthcare, environmental, and consumer-product arenas, and has confidentially investigated matters for several other Attorneys General.

4. **Class Action Litigation** - Beasley Allen has successfully brought a number of class actions, some of which were subsequently transferred to multidistrict litigation, which we originally filed in federal and state courts, including: *Ace Tree Surgery, Inc. v. Terex Corporation, et al.*, Case No. 1:16-cv-00775-SCJ D (N.D. Ga., filed July 22, 2015); *In re: Polaris Marketing, Sales Practices, and Products Liability Litigation*, Case No. 0:18-cv-00939-WMW-DTS (D. Minn., filed April 5, 2018); *Scott Peckerar et al. v. General Motors, LLC*, Case No. 5:18-cv-02153-DMG-SP (C.D. Cal., filed December 9, 2018); *Jason Compton et al v. General Motors, LLC*, Case No. 1:19-

cv-00033-MW-GRJ (N.D. Fla., filed February 21, 2019); *Simerlein v. Toyota Motor Corporation et al.*, Case No. 3:17-cv-01091-VAB (D. Conn., filed June 30, 2017); *Kerkorian et al v. Nissan North America, Inc.*, Case No. 18-cv-07815-DMR (N.D. Cal., filed December 31, 2018); *Monteville Sloan, Jr. v. General Motors LLC*, Case No. 3:16-cv-07244-EMC (C.D. Cal., filed December 19, 2016); *William Don Cook v. Ford Motor Company*, Case No. 2:19-cv-00335-ECM-GMB (M.D. Ala., filed May 8, 2019); *Sigfredo Rubio et al., vs. ZF-TRW Automotive Holdings Corp., et al.*, Case No. 2:19-cv-11295-LVP-RSW (E.D. Mich., filed May 3, 2019); *Weidman, et al. v. Ford Motor Co.*, Case No. 2:18-cv-12719 (E.D. Mich., filed August 30, 2018); *Gerrell Johnson v. Subaru of America, Inc. et al.*, Case No. 2:19-cv-05681-JAK-MAA (C.D. Cal., filed June 28, 2019); *Thondukolam et al., vs. Corteva, Inc., et al.*, Case No. 4:19-cv-03857 (N.D. Cal., filed July 3, 2019); *Dickman, et al. v. Banner Life Insurance Company, et al.*, Case No. 1:16-cv-00192-WMN (D. Md., filed January 19, 2016); *Lesley S. Rich, et al. v. William Penn Life Insurance Company of New York*, Case No. 1:17-cv-02026-GLR (D. Md., filed July 20, 2017); *Vivian Farris, et al. v. U.S. Financial Life Insurance Company*, Case No. 1:17-cv-417 (S.D. Ohio, filed June 19, 2017); *In Re: Apple Inc. Device Performance Litigation*, Case No. 5:18-md-02827-EJD (N.D. Cal., filed April 5, 2018); *Intel Corp. CPU Marketing, Sales Practices and Products Liability Litigation*, Case No. 3:18-md-02828 (D.Or., filed April 5, 2018); *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation*, Case No. Case 1:14-md-02583-TWT (N.D. Ga., filed November 13, 2014); *In Re: German Automotive Manufacturers Antitrust Litigation*, Case No. 3:17-md-02796-CRB (N.D. Cal., filed October 5, 2017); *In re: Domestic Airline Travel Antitrust Litigation*, Case No. 1:15-mc-01404-CKK (D.D.C., filed October 13, 2015); *In Re: Facebook, Inc., Consumer Privacy User Profile Litigation*; Case No. 5:18-md-02827-EJD (N.D. Cal., filed June 6, 2018); *Estrada v. Johnson & Johnson, et al.*, Case No. 2:14-cv-01051-TLN-KJN (E.D. Cal., filed April 28, 2014); *Larry Clairday, et al. v. Tire Kingdom, Inc., et al.*, No. 2007-CV-020 (S.D. Ga.); *Wimbreth Chism, et al. v. The Pantry, Inc. d/b/a Kangaroo Express*, No. 7:09-CV-02194-LSC (N.D. Ala.); *Danny*

Thomas, et al. v. Southern Pioneer Life Insurance Company, No. CIV-2009-257JF, in the Circuit Court of Greene County, State of Arkansas; *Dolores Dillon v. MS Life Insurance Company n/k/a American Bankers Life Assurance Company of Florida*, No. 03-CV-2008-900291, in the Circuit Court of Montgomery County, Alabama; *Coates v. MidFirst Bank*, 2:14-cv-01079 (N.D. Ala., certified July 29, 2015); *Walls v. JP Morgan Chase Bank, N.A.*, 3:11-cv-00673 (W.D. Ky., certified October 13, 2016); *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litig.*, 3:15-md-02672 (N.D. Cal., settlements approved October 25, 2016 and May 17, 2017); *Rowe, et al. v. E.I. DuPont De Nemours & Co.*; 1:06-cv-01810 (D. NJ, certified March 22, 2011); *Krueger v. Wyeth*; 03-cv-2496 (S.D. Cal., class certified and settlement approved September 1, 2020); and, *In re Takata Airbag Products Liability Litig.*, 1:15-md-02599 (S.D. Fla.). Beasley Allen's class action cases involve a variety of complex legal issues.

5. **Multi-District Litigation (Lead or Co-Lead Counsel)** - Beasley Allen is one of the country's leading firms involved in complex civil litigation on behalf of claimants, having represented hundreds of thousands of people. Attorneys from Beasley Allen have been selected by Federal Courts as lead counsel or co-lead counsel in the following complex multidistrict litigations:

- a. *In Re Vioxx Products Liability Litigation*, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657; (Andy Birchfield, Shareholder of Beasley Allen);
- b. *In Re Reciprocal of America (ROA) Sales Practices Litigation*, United States District Court for the Western District of Tennessee, Judge J. Daniel Breen, MDL No. 1551; (Dee Miles and Jere Beasley, both Shareholders in Beasley Allen);
- c. *In Re American General Life and Accident Insurance Company Industrial Life Insurance Litigation*, United States District Court for the District of South Carolina, Judge Cameron McGowan Currie, MDL No. 11429; (Dee Miles,

Shareholder of Beasley Allen);

- d. *In Re Dollar General Corp. Fair Labor Standards Acts Litigation*, United States District Court for the Northern District of Alabama, Western Division, Judge U.W. Clemon, MDL No. 1635; (Dee Miles, Shareholder of Beasley Allen);
- e. *In re: Xarelto (Rivaroxaban) Products Liability Litigation*, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592;
- f. *Johnson & Johnson Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the District of New Jersey, Judge Freda L. Wolfson, MDL No. 2738 (Leigh O'Dell, Shareholder of Beasley Allen);
- g. *Bruner et al v. Polaris Industries, Inc. et al*, United States District Court for the District of Minnesota, Judge David T. Schultz Case 0:18-cv-00939-WMW-DTS, 0:18-cv-00975-WMW-DTS (Dee Miles, Shareholder of Beasley Allen)¹;
- h. *Weidman et al v. Ford Motor Company*, United States District Court of the Eastern District of Michigan, Judge Gershwin A. Drain, 2:18-cv-12719 (Dee Miles, Shareholder of Beasley Allen)².
- i. *Sharon Cheng, et al. v. Toyota Motor Corporation, et al.*, United States District Court, Eastern District of New York, Judge William F. Kuntz, II, 1:20-cv-00629-WFK-CLP (Dee Miles, Shareholder of Beasley Allen)³;
- j. *Tucker Oliver, et al. v. Honda Motor Company Limited, et al.*, United States District Court, Eastern District of Alabama, Judge Madeline Hughes Haikala,

¹ Beasley Allen was appointed as interim co-lead counsel.

² Beasley Allen was appointed as interim co-lead counsel.

³ Beasley Allen was appointed as interim co-lead counsel.

5:20-cv-006666-MHH (Dee Miles, Shareholder of Beasley Allen)⁴; and,

- k. *The K's Inc. v. Westchester Surplus Lines Insurance Company*, United States District Court, Northern District of Georgia, Judge William M. Ray, II, 1:20-cv-1724-WMR (Dee Miles, Shareholder of Beasley Allen).

6. **Multi-District Litigation (Lead or Co-Lead Counsel)** - Beasley Allen has been appointed to the Plaintiff's Executive Committee and/or Steering Committee in many complex litigations. All of these multidistrict litigations involved multiple claims against multiple defendants, which required excellent organization and leadership from our attorneys. Beasley Allen has been appointed to the following MDL complex litigation cases:

- a. *In Re: Motor Fuel Temperature Sales Practices Litigation*, United States District Court for the Middle District of Kansas, Judge Kathryn Vratil, MDL No. 1840;
- b. *Bextra/Celebrex, Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation*, United States District Court for the Northern District of California, Judge Charles R. Breyer, MDL No. 1699;
- c. *In Re: Vioxx Products Liability Litigation*, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657;
- d. *In Re: Actos (Pioglitazone) Products Liability Litigation*, United States District Court for the Western District of Louisiana, Judge Rebecca F. Doherty, MDL No. 2299;
- e. *In Re: Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, United States District Court for the Eastern District of Pennsylvania, Judge Cynthia M. Rufe, MDL No. 2342;
- f. *In Re: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II)*, United States District Court District of New Jersey, Judge Garrett E. Brown, Jr., MDL No. 2243;
- g. *In Re: Fosamax Products Liability Litigation*, United States District Court, Southern District of New York, Judge John F. Keenan, MDL No. 1789;

⁴ Beasley Allen was appointed as interim co-lead counsel.

- h. *In Re: Depuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation*, United States District Court for the Northern District of Ohio, Judge David A. Katz, MDL No. 2197;
- i. *In Re: DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation*, US District Court for the Northern District of Texas, Judge Ed Kinkeade, MDL No. 2244;
- j. *In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation*, US District Court for the Northern District of Indiana, Judge Robert L. Miller, Jr., MDL No. 2391;
- k. *In Re: Prempro Products Liability Litigation*, United States District Court, Eastern District of Arkansas, Western Division, Judge Billy Roy Wilson, MDL No. 1507;
- l. *In Re: Mirena IUD Products Liability Litigation*, United States District Court, Southern District of New York, Judge Cathy Seibel, MDL No. 2434;
- m. *In Re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*, United States District Court, District of Massachusetts, Judge Douglas P. Woodlock, MDL No. 2428;
- n. *In Re: American Medical Systems, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Southern District of Ohio, Judge Joseph R. Goodwin, MDL No. 2325;
- o. *In Re: C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2187;
- p. *In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Southern District of West Virginia, Judge Joseph R. Goodwin, MDL No. 2326;
- q. *In Re: Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2327;

- r. *In Re: Coloplast Corp. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2387;
- s. *In Re: Google Inc. Gmail Litigation*; United States District Court for the Northern District of California, San Jose Division, Judge Lucy H. Koh, MDL No. 2430;
- t. *In Re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the Central District of California, Judge James V. Selna, MDL No. 2151;
- u. *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*; California Northern District (San Francisco), Hon. Charles R. Breyer, Case No. 3:15-md-02672-CRB;
- v. *In Re: Xarelto (Rivaroxaban) Products Liability Litigation*, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592;
- w. *In Re: Target Corporation Customer Data Security Breach Litigation*, United States District Court for the District of Minnesota, Judge Paul A. Magnuson, MDL No. 2522;
- x. *In Re: Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation*, United States District Court for the District of South Carolina, Judge Richard M. Gergel, MDL No. 2502;
- y. *In Re: Blue Cross Blue Shield Antitrust Litigation*, United States District Court for the Northern District of Alabama, Judge R. David Proctor, MDL No. 2406;
- z. *In Re: Androgel Products Liability Litigation*, United States District Court for the Northern District of Illinois, Judge Matthew F. Kennelly, MDL No. 2545;
- aa. *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation*, United States District Court for the Northern District of Georgia, Judge, Thomas W. Thrash, Jr., MDL No. 2583;
- bb. *In Re: Takata Airbag Products Liability Litigation*, United States District Court for the Southern District of Florida, Judge Federico A. Moreno, MDL

- No. 2599, serving on a discovery committee responsible for two Auto Manufacturer's discovery⁵;
- cc. *In Re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation*, United States District Court for the Northern District of California, Judge Edward Chin, MDL No. 2777;
 - dd. *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, United States District Court of the Eastern District of Louisiana, Judge Carl J. Barbier, MDL No. 2179;
 - ee. *In re: Invokana (Canagliflozin) Products Liability Litigation*, United States District Court District of New Jersey, Judge Lois H. Goodman, MDL No. 2750;
 - ff. *In re: Proton-Pump Inhibitor Products Liability Litigation*, United States District Court District of New Jersey, Judge Claire C. Cecchi, MDL No. 2789;
 - gg. *In Re: Apple Inc. Device Performance Litigation*, United States District Court for the Northern District of California, Judge Edward J. Davila, MDL 2827;
 - hh. *In Re: JUUL Labs, Inc. Marketing, Sales Practices & Products Liability Litigation*, United States District Court for the Northern District of California, Judge William H. Orrick, MDL 2913;
 - ii. *In re ZF-TRW Airbag Control Units Products Liability Litigation*, United States District Court Central District of California, Judge John A. Kronstadt, MDL No. 2905;
 - jj. *In Re: Zantac (Ranitidine) Products Liability Litigation*, United States District Court for the Southern District of Florida, Judge Robin L. Rosenberg, MDL No. 2924;
 - kk. *In Re: Rock 'N Play Sleeper Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the Western District of New York, Judge Geoffrey Crawford, MDL No. 1:19-mc-2903;
 - ll. *In Re: Robinhood Outage Litigation*, United States District Court for the Northern District of California, Judge James Donato, Case No. 20-cv-01626-JD; and

⁵ Discovery Committee appointment only.

mm. *In Re: Paraquat Products Liability Litigation*, United States District Court for the Southern District of Illinois, Judge Nancy J. Rosenstengel, Case No. 3:21-md-03004-NJR.

7. Additionally, Beasley Allen attorneys have some of this country's largest verdicts and settlements in the following categories:

- a. Largest verdict against an oil company in American history, \$11,903,000,000, in *State of Alabama v. Exxon*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-99-2368, Judge Tracy S. McCooey;
- b. Largest environmental settlement in American history, \$750,000,000, in *Tolbert v. Monsanto*, filed in the United States District Court for the Northern District of Alabama, Civil Action No. CV-01-1407PWG-S, Judge Paul W. Greene;
- c. Largest predatory lending verdict in American history \$581,000,000, in *Barbara Carlisle v. Whirlpool*, filed in the Circuit Court of Hale County, Alabama, Case No. CV-97-068, Judge Marvin Wiggins;
- d. Largest average wholesale price litigation verdict, \$215,000,000, in *State of Alabama v. AstraZeneca*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.10, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- e. Second largest average wholesale price litigation verdict, \$114,000,000, in *State of Alabama v. GlaxoSmithKline - Novartis*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.52, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- f. Third largest average wholesale price litigation verdict, \$78,000,000, in *State of Alabama v. Sandoz, Inc.*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.65, Judge Charles Price (Dee Miles as Co-Lead Counsel);

- g. Average wholesale price litigation verdict, \$30,200,000, in *State of Mississippi v. Sandoz, Inc.*, filed in the Chancery Court of Rankin County, Mississippi, Case No. 09-00480, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);
 - h. Average wholesale price litigation verdict, \$30,262.052, in *State of Mississippi v. Watson Laboratories, Inc., et al.*, filed in the Chancery Court of Rankin County, Mississippi, Case Nos. 09-488, 09-487, and 09-455, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);
 - i. Air Pollution Verdict, \$20,709,000, in *Action Marine, et al. v. Continental Carbon Co.*, filed in the United States District Court for the Middle District of Alabama, Case No. 3:01-cv-994, Judge Mark E. Fuller;
 - j. Hormone Therapy Litigation Verdict, \$72,600,000, in *Elfont v. Wyeth Pharmaceuticals, Inc., et al.*, *Mulderig v. Wyeth Pharmaceuticals, Inc., et al.*, *Kalenkoski v. Wyeth Pharmaceuticals, Inc., et al.*, filed in the County of Philadelphia, Court of Common Pleas, Case Nos. July Term 2004, 00924, 00556, 00933, Judge Gary S. Glazer;
 - k. Hormone Therapy Litigation Verdict, \$5,100,100, in *Okuda v. Wyeth Pharmaceuticals, Inc.*, filed in the United States District Court of Utah, Northern Division, Case No. 1:04-cv-00080-DN, Judge David Nuffer;
 - l. Talcum Powder Litigation Verdict, \$72,000,000, in *Fox v. Johnson & Johnson, et al.*, filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison; and,
 - m. Talcum Powder Litigation Verdict, \$55,000,000, in *Ristesund v. Johnson & Johnson, et al.*, filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison.
8. Attached hereto as Exhibit 1 is a true and correct copy of my law firm's CV, which

further outlines my firm's experience in complex civil litigation and related matters.

9. **Personal Qualifications & Experience** – I received my undergraduate degree from The Citadel in 1989 and my law degree from the Cumberland School of Law in 1992. I am a member of the Alabama State Bar and I have been admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Eleventh Circuit, the United States Court of Appeals for the Sixth Circuit, the United States District Court for the Middle District of Alabama, the United States District Court for the Southern District of Alabama, and the United States District Court for the Northern District of Alabama. Further, I have been admitted to practice *pro hac vice* by more than 30 U.S. District Courts and state trial courts.

10. Following my graduation from law school, I served as a Deputy Alabama Attorney General (Criminal Trials Division) and as a law clerk to U.S. District Judge Robert Varner and Alabama Court of Criminal Appeals Judge John M. Patterson. I then entered private practice with another Montgomery, Alabama law firm before joining Beasley Allen in February 2001.

11. I currently serve as the Chair of the Alabama State Bar's Federal Court Practice Section. I am also the President of the Middle District of Alabama Chapter of the Federal Bar Association. In 2021, I was appointed to serve on the Middle District of Alabama's Bar Advisory Committee and I am currently the Co-Chair of the Middle District's Pro Se Assistance Program. In 2009, I was appointed to serve as the Chair of the Alabama State Bar's Federal Practice Task Force. I am a Past-President of the Montgomery County Trial Lawyers Association and I have served on the Board of Governors for the Alabama Association for Justice.

12. I have an AV Rating from Martindale-Hubbell. I have also been named to the Best Lawyers in America list since 2012 and the Best Lawyers Consumer Guide beginning in 2001. In 2020, I was named the Best Lawyers in America 2020 Corporate "Lawyer of the Year" for Montgomery, Alabama. Since 2017, I have been included in the Midsouth Super Lawyers list.

13. I am a trial attorney in Beasley Allen's Mass Torts Section, handling claims against

pharmaceutical, medical device, and consumer product manufacturers. Before joining that section, I served as a trial attorney in the firm's Toxic Torts Section where I handled numerous complex environmental cases in state and federal courts throughout the United States. During that time, I handled cases involving wide-ranging topics such as drinking water contamination, toxic air emissions, contaminated waste-water discharges, toxic exposure, improper landfill activities, petroleum spills, medical monitoring claims, and soil and groundwater contamination.

14. I have participated in numerous class action and/or mass-action cases including the following: *Richard A. Rowe, et al. v. E. I. du Pont de Nemours & Company*, U. S. District Court (NJ); *April Krueger, et al. v. Wyeth, Inc.*, U.S. District Court (N.D. Cal.); *Antonia Tolbert, et al. v. Monsanto Company, et al.*, U.S. District Court (N.D. AL); *In Re: Xarelto (Rivaroxaban) Products Liability Litigation*, MDL No. 2592, District Court (E.D. La.); *In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation*, MDL No. 2391, U.S. District Court (N.D. Ind.); *Charles Riley, et al. v. Continental Carbon Company, et al.*, Circuit Court (Russell County, AL); *City of Ponca City, et al. v. Continental Carbon Company, et al.*, District Court (Kay County, OK); *Felicia Palmer, et al. v. 3M Company, et al.*, District Court (Washington County, MN); *McCracken, et al. v. Appleton Papers, Inc.*; U.S. District Court (S.D. OH); and, *Riverside Texaco, et al. v. Occidental Chemical Corp, et al.*, U.S. District Court (N.D. AL); *June, et al. v. Union Carbide, et al.*, U.S. District Court (M.D. CO); *In re: Motor Fuel Temperature Sales Practices Litigation*, U. S. District Court (KS); *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, MDL 2179, U.S. District Court (E.D. La.); *In Re: American Medical Systems, Inc. Pelvic Repair Systems Products Liability Litigation*, MDL No. 2428, U.S. District Court (S.D. OH); *In Re: C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation*, MDL No. 2187, U.S. District Court (S.D. WV); *In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation*, MDL No. 2326, U.S. District Court (S.D. WV); *In Re: Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation*, MDL No. 2327, U.S. District Court (S.D. WV); *Chesney, et al. v. Tennessee Valley*

Authority, U.S. District Court (E.D. TN).

15. In connection with the BP Oil Spill disaster, I represented the State of Alabama, Gulf County, Florida, Santa Rosa County, Florida, Walton County, Florida, and numerous municipalities and businesses throughout Alabama and Northwest Florida.

16. I have also served as counsel in numerous ground-breaking cases including the landmark \$700-million toxic tort settlement with Solutia, Monsanto and Pharmacia over PCB contamination in Anniston, Alabama; the federal trial against the Tennessee Valley Authority over the company's catastrophic release of more than 1 billion gallons of coal ash sludge from an impoundment at its Kingston Fossil Plant, which resulted in an assessment of more than \$1 billion in cleanup costs; and, as co-lead trial counsel for various municipalities affected by carbon black air pollution that resulted in ten-of-millions of dollars in jury verdicts and settlements.

17. My office has performed substantial work in this litigation to identify, investigate and prosecute the potential class action claims in this case. This has included pre-filing investigation and research into the claims in this case; communications with the named Plaintiffs; legal research concerning the claims that should be brought in the initial and amended complaint; drafting and filing class action complaints in Florida and California; communications with class members; surveying of class members; drafting and service of pre-suit disclosure letters; preparation and service of FOIA document requests; consultation with potential experts regarding this case; conferring with other plaintiffs' attorneys concerning case management and organization; and, assisting with motion practice, including in the JPML in support of consolidation.

18. My office and I are committed to continuing to prosecute the case vigorously on behalf of the named Plaintiffs and the putative class. We have enormous experience in false advertising and product liability class action litigation, and will commit the resources necessary to achieve the best result we can for the class. As in our other class action cases, we are committed to fairly and adequately representing the interests of the class here.

19. As discussed further in the accompanying motion, the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and, Kiley Grombacher of Bradley/Grombacher LLP as interim co-lead class counsel; and, David B. Byrne, III and Andy Birchfield of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as interim class liaison counsel is critical to safeguard the important substantive rights of absent class members. The prompt designation of capable counsel, such as the aforementioned attorneys and firms would help protect the prospective class, and expedite this litigation.

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

Executed this 17th day of December 2021, in Montgomery, Alabama.

/s/ David B. Byrne, III
DAVID B. BYRNE, III

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF ANDY D. BIRCHFIELD, JR. IN SUPPORT OF MOTION TO APPOINT
INTERIM CLASS COUNSEL UNDER RULE 23(g) AND CLASS COUNSEL
AS REQUESTED IN THE MOTION FOR PRELIMINARY APPROVAL**

I, Andy D. Birchfield, Jr., declare as follows:

1. I am an attorney and partner with the law firm of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. My firm is admitted *pro hac vice* to appear and practice before this Court as Counsel for Plaintiffs in the matter of *Goodwin, et al. v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61890-AHS (S.D. Fla.) (the “*Goodwin* Plaintiffs”). By order of this Court, the *Goodwin* Plaintiffs’ action was consolidated with *Serota v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61103-AHS (S.D. Fla.). The *Serota* action was the first filed case seeking class relief arising out of the presence of benzene in Defendants’ sunscreen products. I am also Counsel for Plaintiffs in the matter of *Dominguez, et al. v. Johnson & Johnson Consumer Inc.*, 4:21-cv-05419-JD (N.D. Cal.) (the “*Dominguez* Plaintiffs”). The *Dominguez* Plaintiffs’ action was consolidated with *Brennan, et al. v. Johnson & Johnson Consumer, Inc.*, 4:21-cv-04869-KAW (N.D. Cal.). The *Brennan* action was the second filed case seeking class relief arising out of the presence of benzene in Defendants’ sunscreen products. The *Brennan* and *Dominguez* cases were transferred to this Court for consolidated pre-trial proceedings pursuant to the JPML’s October 8, 2021, Transfer Order.

2. I have prepared this Declaration in Support of Plaintiffs’ Unopposed Motion for Appointment as Interim Class Counsel, Pursuant to Federal Rule of Civil Procedure 23(g), which is filed contemporaneously herewith. Plaintiffs’ Motion respectfully seeks the appointment of Bryan Aylstock and

Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; Kiley Grombacher of Bradley/Grombacher LLP; Andy D. Birchfield, Jr., and David B. Byrne, III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as interim class counsel. I have personal knowledge of the facts stated herein. If called upon, I would competently testify that the facts set forth herein are true and correct.

EXPERIENCE OF COUNSEL

3. Beasley, Allen, Crow, Methvin, Portis, & Miles, P.C. (“Beasley Allen”) is a national law firm with extensive experience handling complex litigation, attorney general litigation, multi-district litigation throughout the U.S., including district and federal courts, *qui tam* litigation, and class-action lawsuits. Beasley Allen has successfully represented the states of Alabama, Louisiana, Mississippi, Alaska, Hawaii, South Carolina, Kansas, Utah, and Kentucky involving various issues within the healthcare, environmental, and consumer-product arenas, and has confidentially investigated matters for several other Attorneys General.

4. **Class Action Litigation** - Beasley Allen has successfully brought a number of class actions, some of which were subsequently transferred to multidistrict litigation, which we originally filed in federal and state courts, including: *Ace Tree Surgery, Inc. v. Terex Corporation, et al.*, Case No. 1:16-cv-00775-SCJ D (N.D. Ga., filed July 22, 2015); *In re: Polaris Marketing, Sales Practices, and Products Liability Litigation*, Case No. 0:18-cv-00939-WMW-DTS (D. Minn., filed April 5, 2018); *Scott Peckerar et al. v. General Motors, LLC*, Case No. 5:18-cv-02153-DMG-SP (C.D. Cal., filed December 9, 2018); *Jason Compton et al v. General Motors, LLC*, Case No. 1:19-cv-00033-MW-GRJ (N.D. Fla., filed February 21, 2019); *Simerlein v. Toyota Motor Corporation et al.*, Case No. 3:17-cv-01091-VAB (D. Conn., filed June 30, 2017); *Kerkorian et al v. Nissan North America, Inc.*, Case No. 18-cv-07815-DMR (N.D. Cal., filed December 31, 2018); *Monteville Sloan, Jr. v. General Motors LLC*, Case No. 3:16-cv-07244-EMC (C.D. Cal., filed December 19, 2016); *William Don Cook v. Ford Motor Company*, Case No. 2:19-cv-00335-ECM-GMB (M.D. Ala., filed May 8, 2019); *Sigfredo Rubio et al., vs. ZF-TRW Automotive Holdings Corp., et al.*, Case No. 2:19-cv-11295-LVP-RSW (E.D. Mich., filed May 3, 2019); *Weidman, et al. v. Ford Motor Co.*, Case No. 2:18-cv-12719 (E.D. Mich., filed August 30, 2018); *Gerrell Johnson v. Subaru of America, Inc. et*

al., Case No. 2:19-cv-05681-JAK-MAA (C.D. Cal., filed June 28, 2019); *Thondukolam et al., vs. Corteva, Inc., et al.*, Case No. 4:19-cv-03857 (N.D. Cal., filed July 3, 2019); *Dickman, et al. v. Banner Life Insurance Company, et al.*, Case No. 1:16-cv-00192-WMN (D. Md., filed January 19, 2016); *Lesley S. Rich, et al. v. William Penn Life Insurance Company of New York*, Case No. 1:17-cv-02026-GLR (D. Md., filed July 20, 2017); *Vivian Farris, et al. v. U.S. Financial Life Insurance Company*, Case No. 1:17-cv-417 (S.D. Ohio, filed June 19, 2017); *In Re: Apple Inc. Device Performance Litigation*, Case No. 5:18-md-02827-EJD (N.D. Cal., filed April 5, 2018); *Intel Corp. CPU Marketing, Sales Practices and Products Liability Litigation*, Case No. 3:18-md-02828 (D.Or., filed April 5, 2018); *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation*, Case No. Case 1:14-md-02583-TWT (N.D. Ga., filed November 13, 2014); *In Re: German Automotive Manufacturers Antitrust Litigation*, Case No. 3:17-md-02796-CRB (N.D. Cal., filed October 5, 2017); *In re: Domestic Airline Travel Antitrust Litigation*, Case No. 1:15-mc-01404-CKK (D.D.C., filed October 13, 2015); *In Re: Facebook, Inc., Consumer Privacy User Profile Litigation*; Case No. 5:18-md-02827-EJD (N.D. Cal., filed June 6, 2018); *Estrada v. Johnson & Johnson, et al.*, Case No. 2:14-cv-01051-TLN-KJN (E.D. Cal., filed April 28, 2014); *Larry Clairday, et al. v. Tire Kingdom, Inc., et al.*, No. 2007-CV-020 (S.D. Ga.); *Wimbreth Chism, et al. v. The Pantry, Inc. d/b/a Kangaroo Express*, No. 7:09-CV-02194-LSC (N.D. Ala.); *Danny Thomas, et al. v. Southern Pioneer Life Insurance Company*, No. CIV-2009-257JF, in the Circuit Court of Greene County, State of Arkansas; *Dolores Dillon v. MS Life Insurance Company n/k/a American Bankers Life Assurance Company of Florida*, No. 03-CV-2008-900291, in the Circuit Court of Montgomery County, Alabama; *Coates v. MidFirst Bank*, 2:14-cv-01079 (N.D. Ala., certified July 29, 2015); *Walls v. JP Morgan Chase Bank, N.A.*, 3:11-cv-00673 (W.D. Ky., certified October 13, 2016); *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litig.*, 3:15-md-02672 (N.D. Cal., settlements approved October 25, 2016 and May 17, 2017); *Rowe, et al. v. E.I. DuPont De Nemours & Co.*, 1:06-cv-01810 (D. NJ, certified March 22, 2011); *Krueger v. Wyeth*, 03-cv-2496 (S.D. Cal., class certified and settlement approved September 1, 2020); and, *In re Takata Airbag Products Liability Litig.*, 1:15-md-02599 (S.D. Fla.). Beasley Allen's class action cases involve a variety of complex legal issues.

5. **Multi-District Litigation (Lead or Co-Lead Counsel)** - Beasley Allen is one of the

country's leading firms involved in complex civil litigation on behalf of claimants, having represented hundreds of thousands of people. Attorneys from Beasley Allen have been selected by Federal Courts as lead counsel or co-lead counsel in the following complex multidistrict litigations:

- a. *In Re Vioxx Products Liability Litigation*, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657; (Andy Birchfield, Shareholder of Beasley Allen);
- b. *In Re Reciprocal of America (ROA) Sales Practices Litigation*, United States District Court for the Western District of Tennessee, Judge J. Daniel Breen, MDL No. 1551; (Dee Miles and Jere Beasley, both Shareholders in Beasley Allen);
- c. *In Re American General Life and Accident Insurance Company Industrial Life Insurance Litigation*, United States District Court for the District of South Carolina, Judge Cameron McGowan Currie, MDL No. 11429; (Dee Miles, Shareholder of Beasley Allen);
- d. *In Re Dollar General Corp. Fair Labor Standards Acts Litigation*, United States District Court for the Northern District of Alabama, Western Division, Judge U.W. Clemon, MDL No. 1635; (Dee Miles, Shareholder of Beasley Allen);
- e. *In re: Xarelto (Rivaroxaban) Products Liability Litigation*, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592; (Andy D. Birchfield, Jr., Shareholder of Beasley Allen)
- f. *Johnson & Johnson Talcum Powder Products Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the District of New Jersey, Judge Freda L. Wolfson, MDL No. 2738 (Leigh O'Dell, Shareholder of Beasley Allen);
- g. *Bruner et al v. Polaris Industries, Inc. et al*, United States District Court for the District of Minnesota, Judge David T. Schultz Case 0:18-cv-00939-WMW-DTS, 0:18-cv-00975-WMW-DTS (Dee Miles, Shareholder of Beasley Allen)¹;

¹ Beasley Allen was appointed as interim co-lead counsel.

- h. *Weidman et al v. Ford Motor Company*, United States District Court of the Eastern District of Michigan, Judge Gershwin A. Drain, 2:18-cv-12719 (Dee Miles, Shareholder of Beasley Allen)².
- i. *Sharon Cheng, et al. v. Toyota Motor Corporation, et al.*, United States District Court, Eastern District of New York, Judge William F. Kuntz, II, 1:20-cv-00629-WFK-CLP (Dee Miles, Shareholder of Beasley Allen)³;
- j. *Tucker Oliver, et al. v. Honda Motor Company Limited, et al.*, United States District Court, Eastern District of Alabama, Judge Madeline Hughes Haikala, 5:20-cv-006666-MHH (Dee Miles, Shareholder of Beasley Allen)⁴; and,
- k. *The K's Inc. v. Westchester Surplus Lines Insurance Company*, United States District Court, Northern District of Georgia, Judge William M. Ray, II, 1:20-cv-1724-WMR (Dee Miles, Shareholder of Beasley Allen).

6. **Multi-District Litigation (Lead or Co-Lead Counsel)** - Beasley Allen has been appointed to the Plaintiff's Executive Committee and/or Steering Committee in many complex litigations. All of these multidistrict litigations involved multiple claims against multiple defendants, which required excellent organization and leadership from our attorneys. Beasley Allen has been appointed to the following MDL complex litigation cases:

- a. *In Re: Motor Fuel Temperature Sales Practices Litigation*, United States District Court for the Middle District of Kansas, Judge Kathryn Vratil, MDL No. 1840;
- b. *Bextra/Celebrex, Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation*, United States District Court for the Northern District of California, Judge Charles R. Breyer, MDL No. 1699;
- c. *In Re: Vioxx Products Liability Litigation*, United States District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, MDL No. 1657;
- d. *In Re: Actos (Pioglitazone) Products Liability Litigation*, United States District Court for the Western District of Louisiana, Judge Rebecca F. Doherty, MDL No. 2299;

² Beasley Allen was appointed as interim co-lead counsel.

³ Beasley Allen was appointed as interim co-lead counsel.

⁴ Beasley Allen was appointed as interim co-lead counsel.

- e. *In Re: Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, United States District Court for the Eastern District of Pennsylvania, Judge Cynthia M. Rufe, MDL No. 2342;
- f. *In Re: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II)*, United States District Court District of New Jersey, Judge Garrett E. Brown, Jr., MDL No. 2243;
- g. *In Re: Fosamax Products Liability Litigation*, United States District Court, Southern District of New York, Judge John F. Keenan, MDL No. 1789;
- h. *In Re: Depuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation*, United States District Court for the Northern District of Ohio, Judge David A. Katz, MDL No. 2197;
- i. *In Re: DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation*, US District Court for the Northern District of Texas, Judge Ed Kinkeade, MDL No. 2244;
- j. *In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation*, US District Court for the Northern District of Indiana, Judge Robert L. Miller, Jr., MDL No. 2391;
- k. *In Re: Prempro Products Liability Litigation*, United States District Court, Eastern District of Arkansas, Western Division, Judge Billy Roy Wilson, MDL No. 1507;
- l. *In Re: Mirena IUD Products Liability Litigation*, United States District Court, Southern District of New York, Judge Cathy Seibel, MDL No. 2434;
- m. *In Re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation*, United States District Court, District of Massachusetts, Judge Douglas P. Woodlock, MDL No. 2428;
- n. *In Re: American Medical Systems, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Southern District of Ohio, Judge Joseph R. Goodwin, MDL No. 2325;
- o. *In Re: C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2187;

- p. *In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Southern District of West Virginia, Judge Joseph R. Goodwin, MDL No. 2326;
- q. *In Re: Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2327;
- r. *In Re: Coloplast Corp. Pelvic Repair Systems Products Liability Litigation*, United States District Court, Charleston Division, Judge Joseph R. Goodwin, MDL No. 2387;
- s. *In Re: Google Inc. Gmail Litigation*; United States District Court for the Northern District of California, San Jose Division, Judge Lucy H. Koh, MDL No. 2430;
- t. *In Re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the Central District of California, Judge James V. Selna, MDL No. 2151;
- u. *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*; California Northern District (San Francisco), Hon. Charles R. Breyer, Case No. 3:15-md-02672-CRB;
- v. *In Re: Xarelto (Rivaroxaban) Products Liability Litigation*, District of Louisiana, Judge Eldon E. Fallon, Eastern MDL No. 2592;
- w. *In Re: Target Corporation Customer Data Security Breach Litigation*, United States District Court for the District of Minnesota, Judge Paul A. Magnuson, MDL No. 2522;
- x. *In Re: Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation*, United States District Court for the District of South Carolina, Judge Richard M. Gergel, MDL No. 2502;
- y. *In Re: Blue Cross Blue Shield Antitrust Litigation*, United States District Court for the Northern District of Alabama, Judge R. David Proctor, MDL No. 2406;
- z. *In Re: Androgel Products Liability Litigation*, United States District Court for the Northern District of Illinois, Judge Matthew F. Kennelly, MDL No. 2545;
- aa. *In Re: The Home Depot, Inc., Customer Data Security Breach Litigation*, United States District Court for the Northern District of Georgia, Judge, Thomas W. Thrash, Jr., MDL No. 2583;
- bb. *In Re: Takata Airbag Products Liability Litigation*, United States District Court for the Southern District of Florida, Judge Federico A. Moreno, MDL No. 2599,

serving on a discovery committee responsible for two Auto Manufacturer's discovery⁵;

- cc. *In Re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation*, United States District Court for the Northern District of California, Judge Edward Chin, MDL No. 2777;
 - dd. *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, United States District Court of the Eastern District of Louisiana, Judge Carl J. Barbier, MDL No. 2179;
 - ee. *In re: Invokana (Canagliflozin) Products Liability Litigation*, United States District Court District of New Jersey, Judge Lois H. Goodman, MDL No. 2750;
 - ff. *In re: Proton-Pump Inhibitor Products Liability Litigation*, United States District Court District of New Jersey, Judge Claire C. Cecchi, MDL No. 2789;
 - gg. *In Re: Apple Inc. Device Performance Litigation*, United States District Court for the Northern District of California, Judge Edward J. Davila, MDL 2827;
 - hh. *In Re: JUUL Labs, Inc. Marketing, Sales Practices & Products Liability Litigation*, United States District Court for the Northern District of California, Judge William H. Orrick, MDL 2913;
 - ii. *In re ZF-TRW Airbag Control Units Products Liability Litigation*, United States District Court Central District of California, Judge John A. Kronstadt, MDL No. 2905;
 - jj. *In Re: Zantac (Ranitidine) Products Liability Litigation*, United States District Court for the Southern District of Florida, Judge Robin L. Rosenberg, MDL No. 2924;
 - kk. *In Re: Rock 'N Play Sleeper Marketing, Sales Practices, and Products Liability Litigation*, United States District Court for the Western District of New York, Judge Geoffrey Crawford, MDL No. 1:19-mc-2903;
 - ll. *In Re: Robinhood Outage Litigation*, United States District Court for the Northern District of California, Judge James Donato, Case No. 20-cv-01626-JD; and
 - mm. *In Re: Paraquat Products Liability Litigation*, United States District Court for the Southern District of Illinois, Judge Nancy J. Rosenstengel, Case No. 3:21-md-03004-NJR.
7. Additionally, Beasley Allen attorneys have some of this country's largest verdicts and

⁵ Discovery Committee appointment only.

settlements in the following categories:

- a. Largest verdict against an oil company in American history, \$11,903,000,000, in *State of Alabama v. Exxon*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-99-2368, Judge Tracy S. McCooley;
- b. Largest environmental settlement in American history, \$750,000,000, in *Tolbert v. Monsanto*, filed in the United States District Court for the Northern District of Alabama, Civil Action No. CV-01-1407PWG-S, Judge Paul W. Greene;
- c. Largest predatory lending verdict in American history \$581,000,000, in *Barbara Carlisle v. Whirlpool*, filed in the Circuit Court of Hale County, Alabama, Case No. CV-97-068, Judge Marvin Wiggins;
- d. Largest average wholesale price litigation verdict, \$215,000,000, in *State of Alabama v. AstraZeneca*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.10, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- e. Second largest average wholesale price litigation verdict, \$114,000,000, in *State of Alabama v. GlaxoSmithKline - Novartis*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.52, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- f. Third largest average wholesale price litigation verdict, \$78,000,000, in *State of Alabama v. Sandoz, Inc.*, filed in the Circuit Court of Montgomery County, Alabama, Case No. CV-05-219.65, Judge Charles Price (Dee Miles as Co-Lead Counsel);
- g. Average wholesale price litigation verdict, \$30,200,000, in *State of Mississippi v. Sandoz, Inc.*, filed in the Chancery Court of Rankin County, Mississippi, Case No. 09-00480, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);
- h. Average wholesale price litigation verdict, \$30,262.052, in *State of Mississippi v. Watson Laboratories, Inc., et al.*, filed in the Chancery Court of Rankin County, Mississippi, Case Nos. 09-488, 09-487, and 09-455, Judge Thomas L. Zebert (Dee Miles as Co-Lead Counsel);
- i. Air Pollution Verdict, \$20,709,000, in *Action Marine, et al. v. Continental Carbon Co.*, filed

in the United States District Court for the Middle District of Alabama, Case No. 3:01-cv-994, Judge Mark E. Fuller;

- j. Hormone Therapy Litigation Verdict, \$72,600,000, in *Elfont v. Wyeth Pharmaceuticals, Inc., et al., Mulderig v. Wyeth Pharmaceuticals, Inc., et al., Kalenkoski v. Wyeth Pharmaceuticals, Inc., et al.*, filed in the County of Philadelphia, Court of Common Pleas, Case Nos. July Term 2004, 00924, 00556, 00933, Judge Gary S. Glazer;
- k. Hormone Therapy Litigation Verdict, \$5,100,100, in *Okuda v. Wyeth Pharmaceuticals, Inc.*, filed in the United States District Court of Utah, Northern Division, Case No. 1:04-cv-00080-DN, Judge David Nuffer;
- l. Talcum Powder Litigation Verdict, \$72,000,000, in *Fox v. Johnson & Johnson, et al.*, filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison; and,
- m. Talcum Powder Litigation Verdict, \$55,000,000, in *Ristesund v. Johnson & Johnson, et al.*, filed in the Circuit Court of St. Louis City, Case No. 1422-CC03012-01, Judge Rex M. Burlison.

8. **Personal Qualifications & Experience** – I am a graduate of Samford University and Jones School of Law and have been licensed to practice law since 1992. I am admitted to practice in the United States Supreme Court, the United States Court of Appeals for the Fifth Circuit, the United States Court of Appeals for the Eleventh Circuit and various United States District Courts around the country, as well as the Supreme Court of Alabama.

9. I am a national leader in mass torts who has consistently demonstrated excellence in all aspects of litigation, integrity, and an indefatigable commitment to protect the interests of those who have been harmed by a drug, consumer product or medical device.

10. I am the Mass Torts Section Head for Beasley, Allen, Crow, Methvin, Portis & Miles, P.C., a national law firm headquartered in Montgomery, Alabama. Beasley Allen's Mass Torts Section is comprised of 28 attorneys and 79 staff members. The Mass Torts Section focuses on pharmaceutical and

medical device product liability litigation. Overall, Beasley Allen employs 74 attorneys and 249 staff members.

11. Currently, I serve as Co-Lead Plaintiffs' Counsel in the *In Re: Xarelto (Rivaroxaban) Products Liability Litigation*, MDL No. 2592. I also serve on the Plaintiffs' Steering Committee in *In re: Actos (Pioglitazone) Products Liability Litigation*, MDL No. 2299, and *In re: Zoloft (Sertaline Hydrochloride) Products Liability Litigation*, MDL No. 2342. In April 2005, I was appointed to serve as co-lead counsel in *In re: Vioxx Products Liability Litigation*, MDL No. 1657. In the Vioxx MDL, I served as chair, co-chair or a member of numerous committees, including the Executive Committee, Trial Committee (serving as trial counsel in five bellwether cases), Negotiating Committee, Fee Allocation Committee, Administrative Committee, Discovery Committee and Science Committee.

12. In addition, I supervise lawyers in the Beasley Allen Mass Section who are presently serving on the Plaintiffs' Steering Committee in the following MDLs: *In re: Fosamax Products Liability Litigation*, MDL No. 1789; *In re: Fosamax (Alendronate Sodium) Products Liability Litigation* (No. II), MDL No. 2243; *In re: DePuy Orthopaedics, Inc., ASR Hip Implants Products*, MDL No. 2197; *In re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation*, MDL No. 2244; *In re: Mirena IUD Products Liability Litigation*, MDL No. 2434; *In re: Granuflo Products Liability Litigation*, MDL No. 2428; *In re: Testosterone Replacement Therapy Products Liability Litigation*, MDL 2545; *In re: C. R. Bard, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2187; *In re: American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2325; *In re: Boston Scientific Corp., Pelvic Repair System Products Liability Litigation*, MDL No. 2326; *In re: Ethicon, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2327; *Coloplast Corp. Pelvic Repair System Products Liability Litigation*, MDL No. 2387; *Cook Medical, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2440; and *In re: Prempro Products Liability Litigation*, MDL No. 1507.

13. My office has performed substantial work in this litigation to identify, investigate and prosecute the potential class action claims in this case. This has included pre-filing investigation and research into the claims in this case; communications with the named Plaintiffs; legal research concerning the claims that should be brought in the initial and amended complaint; drafting and filing class action

complaints in Florida and California; communications with class members; surveying of class members; drafting and service of pre-suit disclosure letters; preparation and service of FOIA document requests; consultation with potential experts regarding this case; conferring with other plaintiffs' attorneys concerning case management and organization; and, assisting with motion practice, including in the JPML in support of consolidation.

14. My office and I are committed to continuing to prosecute the case vigorously on behalf of the named Plaintiffs and the putative class. We have enormous experience in false advertising and product liability class action litigation, and will commit the resources necessary to achieve the best result we can for the class. As in our other class action cases, we are committed to fairly and adequately representing the interests of the class here.

15. As discussed further in the accompanying motion, the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; Kiley Grombacher of Bradley/Grombacher LLP; Andy D. Birchfield, Jr. and David B. Byrne, III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as class counsel is critical to safeguard the important substantive rights of absent class members. The prompt designation of capable counsel, such as the aforementioned attorneys and firms would help protect the prospective class, and expedite this litigation.

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

Executed this 17th day of December 2021, in Montgomery, Alabama.

/s/ Andy D. Birchfield, Jr.
ANDY D. BIRCHFIELD, JR.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF ALEXANDRA WALSH IN SUPPORT OF MOTION TO APPOINT
INTERIM CLASS COUNSEL UNDER RULE 23(g) AND CLASS COUNSEL AS
REQUESTED IN THE MOTION FOR PRELIMINARY APPROVAL**

I, Alexandra Walsh, hereby declare as follows:

1. I am an attorney and founding partner with the law firm of Walsh Law. I am admitted *pro hac vice* to appear and practice before this Court as Counsel for Plaintiffs in the matter of *Goodwin, et al. v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61890-AHS (S.D. Fla.) (the “*Goodwin* Plaintiffs”). By order of this Court, the *Goodwin* Plaintiffs’ action was consolidated with *Serota v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61103-AHS (S.D. Fla.). The *Serota* action was the first filed case seeking class relief arising out of the presence of benzene in Defendants’ sunscreen products. I am also Counsel for Plaintiffs in the matter of *Dominguez, et al. v. Johnson & Johnson Consumer Inc.*, 4:21-cv-05419-JD (N.D. Cal.) (the “*Dominguez* Plaintiffs”). The *Dominguez* Plaintiffs’ action was consolidated with *Brennan, et al. v. Johnson & Johnson Consumer, Inc.*, 4:21-cv-04869-KAW (N.D. Cal.). The *Brennan* action was the second filed case seeking class relief arising out of the presence of benzene in

Defendants' sunscreen products. The *Brennan* and *Dominguez* cases were transferred to this Court for consolidated pre-trial proceedings pursuant to the JPML's October 8, 2021, Transfer Order.

2. I have prepared this Declaration in Support of Plaintiffs' Unopposed Motion for Appointment as Interim Class Counsel, Pursuant to Federal Rule of Civil Procedure 23(g), which is filed contemporaneously herewith. Plaintiffs' Motion respectfully seeks the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and, Kiley Grombacher of Bradley/Grombacher LLP as interim co-lead class counsel; and, David B. Byrne, III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and myself as interim class liaison counsel. I have personal knowledge of the facts stated herein. If called upon, I would competently testify that the facts set forth herein are true and correct.

EXPERIENCE OF COUNSEL

3. Walsh Law is a premiere national trial boutique representing plaintiffs in class and mass actions and in complex multidistrict litigations. We are a team of elite trial attorney with decades of collective experience in state and federal courtrooms. After years of practicing primarily on the defense side, our team has put its skills and resources to work representing plaintiffs, particularly in product liability and medical device litigation. We draw daily upon our experience to achieve the goal that drives every decision: winning trials for our clients. We prepare meticulously to present the most powerful and persuasive case to the jury and when the time comes for our clients to have their day in court, we are ready.

4. **Class Action & Multi-District Litigation:** My team and I have significant class action and multidistrict litigation experience. Notable examples of this experience include:

- *In re: 3M Combat Arms Earplug Products Liability Litigation*, MDL 2885
- *Dominguez et al v. Johnson & Johnson Consumer*, Case No. 3:21-cv-05419, United States District Court for the Northern District of California

- *In re: Zantac (Ranitidine) Products Liability Litigation*, MDL 2924

5. **Personal Qualifications & Experience:** I have been a member of the bar of Washington DC since 2005. I attended Stanford Law School, where I served on the Executive Board for the Law Review and won Best Oral Advocate. I earned my undergraduate degree from Bowdoin College, graduating *summa cum laude*, and was elected Phi Beta Kappa. Before beginning my law practice, I was honored to serve as a law clerk for two of the country's top jurists: the Honorable Merrick B. Garland of the United States Court of Appeals for the D.C. Circuit, and the Honorable Stephen G. Breyer of the United States Supreme Court.

6. I am a nationally recognized trial attorney with extensive experience trying and winning cases in courts throughout the country. After years of defending corporate clients, I launched Walsh Law to use my expertise and experience to fight for plaintiffs seeking justice in the nation's courts.

Of my notable past representative matters:

- Trial counsel in national litigation concerning birth control device, Essure.
- Trial counsel in first two bellwethers concerning anti-depressant, Zoloft.
- Trial counsel in conspiracy case against owners of flash sale site, Rue La La, and eBay.
- Appellate counsel in suit challenging lack of public access to reports prepared for the SEC.
- Appellate counsel in insider trading action raising novel issue regarding Securities Exchange Act.
- Defense counsel in criminal prosecution of Scooter Libby, former Chief of Staff to VP Cheney.
- Defense counsel in criminal prosecution of Michael Singer, best-selling author and former CEO of WebMD subsidiary.

7. I was a founding partner of Wilkinson Walsh + Eskovitz (now Wilkinson Stekloff LLP), an elite Washington-based trial-based firm. My successes at trial while at Wilkinson Walsh are well-recognized. In 2018, I received accolades from the *National Law Journal* for my decisive trial win in the national litigation concerning blockbuster blood thinner, Xarelto. In 2019, I was named Law360's Trial MVP of the Year for my victory in a major consumer fraud class action targeting One-A-Day multivitamins. I have been listed on Benchmark Litigation's 2021 Top 250 Women in Litigation and was recently inducted as a Fellow in the American College of Trial Lawyers, which limits its membership to "experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility, and collegiality."

8. Prior to founding Wilkinson Walsh, I was an attorney at Paul, Weiss, Rifkind, Wharton & Garrison LLP. Of my notable accomplishments, I helped win a dismissal of a decadelong securities fraud class action against Pfizer for allegedly concealing problems with its anti-inflammatory drug Celebrex (after I exposed flaws with the plaintiffs' method for calculating damages). Until 2016, I was a partner at Baker Botts LLP, where my team secured a billion-dollar verdict in favor of Vivendi that the *New York Law Journal* named to its Verdict Hall of Fame in 2020.

9. As discussed further in the accompanying motion, the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and, Kiley Grombacher of Bradley/Grombacher LLP as interim co-lead class counsel; and, David B. Byrne, III and Andy Birchfield of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and myself as interim class liaison counsel is critical to safeguard the important substantive rights of absent class members. The prompt designation of capable counsel,

such as the aforementioned attorneys and firms would help protect the prospective class and expedite this litigation.

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

Executed this 17th day of December 2021, in Washington, D.C.

/s/ Alexandra Walsh

ALEXANDRA WALSH

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF SETH MEYER IN SUPPORT OF MOTION TO APPOINT
INTERIM CLASS COUNSEL UNDER RULE 23(g) AND CLASS COUNSEL AS
REQUESTED IN THE MOTION FOR PRELIMINARY APPROVAL**

I, Seth Meyer, hereby declare as follows:

1. I am an attorney and partner at Keller Lenkner LLC. I am admitted *pro hac vice* to appear and practice before this Court as Counsel for Plaintiffs in the matter of *Goodwin, et al. v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61890-AHS (S.D. Fla.) (the “*Goodwin* Plaintiffs”). By order of this Court, the *Goodwin* Plaintiffs’ action was consolidated with *Serota v. Johnson & Johnson Consumer Inc.*, 0:21-cv-61103-AHS (S.D. Fla.). The *Serota* action was the first filed case seeking class relief arising out of the presence of benzene in Defendants’ sunscreen products. I am also Counsel for Plaintiffs in the matter of *Dominguez, et al. v. Johnson & Johnson Consumer Inc.*, 4:21-cv-05419-JD (N.D. Cal.) (the “*Dominguez* Plaintiffs”). The *Dominguez* Plaintiffs’ action was consolidated with *Brennan, et al. v. Johnson & Johnson Consumer, Inc.*, 4:21-cv-04869-KAW (N.D. Cal.). The *Brennan* action was the second filed case seeking class relief arising out of the presence of benzene in Defendants’ sunscreen products. The *Brennan* and *Dominguez* cases were

transferred to this Court for consolidated pre-trial proceedings pursuant to the JPML's October 8, 2021, Transfer Order.

2. I have prepared this Declaration in Support of Plaintiffs' Unopposed Motion for Appointment as Interim Class Counsel, Pursuant to Federal Rule of Civil Procedure 23(g), which is filed contemporaneously herewith. Plaintiffs' Motion respectfully seeks the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and, Kiley Grombacher of Bradley/Grombacher LLP as interim co-lead class counsel; and, David B. Byrne, III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as interim class liaison counsel.

3. The following statements are based on my personal knowledge and review of the files and, if called on to do so, I could and would testify competently thereto.

EXPERIENCE OF COUNSEL

4. Keller Lenkner LLC is a national plaintiffs' law firm representing a broad array of clients in class and mass actions, individual arbitrations, and multidistrict litigation matters at the trial and appellate levels accross federal and state courts. Serving hundreds of thousands of clients in litigation and arbitration, we have prosecuted high-profile antitrust, employment, privacy, consumer-rights, and product liability cases (involving medical devices, pharmaceutical products, and a wide variety of other consumer products). Our firm also acts as plaintiffs' counsel in high-stakes public-enforcement actions. Keller Lenkner has broken new ground in our approach to business and operations—including through building an in-house client services team to serve our clients using cutting-edge technology and processes—which contributed to our being named Trial Strategy Innovation Law Firm of the Year by the National Law Journal and American Lawyer

Media at the 2021 Elite Trial Lawyers Awards. Our business infrastructure ensures we can successfully litigate thousands of claims at once.

5. I have been a member of the State Bar of New York since 2014, a member of the State Bar of Illinois since 2016, a member of the State Bar of Michigan since 2018, a member of the State Bar of Texas since 2020, a member of the State Bar of Utah since 2020, and a member of the State Bar of Wyoming since earlier this year. I graduated from the University of Virginia School of Law, where I was elected to Order of the Coif and served as In Brief Editor on the Managing Board of the Virginia Law Review. I earned my undergraduate degree in three years, *summa cum laude*, from Northwestern University. I also served as a law clerk for Judge Richard F. Suhrheinrich of the U.S. Court of Appeals for the Sixth Circuit.

6. I was promoted to partner at Keller Lenkner at the end of 2020. Today, I represent thousands of plaintiffs in arbitration and litigation at the trial and appellate levels. My practice focuses on antitrust, product liability, class actions, appellate, and bankruptcy matters with more than 8 years of experience litigating dozens of cases. I have also previously handled cases involving a broad array of subject matters, including contracts, fraud, labor and employment, mergers and acquisitions, securities, and unfair trade practices.

7. Of my notable representations, I act on behalf of state and local government entities in connection with the opioid crisis, representing the State of Arizona and 18 municipalities. I also coordinate 41 class actions throughout the country against opioid defendants on behalf of insurance ratepayers. This work helped lay the foundation for the launch of Keller Lenkner's Public Institutions Practice. I also represent the States of Texas, Idaho, Mississippi, North Dakota, and South Dakota in the States' antitrust litigation against Google for monopolizing products and services used by advertisers and publishers in online-display advertising.

8. When I first joined Keller Lenkner, I helped develop the firm's revolutionary arbitration practice, including pursuing individual arbitrations for tens of thousands of employees or consumers whose claims are subject to arbitration clauses with class-action waivers. To date, Keller Lenkner has secured more than \$375 million in settlements for more than 150,000 consumers and employees nationwide. Most recently, I applied this innovative legal strategy when Keller Lenkner filed more than 1,000 individual arbitrations on behalf of underpaid delivery drivers against NPC International, the nation's largest Pizza Hut franchisee. I successfully steered those drivers' claims to resolution after the company filed bankruptcy in July 2020. The claims were moved to the U.S Bankruptcy Court in the Southern District of Texas, where the action ultimately settled for more than \$10 million. This matter is significant, as we received one of the first rulings citing the precedent set by *Epic Systems v. Lewis*, which binds companies to their arbitration agreements.

9. I am also responsible for launching Keller Lenkner's Data Breach Practice. As privacy and data security issues continue to be a primary concern for every industry, it is pivotal for Keller Lenkner to step in and help define legal precedent for this evolving area of law. I currently represent several certified and putative classes of individuals whose information has been compromised by through one or more data breaches.

10. I have argued cases before trial courts and courts of appeal, and have served as lead counsel at trial. I have authored briefs submitted federal district courts, federal circuit courts, and state appellate courts. I serve as an adjunct professor at the Northwestern University Weinberg College of Arts and Sciences Center for Legal Studies. I have been honored by Super Lawyer's Magazine in the area of class action and mass tort litigation, named a 2021 Rising Star in Law by Crain's Chicago Business, listed on the National Trial Lawyers' 40 Under 40, and named a 2021

Lincoln Fellow by the Claremont Institute. Before joining Keller Lenkner, I was also a representative of the International Chamber of Commerce's Young Arbitrator's Forum, which annually selects a handful of representatives nationwide.

11. My team and I have significant class action and multidistrict litigation experience.

Notable examples of this experience include:

- *West et al v. Amazon.com Inc.*, Case No. 2:21-cv-00694, United States District Court for the Western District of Washington
- *C.O., a minor, v. Amazon.com Inc. et al*, Case No. 2:19-cv-00910, United States District court for the Western District of Washington
- *Fishon et al v. Peloton Interactive, Inc.*, Case No. 1:19-cv-11711, United States District Court for the Southern District of New York
- *Olivia Van Iderstine et al v. Live Nation Entertainment, Inc. et al*, Case No. 2:20-cv-03888, United States District Court for the Central District of California
- *TopDevs, LLC et al v. LinkedIn Corporation*, Case No. 5:20-cv-08324, U.S. District for the Northern District of California
- *The State of Texas et al v. Google, LLC*, Case No. 4:20-cv-00957, U.S. District Court for the Eastern District of Texas
- *Richard A. Ross and Fieldstone Ventures, LLC v. EQT Corporation et al.*, No. GD-21-011948, Fifth Judicial District of Pennsylvania, County of Allegheny
- *Hestrup & Peiss v. DuPage Medical Group. Ltd. d/b/a DuPage Medical Group*, Case No. 2021L000937, 18th Judicial Court, DuPage County
- *Alexander v. Otis Bowen*, Case No. No. 43D04-2104-CT-000019, Kosciusko Superior Court 4
- *Gilbert v. AFTRA Retirement Fund et al*, Case No. 1:20-cv-10834-ALC, U.S. District Court for the Southern District of New York
- *Hall, et al v. AspenPointe, Inc., et al*, Case No. 2020CV32175, 4th District Court, County of El Paso

- *Hackerott v. Central Kansas Orthopedic Group, Inc., et al*, Case No. 2020-cv-000120, District Court of Barton County
- *In re: 3M Combat Arms Earplug Prods. Liab. Litig.*, MDL 2885
- *In re: Zantac (Ranitidine) Prods. Liab. Litig.*, MDL 2924
- *In re: Paragard IUD Prods. Liab. Litig.*, MDL 2974
- *In re: Onglyza (Saxagliptin) and Kombiglyze XR (Saxagliptin and Metformin) Prods. Liab. Litig.*, MDL 2809

12. Keller Lenkner represents tens of thousands of clients in some of the largest multi-district product liability cases in the country. Our team also continues to be selected to lead federal and state product-liability litigation through appointments to leadership positions. The firm's attorneys hold court-appointed leadership positions in the Zantac MDL (Partner Ashley Keller chairs the Law & Briefing Committee), 3M Combat Arms Earplugs MDL (Partner Nicole Berg sits on the Law & Briefing Subcommittee), Paragard Intrauterine Device MDL (Partner Nicole Berg sits on the Plaintiffs' Executive Committee), and Onglyza and Kombiglyze MDL (Associate Ashley Barriere leads the Law & Briefing Committee).

13. Our office has performed substantial work in this litigation to identify, investigate and prosecute the potential class action claims in this case. This has included pre-filing investigation and research into the claims in this case; communications with the named Plaintiffs; legal research concerning the claims that should be brought in the initial and amended complaint; drafting and filing the initial class action complaints in Florida and California as well as the amended complaints; communications with class members; surveying of class members; drafting and service of pre-suit disclosure letters; preparation of document requests; consultation with potential experts regarding this case; conferring with other plaintiffs' attorneys concerning case management and organization; and engaging in motion practice, including in the JPML in support of consolidation. Such work has provided an unsurpassed base of knowledge about this case. This

work allows us the deep insight into the litigation, access to resources and pivotal information, and the utmost confidence to successfully drive claims forward in this case on behalf of plaintiffs.

14. My firm and I are committed to vindicating the rights of the named Plaintiffs and putative class. Our team has experience litigating product-liability claims involving a wide variety of consumer products, pharmaceuticals, and medical devices. We are also equipped with deep knowledge and experience in false advertising claims. We advocate relentlessly for our clients, we develop and harness our own technology to facilitate a well-managed litigation process, and we commit the resources necessary to succeed. Furthermore, 80% of Keller Lenkner's partners and associates hail from national defense-oriented law firms and 72% have practiced at AmLaw25 firms and elite trial boutiques. Because our lawyers have experience on both sides of the courtroom, this allows our team to anticipate our opponents' moves and better understand their litigation and negotiation strategies.

15. As discussed further in the accompanying motion, the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and, Kiley Grombacher of Bradley/Grombacher LLP as interim co-lead class counsel; and, David B. Byrne, III and Andy Birchfield of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as interim class liaison counsel is critical to safeguard the important substantive rights of absent class members. The prompt designation of capable counsel, such as the aforementioned attorneys and firms would help protect the prospective class, and expedite this litigation.

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

Executed this 17th day of December 2021, in Chicago, Illinois.

/s/Seth A. Meyer

SETH A. MEYER

Keller Lenkner LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle

IN RE:

MDL CASE NO.: 3015

JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO: ALL CASES

**DECLARATION OF KILEY LYNN GROMBACHER IN SUPPORT OF MOTION TO
APPOINT INTERIM CO-LEAD AND LIAISON CLASS COUNSEL UNDER RULE 23(g)
AND MOTION FOR PRELIMINARY APPROVAL**

I, Kiley Lynn Grombacher, hereby declare as follows:

1. I am an attorney and partner at Bradley/Grombacher LLP. I am admitted *pro hac vice* to appear and practice before this Court as Counsel for Plaintiffs Meredith Serota, Jacob Somers, Lauren Harper, Heather Rudy, Fredric Salter, Judith Barich, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham in the matter of *Serota v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.) (the “*Serota* Plaintiffs”), and Katherine Brennan and Michelle Mang in the matter of *See Brennan v. Johnson & Johnson Consumer Inc.*, 21-cv-5419 (N.D. Cal.) (the “*Brennan* Plaintiffs”).

2. I have prepared this Declaration in Support of Plaintiffs’ Unopposed Motion for Appointment as Interim Class Counsel, Pursuant to Federal Rule of Civil Procedure 23(g) (“Motion for Appointment”) and Motion for Preliminary Approval of Class Action Settlement (“Motion for Approval”), which are filed contemporaneously herewith. Plaintiffs’ Motion for Appointment respectfully seeks the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and, Kiley Grombacher of Bradley/Grombacher LLP as interim co-lead class counsel; and, David B. Byrne, III of Beasley, Allen, Crow, Methvin, Portis

& Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as interim class liaison counsel (collectively all firms shall be referred to as the “Counsel”). Plaintiffs’ Motion for Approval similarly seeks appointment of the Law Firms as Class Counsel.

3. I am thoroughly familiar with, and have personal knowledge of, all of the facts set forth herein. If called as a witness, I could and would competently testify to the information set forth below.

4. A true and correct copy of the fully executed Class Action Settlement Agreement (“Settlement Agreement”) is attached hereto as Exhibit 1.

5. The Declaration of R. Jason Richards outlines the case history. To avoid duplication, such issues will not be addressed herein.

EXPERIENCE OF COUNSEL

6. Bradley/Grombacher LLP is a national law firm with our main office located in California. The firm’s practice focuses primarily on complex litigation. I have been a member of the State Bar of California since 2006. My involvement in various forms of class action litigation spans more than a decade during which time I have litigated hundreds of class actions.

7. I began my legal career at Arias, Ozzello & Gignac where I specialized in and gained extensive experience litigating consumer cases. Thereafter, I joined Marlin & Saltzman in 2010 where I focused my practice almost exclusively on class, collective and enforcement actions including the reported case, *Faulkinbury v. Boyd & Associates*, which clarified the holding in a seminal case, *Brinker Restaurant Corp. v. Superior Court* to establish that legality of certain company policies could be determined on a class-wide basis even if the application of the policies varies by individual.

8. I have been appointed either lead or co-lead counsel including cases in multi-district litigation or coordinated proceedings where I worked collaboratively and cooperatively with co-counsel to bring about an efficient and beneficial resolution for all class members as the above results demonstrate.

9. I have argued cases before trial courts and courts of appeal. My writings on legal

topics pertaining to class and representative actions have appeared in professional publications and I have been called upon to speak at conferences and seminars for professional organizations. I have also been honored as a Rising Star and/or Super Lawyer in the area of class actions by Los Angeles Magazine for multiple years including the current year.

10. My partner, Mr. Bradley, has practiced since 1994. He has been responsible for all facets of class action and other complex litigation, from pre-filing investigation through trial and appeal. Mr. Bradley has been honored as a Super Lawyer in the area of class actions by Los Angeles Magazine for multiple years including 2018. He is a member of a number of professional organizations including the Consumer Attorneys of Los Angeles, the Consumer Attorneys of California, the California Employment Lawyers Association, and the American Association of Justice.

11. Myself and Mr. Bradley, at our present firm or at our prior firms, have litigated numerous class actions to favorable settlements including:

- a. *Gutierrez v. State Farm Mutual*, Los Angeles Superior Court (BC236552). The class was certified and summary adjudication was granted as to liability in favor of the class. The case settled for \$135 million just prior to trial, with final approval granted with no objections filed.
- b. *Bednar v. Allstate Insurance Company*, Los Angeles Superior Court (BC240813). The class was certified and summary adjudication was granted as to liability in favor of the class. The case settled for \$120 million just prior to trial, with final approval granted with no objections filed.
- c. *Roberts v. Coast National Insurance*, Orange County Superior Court (01CC08478). Certification granted, and then the matter was tried before a binding arbitrator. The case settled during the arbitration for in excess of \$18 million.
- d. *CNA Class Action Litigation*, Los Angeles Superior Court Class (JCCP 4230). Case settled for \$33 million, with final approval granted with no objections

filed.

- e. *Smith/Ballard v. Wal-Mart Stores, Inc.* United States District Court for the Northern District of California (Case No. 4:06-cv-05411-SBA). The action was certified and settled for \$86 million while Defendants' appeal of the certification was pending in the Ninth Circuit Court of Appeals.
- f. *In Re Bank of America Wage and Hour Employment Practices Litigation*, United States District Court for the District of Kansas (MDL 2138). Settled for \$73 million.
- g. *Lemus v. H & R Block Litigation*, United States District Court for the Northern District of California (Case No. 3:09-cv-03179-SI). Class certified, and settlement reached prior to trial. Total settlement of \$35 million.
- h. *Bickley v. Schneider National Trucking*, United States District Court for the Northern District of California (Case No. 4:08-cv-05806-JSW). Settled for \$29.5 million.
- i. *Stern v. AT&T Mobility Corporation f/k/a Cingular Wireless Corporation*, United States District Court Central District of California (Case No. 2:05-CV-08842-CAS). Settlement with total value of the available settlement benefits that could have been claimed equaling \$38,280,748.
- j. *Lozano v. AT&T Wireless Services, Inc.*, United States District Court Central District of California (Case No 2:02-CV-00090-CAS). Settlement with total value of the available settlement benefits that could have been claimed equaling \$42,700,800.
- k. *Brenner v. Kevita, Inc.*, Superior Court, State of California, County of Ventura (Case No. 56-2017-00502340-CU-FR-VTA). Settlement with total estimated value of available monetary benefits that could have been claim equaling more than \$5,000,000 and injunctive relief valuing between \$26,200,446.76 and \$34,397,145.69.

12. My associates and I have considerable experience handling complex consumer class action cases with claims similar to those asserted in this action and have successfully represented tens of thousands of individuals in state and federal court cases.

13. As discussed further in the accompanying motions, the appointment of Bryan Aylstock and Jason Richards of Aylstock, Witkin, Kreis & Overholtz PLLC; and my firm as interim co-lead class counsel and Class Counsel; and, David B. Byrne, III of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.; Seth Meyer of Keller Lenkner LLC; and, Alexandra Walsh of Walsh Law, PPC as interim class liaison counsel and Class Counsel is critical to safeguard the important substantive rights of absent class members. Counsel are experienced, have devoted significant time and resources to the litigation and more than adequate to represent the class.

COUNSEL’S INVESTIGATION OF THE CLASS CLAIMS AND LITIGATION OF THE ACTION

14. Before filing any complaint in this action, our firm, in conjunction with our co-counsel extensively investigated the claims in this Action

15. Our pre-suit investigation included but was not limited to:

- Obtaining and reviewing the JJCI aerosol and non-aerosol sunscreen products, including their labeling, packaging, and all other advertisements and promotions for them;
- Reviewing electronic images of Neutrogena’s website and other electronic marketing platforms;
- Obtaining and reviewing the Petition on Benzene in Sunscreen and After-sun Care Products prepared by Valisure LLC (“Valisure Petition”);
- Reviewing relevant FDA regulations;
- Reviewing pre-suit disclosure letters;
- Conducting in-depth, fact-finding interviews with Plaintiffs and other potential witnesses including the review and processing of consumer questionnaires
- Extensive legal research to evaluate the prospective merits and weaknesses of the case

16. Following the filing of the action, our firm has vigorously litigated this case on behalf of the purposed settlement class, devoting extensive time and resources, which includes, among other things:

- Preparing and filing the initial and amended complaints;
- Reviewing extensive documentary disclosures;
- Informally surveying class members,
- Undertaking a detailed analysis of the consumer protection laws of all fifty states and U.S. territories;
- Retaining a third-party laboratory and causing samples of JJCI sunscreen products to be tested for benzene;
- Conferring with other plaintiffs' attorneys concerning case management and organization;
- Preparation of a mediation brief;
- Preparing for and attending mediation;
- Engaging in motion practice including brief and argument before the JPML panel;
- Drafting and negotiating settlement documents; and
- Retaining and consulting with experts.

MEDIATION AND SETTLEMENT

17. On September 8th, 2021, the Parties participated in a full day mediation session with the Honorable John C. Lifland (Ret.) The Parties did not reach settlement during this mediation but continued to engage in settlement discussions outside of mediation. The parties also continued to exchange documents and information regarding their respective positions.

18. In the subsequent weeks, the Parties continued to negotiate and finalize all terms of this Settlement Agreement, and executed the final form on December 17, 2021, a true and correct copy of which is attached as Exhibit 1 to this Declaration. The Parties negotiated attorneys' fees and costs only after reaching agreement on the monetary and injunctive relief for the Class.

19. At all times, the negotiations were conducted at arms-length.

ENDORSEMENT OF THE SETTLEMENT

20. Based on my experience, my familiarity with every material aspect of this case, and when weighing the risks of continued litigation, I believe that the proposed Settlement is fair, adequate, and reasonable.

21. In considering whether to enter into the Settlement, Plaintiffs and Counsel considered the monetary refunds being provided, by JJCI through their refund/recall program, the significant risks of proceeding with the litigation, including the risks of securing class certification, establishing liability, proving damages at trial, and the likely duration of posttrial motions and appeals. Even if Plaintiffs prevailed at trial, and any appeals were resolved in Plaintiffs' favor, payment to Class members would likely be delayed for several years.

22. As part of the Settlement, Counsel will request the payment of attorneys' fees in an amount of \$2,500,000 and reimbursement of reasonable costs in an amount not to exceed \$100,000. Presently, our litigation costs include expert fees, mediation fees, product testing fees, and general litigation costs.

23. While we have not yet finalized our lodestar, we believe the requested fees will require a modest multiplier.

24. As part of the Settlement, Counsel will also request class representative service awards to Plaintiffs in an amount of up to \$250 each. Counsel believes this is a modest payment for the risk and services undertaken by each plaintiff, as well as the benefit conferred on the Class as a result of each plaintiff's efforts. As will be detailed further in the forthcoming Fee Application, Plaintiffs have been actively involved the litigation and were actively consulted during the settlement process.

SELECTION OF THE SETTLEMENT ADMINISTRATOR

25. The Parties have selected Rust Consulting ("Rust") to provide notice and otherwise administer the Settlement. Before agreeing to Rust, the parties considered bids from four reputable administrators.

26. Each of the administrators provided similar competing bids and the notice plans

overlapped substantially.

27. I do not believe our firm has used Rust to administer a class action settlement in the last two years.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 17, 2021, at Westlake Village, California.

Respectfully,

/s/ Kiley Lynn Grombacher
Kiley Lynn Grombacher

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL**

IN RE:

MDL CASE NO.: 3015

**JOHNSON & JOHNSON SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION**

_____ /

THIS DOCUMENT RELATES TO: ALL CASES

_____ /

CLASS ACTION SETTLEMENT AGREEMENT

TABLE OF CONTENTS

I.	RECITALS	17
II.	DEFINITIONS.....	17
III.	SUBMISSION OF THE SETTLEMENT TO THE COURT	17
IV.	SETTLEMENT CONSIDERATION	17
A.	Prospective Non-Monetary Relief.....	15
(1)	Non-Sale of Recalled Aerosol Products	12
(2)	Isobutane Raw Material Supply	12
(3)	Finished Goods Aerosol Product Testing	213
B.	Refunds for Aerosol Products Subject to Aerosol Product Recall.	15
(1)	Refund Program.....	13
(2)	Continuation of Aerosol Products Refund Program.....	13
(3)	Enhancements to Aerosol Products Refund Program.....	14
(4)	Voucher Program for Non-Aerosol Products	14
C.	Notice Program and Claims Process.....	15
D.	Incentive Awards to Settlement Plaintiffs.	16
E.	Attorneys’ Fees and Expenses.	16
V.	RELEASE.....	17
VI.	SETTLEMENT IMPLEMENTATION PROCEDURE	18
A.	Provision of Settlement Benefits.	18
B.	Responsibilities of Settlement Administrator.	18
C.	Notice to the Class.	20
(1)	The Long Form Notice	21
(2)	Settlement Website.....	22
(3)	Toll-Free Telephone Number	22
D.	Claim Submission.	22
E.	Claim Administration Protocol.....	22
(1)	Locating, Obtaining, and Submitting Claims Forms.....	23
(2)	Claim Form Review and Processing	24
(3)	Claim Calculation and Payment of Valid Claims.....	28
F.	Objections and Opt-outs.	28
VII.	CAFA COMPLIANCE.....	32

VIII.	SCOPE AND EFFECT OF CONDITIONAL CERTIFICATION OF THE CLASS SOLELY FOR PURPOSES OF SETTLEMENT	32
IX.	CONFIRMATORY DISCOVERY	33
X.	MODIFICATION OR TERMINATION OF THE SETTLEMENT	33
XI.	SETTLEMENT NOT EVIDENCE AGAINST PARTIES	34
XII.	COOPERATION	35
XIII.	MISCELLANEOUS PROVISIONS.....	35

EXHIBIT LIST

Ex. A - Class Notice/Long Form Notice

Ex. B - Summary Notice

Ex. C - Claim Form

Ex. D - Notice Protocol

Plaintiffs Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, Carman Grisham, Heather Rudy, Fred Salter, and Judith Barich on behalf of the putative classes (collectively, “Settlement Plaintiffs”), and Defendant Johnson & Johnson Consumer Inc. (“JJCI”) (Settlement Plaintiffs and JJCI are collectively referred to below as “Parties”), by and through their respective counsel, in consideration for and subject to the promises, terms, and conditions contained in this Settlement, hereby stipulate and agree, subject to Court approval, to the following:

I. RECITALS

WHEREAS, JJCI produces and markets over-the-counter sunscreen products under the brand names Neutrogena® and Aveeno®.

WHEREAS, on May 25, 2021, an analytical pharmacy known as Valisure LLC (“Valisure”) filed a citizen’s petition (the “Petition”) with the United States Food and Drug Administration (“FDA”). The Petition stated that Valisure had performed tests on nearly 300 batches of sunscreen products from 69 different manufacturers, and that a significant number of these products contained detectable levels of benzene.

WHEREAS, although benzene is not an ingredient in any JJCI sunscreen product, the Petition listed several JJCI sunscreens as having tested positive for the substance.

WHEREAS, immediately after the Petition was published on May 25, 2021, JJCI began a comprehensive investigation that has determined that the benzene identified in some product samples stemmed from the isobutane used as a propellant in those aerosol product lines. JJCI’s testing did not confirm the presence of benzene in samples of non-aerosol products.

WHEREAS, on May 25, 2021, Plaintiff Meredith Serota, a Florida resident, filed a lawsuit in the Southern District of Florida on behalf of a nationwide putative class with the exception of California, alleging that certain JJCI sunscreen products sold in the United States were contaminated with benzene, and seeking injunctive relief and compensation for alleged economic losses sustained by U.S. consumer purchasers of the products. *See Serota v. Johnson & Johnson*

Consumer Inc., No. 21-cv-61103 (S.D. Fla.) (the “*Serota Action*”) ECF No. 1, Compl. ¶¶ 23-24.

WHEREAS, on May 26, 2021, Katherine Brennan and Michelle Mang, California residents, filed a lawsuit in the Superior Court for the State of California, County of Ventura, which was subsequently removed by JJCI to the United States District Court for the Northern District of California, seeking to represent a putative California-only class. *See Brennan v. Johnson & Johnson Consumer Inc.*, 21-cv-5419 (N.D. Cal.) (the “*Brennan Action*”), ECF No. 1. The *Brennan Action* alleges that certain JJCI sunscreen products sold in California were contaminated with benzene, and seeks injunctive relief and compensation for alleged economic losses sustained by California consumer purchasers of the products.

WHEREAS, on July 14, 2021, JJCI instituted a voluntary recall from all distribution channels of five product lines of aerosol sunscreen products that had been found to contain benzene, to be either destroyed or used for future testing only. JJCI instructed consumers to stop using the products and offered full cash refunds, with either minimal or no proof of purchase required for compensation. For the affected product lines, there is no time limitation for when such products needed to have been purchased to receive the full cash refunds.

WHEREAS, on July 30, 2021, an amended complaint was filed in the *Serota Action* adding an additional Florida plaintiff and plaintiffs from Colorado, Illinois, Maryland, Michigan, New York, Ohio, Oregon, and Washington. *See Serota v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), ECF No. 4, Am. Compl. ¶¶ 5-14.

WHEREAS, in the weeks and months that followed, 16 additional actions were filed in various federal district courts across the country that sought injunctive relief and monetary compensation for economic losses allegedly incurred by consumer purchasers of JJCI sunscreen products: (1) *Rafal v. Johnson & Johnson*, No. 21-cv-5524 (N.D. Cal.); (2) *Dominguez v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-05419 (N.D. Cal.); (3) *French v. Johnson & Johnson Consumer Inc.*, No. 21-cv-05048 (C.D. Cal.); (4) *Jimenez v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-13113 (D.N.J.); (5) *McLaughlin v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-13710 (D.N.J.); (6) *Briglio v. Johnson & Johnson Consumer Inc.*, No. 21-cv-13972 (D.N.J.); (7)

Bodine v. Johnson & Johnson Consumer Inc., No. 21-cv-14343 (D.N.J.); (8) *Baker v. Johnson & Johnson Consumer Inc.*, No. 21-cv-14421 (D.N.J.); (9) *Fernandez v. Johnson & Johnson Consumer Inc.*, No. 21-cv-14492 (D.N.J.); (10) *Lavalle v. Neutrogena Corporation*, No. 21-cv-06091 (S.D.N.Y.); (11) *Pedron v. Johnson & Johnson Consumer Inc.*, No. 21-cv-23189 (S.D. Fla.); (12) *Dickerson v. Johnson & Johnson Consumer Inc.*, No. 21-cv-07230 (C.D. Cal.); (13) *Goodwin v. Johnson & Johnson Consumer Companies Inc.*, No. 21-cv-61890 (S.D. Fla.); and (14) *Lokietz v. Johnson & Johnson*, No. 21-cv-17290 D.N.J.) (collectively these actions, including the *Serota* and *Brennan* Actions, shall be referred to as the “Actions” as defined further below).¹

WHEREAS all of the Actions similarly allege that the sunscreen products the plaintiffs purchased were contaminated with benzene, a human carcinogen; that the possible presence of benzene was not disclosed in the products’ advertising or labels; and that, as a result, the products were misbranded, adulterated and/or falsely advertised.

WHEREAS on October 8, 2021, the U.S. Joint Panel on Multidistrict Litigation (“JPML”) issued a Transfer Order finding that centralization of the consumer actions in the Southern District of Florida will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. *See generally* ECF No. 1.

WHEREAS, Settlement Plaintiffs, by and through their counsel, conducted a robust investigation into the facts and law relating to the matters alleged in their complaints, including into (i) marketing, advertising, and labeling of the Products; (ii) sales, pricing, consumer, distribution, and financial data; and (iii) Settlement Plaintiffs’ own documents and information relating to the Products. This investigation included extensive voluntary disclosures of data, information and witness statements provided by JJCI; consultation with numerous experts; as well as legal research as to the strength and sufficiency of the claims and defenses thereto, and appropriateness of class certification.

¹ The remaining two actions— (15) *Santos v. Johnson & Johnson*, 21-cv-01208 (N.D. Ala.) and (16) *Bodle v. Johnson & Johnson Consumer Inc.*, 21-cv-07742 (N.D. Cal.)—sought damages for alleged personal injuries related to the Products, and thus were not consolidated with the Actions.

WHEREAS, JJCI has implemented measures to address the benzene contamination in the five affected product lines, including undertaking a detailed Health Hazard Evaluation (“HHE”), working cooperatively with FDA, instituting a voluntary recall, instructing consumers to stop using the products and offering full cash refunds.

WHEREAS, this Settlement was reached as a result of extensive arms’-length negotiations between the Parties and their counsel, facilitated by a mediation with a respected mediator, the Honorable John C. Lifland (Retired). Before and during these settlement discussions and mediation, the Parties had an arms’-length exchange of sufficient information to permit Settlement Plaintiffs and their counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions.

WHEREAS, Settlement Plaintiffs, as class representatives, believe that the claims settled herein have merit, but they and their counsel recognize and acknowledge the risks and expense of continued proceedings necessary to prosecute the claims through trial and appeal. Settlement Plaintiffs, and their counsel, have specifically taken into account the uncertain outcome and risk of any litigation, as well as the difficulties and delay inherent in such litigation, and they believe that the terms and conditions set forth in this Settlement confer substantial benefits upon the Class Members and are in the best interest of the Class.

WHEREAS, JJCI has also considered the potential risks and the cost of continued litigation of the Action, and has determined to settle the Actions upon the terms and conditions set forth in this Settlement.

WHEREAS, JJCI has denied, and continues to deny, that it has engaged in any wrongdoing of any kind, or violated any law or regulation, or breached any duty to Settlement Plaintiffs or others.

WHEREAS, JJCI further denies that it has liability as a result of any and all allegations arising out of or relating to the allegations in the Actions, and is entering into the Settlement to eliminate the burden, distraction, expense, and uncertainty of further litigation.

WHEREAS, JJCI has agreed to class action treatment of the claims alleged in the Actions

solely for the purpose of compromising and settling those claims on a class basis as set forth herein.

NOW, THEREFORE, it is hereby STIPULATED AND AGREED, by and between the Parties, through their respective counsel, that: (a) the Actions be fully and finally compromised, settled, and released upon final settlement approval by the Court after the hearings as provided for in this Settlement; and (b) upon such approval by the Court, a Final Order and Final Judgment be entered upon the following terms and conditions.

II. DEFINITIONS

1. “Actions” shall mean the actions presently or in the future consolidated in the multidistrict litigation lawsuit entitled *In re Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation*, MDL No. 3015.

2. “Aerosol Product(s)” means the following five over-the-counter aerosol sunscreen product lines, produced and marketed by JJCI under the brand names Neutrogena® and Aveeno®: Neutrogena® Beach Defense® aerosol sunscreen, Neutrogena® Cool Dry Sport aerosol sunscreen, Neutrogena® Invisible Daily™ defense aerosol sunscreen, Neutrogena® Ultra Sheer® aerosol sunscreen, and Aveeno® Protect + Refresh aerosol sunscreen.

3. “Aerosol Product Recall” refers to the recall of all Aerosol Products in the United States, and instruction to consumers in possession of Aerosol Products to stop using them, which was instituted by JJCI on July 14, 2021.

4. “Aerosol Products Refund Program” refers to the program instituted by JJCI on July 14, 2021, whereby it agreed to reimburse consumer purchasers for the full average retail selling price of the Aerosol Products, and established a process for claimants to obtain such refunds as detailed in in Paragraphs 53-55 of this Settlement.

5. “Attorneys’ Fees and Expenses” means such funds as may be awarded by the Court to Class Counsel to compensate Class Counsel for their fees and expenses in connection with the Action and the Settlement, as described in Paragraphs 62-68 of this Settlement.

6. “CAFA Notice” means the notice which the Settlement Administrator shall serve upon the appropriate State and Federal officials, providing notice of the proposed settlement. The Settlement

Administrator shall provide a declaration attesting to compliance with 28 U.S.C. § 1715(b), which will be filed with Settlement Plaintiffs' motion for final approval.

7. "Claim Form" means the proof of claim substantially in the form attached hereto as Exhibit C which may be modified to meet the requirements of the Settlement Administrator, and which Class Members may use to apply for Vouchers as described in Paragraphs 57, 82, 86, 91, 98-99.

8. "Claim Form Deadline" means the final time and date by which a Claim Form must be submitted to the Settlement Administrator in order for a Class Member to be eligible for any Voucher available under the terms and conditions of this Settlement.

9. "Claim Period" means the deadline for Class Members to submit Claims Forms, as described in Paragraphs 57 and 92 of this Settlement, and which shall be ninety (90) calendar days from the date the Class Notice is mailed.

10. "Claimant" means a Class Member who files a Claim Form seeking a Voucher under this Settlement.

11. "Class" means all persons and entities in the United States who purchased one or more of the Aerosol Products or Non-Aerosol Products defined herein for personal, family, or household use and not for resale at any time between May 26, 2015 and the Notice Date (defined herein). Excluded from the Class are (a) all persons who are employees, directors, officers, and agents of JJCI, or its subsidiaries and affiliated companies; (b) persons or entities who purchased the Products primarily for the purposes of resale to consumers or other resellers; (c) governmental entities; (d) persons or entities who timely and properly exclude themselves from the Class as provided in this Settlement; and (e) the Court, the Court's immediate family, and Court staff.

12. "Class Counsel" means the law firm of Aylstock, Witkin, Kreis & Overholtz, PLLC, the law firm of Bradley/Grombacher LLP, and any other law firms appointed by the Court as such.

13. "Class Member(s)" means any member of the Class who does not elect exclusion (i.e., opt out) from the Class pursuant to the terms and conditions for exclusion set out in this Settlement and the Class Notice.

14. "Class Notice" shall mean the Long Form Notice and Summary Notice provided to the

Class substantially in the form attached hereto as Exhibits A and B as directed by the Court.

15. “Court” means the United States District Court for the Southern District of Florida and the Judge assigned to the Action (the Honorable Anuraag Singhal).

16. “JJCI” means defendant Johnson & Johnson Consumer Inc.

17. “Defense Counsel” means the law firm of Patterson Belknap Webb & Tyler LLP.

18. “Effective Date” means the first business date after all of the following conditions have been satisfied:

- (a) the Final Order and Final Judgment have been entered; and
- (b) (i) if reconsideration and/or appellate review is not sought from the Final Order and Final Judgment, the expiration of the time for the filing or noticing of any motion for reconsideration, appeal, petition, and/or writ has expired; or (ii) if reconsideration and/or appellate review is sought from the Final Order and Final Judgment: (A) the date on which the Final Order and Final Judgment are affirmed and are no longer subject to judicial review, or (B) the date on which the motion for reconsideration, appeal, petition, or writ is dismissed or denied and the Final Order and Final Judgment are no longer subject to judicial review. The Parties may agree in writing to waive all or some of the provisions in this subparagraph (b).

19. “Fairness Hearing” means the hearing that is to take place after the entry of the Preliminary Approval Order and after the Notice Date for purposes of: (a) determining whether the Settlement should be approved as fair, reasonable, and adequate; (b) ruling upon an application for Incentive Awards by the Settlement Plaintiffs; (c) ruling upon an application by Class Counsel for Attorneys’ Fees and Expenses; (d) entering the Final Order and Final Judgment; and (e) entering any final order awarding Attorneys’ Fees and Expenses and Incentive Awards.

20. “Incentive Award(s)” means such funds as may be awarded by the Court to the Settlement Plaintiffs to compensate them for their services to the Class, as described in Paragraphs 59 of this Settlement.

21. “Long Form Notice” means the long form notice of settlement, substantially in the form

attached hereto as Exhibit A.

22. “Non-Aerosol Product(s)” means the following three non-aerosol (i.e., lotion) over-the-counter sunscreen product lines: Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen, Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen, and Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion.

23. “Notice Date” means the first date upon which the Class Notice is disseminated by the Settlement Administrator.

24. “Notice of Missing or Inaccurate Information” means the notice sent by the Settlement Administrator to a Class Member who has submitted a Claim Form with inaccurate, disqualifying, incomplete, or missing information that is required for the Claimant to be considered eligible for a Voucher provided by this Settlement.

25. “Objection and Exclusion Period” means the deadline for Class Members to submit objections or requests for exclusion, as described in Paragraph 82 of this Settlement, and which shall be ninety (90) calendar days from the date the Class Notice is mailed.

26. “Parties” means Plaintiffs and JJCI, collectively, as each of those terms is defined in this Settlement.

27. “Preliminary Approval Order” means the order preliminarily approving the Settlement and proposed Class Notice.

28. “Product(s)” refers to both Aerosol Product(s) and Non-Aerosol Product(s) as defined above.

29. “Proof of Purchase” means some evidence of purchase, such as a store receipt or photograph of the container of Aerosol Product(s) or Non-Aerosol Product(s).

30. “Refund” means the cash payment of the full average retail selling price of any Aerosol Product.

31. “Release” means the release and waiver set forth in Paragraphs 69-72 of this Settlement and in the Final Order and Final Judgment.

32. “Released Claims”

- (a) “Released Claims” means and includes any and all claims, whether federal or state, known or unknown, asserted or unasserted, regardless of legal theory arising prior to the Effective Date for injunctive relief or economic loss arising from or relating to the facts, activities, or circumstances alleged in the Actions.
- (b) Notwithstanding any other provision of this Settlement, “Released Claims” do not include claims for bodily injuries. Class Members are not releasing any claims, demands, rights, damages, obligations, suits, debts, liens, and causes of action relating to bodily injuries allegedly caused by the Products and/or for medical monitoring related to such alleged injuries.

33. “Released Parties” shall be defined to include JJCI or its past or present parents, subsidiaries, affiliated companies, and their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing). For avoidance of doubt, Released Parties includes Johnson & Johnson, which is named as a defendant in certain of the Actions. Released Parties also includes Costco Wholesale Corporation (“Costco”), which is named as a defendant in one of the Actions, *McLaughlin v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-13710 (D.N.J.), and Costco’s past or present parents, subsidiaries, affiliated companies, and their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing).

34. “Releasing Parties” means Settlement Plaintiffs and all Class Members.

35. “Settlement Plaintiffs” means Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham.

36. “Settlement” means the terms and conditions embodied in this settlement agreement, including all attached Exhibits (which are an integral part of this Settlement and are incorporated in their entirety by reference).

37. “Settlement Administrator” means the qualified third-party administrator and agent agreed to by the Parties and approved and appointed by the Court in the Preliminary Approval Order to administer the Settlement, including providing the Class Notice. The Parties agree to recommend

that the Court appoint Rust Consulting as Settlement Administrator to design, consult on, and implement the notice and related requirements of this Settlement, including the Settlement Website claim review, the issuance of Vouchers, the service of CAFA Notice, and related requirements of this Settlement, subject to the Court's approval.

38. "Settlement Website" refers to the Internet website (www.sunproductsettlement.com).

39. "Unit" means a single Product.

40. "Valid Claim" means a Claim Form submitted by a Class Member that is: (a) submitted in accordance with the directions accompanying the Claim Form and the provisions of the Settlement; (b) accurately, fully and truthfully completed and executed, with all of the information requested in the Claim Form, by a Class Member; (c) signed physically or by e-signature by a Class Member personally, subject to the penalty of perjury; (d) returned via mail and postmarked by the Claim Form Deadline, or, if submitted online, submitted by 11:59 p.m. Eastern time on the Claim Form Deadline; and (e) determined to be valid by the Settlement Administrator. The Settlement Administrator may require additional information from the Class Member to validate the Claim, including, but not limited to, answers related to questions regarding the validity or legitimacy of the physical or e-signature. Failure to respond to the Settlement Administrator's request for additional information may result in a determination that the claim is not a Valid Claim.

41. "Petition" refers to the May 24, 2021 citizen's petition that analytical pharmacy Valisure LLC filed with the United States Food and Drug Administration ("FDA").

42. "Voucher" refers to a voucher toward the purchase of replacement Neutrogena or Aveeno products available to eligible Class Members via the submission of a Claim Form. The specific Voucher provided is subject to review, validation, and adjustments by the Settlement Administrator based upon the terms and conditions of this Settlement.

III. SUBMISSION OF THE SETTLEMENT TO THE COURT

43. As soon as practicable but no later than December 17, 2021, Class Counsel shall move the Court for entry of the Preliminary Approval Order for the purpose of, among other things:

(a) Preliminarily approving the Settlement as being within the range of possible

approval as fair, adequate, and reasonable, such that the Class Notice should be provided pursuant to this Settlement;

- (b) Finding that the requirements for provisional certification of the Class for settlement purposes only have been satisfied;
- (c) Appointing Settlement Plaintiffs as the representatives of the Class and Class Counsel as counsel for the Class;
- (d) Appointing Rust Consulting as the Settlement Administrator;
- (e) Approving the Class Notice, substantially in the form set forth at Exhibits A & B to be distributed to Class Members; and
- (f) Scheduling the Fairness Hearing on a date ordered by the Court and in compliance with applicable law, to determine whether the Settlement should be approved as fair, reasonable, and adequate, and to determine whether a Final Order and Final Judgment should be entered.

44. Following the entry of the Preliminary Approval Order, the Class Notice shall be given and published by the Settlement Administrator within ten (10) days in the manner directed and approved by the Court.

45. At the Fairness Hearing, the Parties shall seek to obtain from the Court a Final Order and Final Judgment. Settlement Plaintiffs shall also seek to obtain a final order approving the Attorneys' Fees and Expenses and the Incentive Awards. The Final Order and Final Judgment shall, among other things:

- (a) Find that the Court has personal jurisdiction over all Class Members, the Court has subject matter jurisdiction over the claims asserted in the Action, and that venue is proper;
- (b) Finally approve this Settlement;
- (c) Certify the Class for purposes of settlement only;
- (d) Find that the Class Notice complies with all laws, including, but not limited to, the Due Process Clause of the United States Constitution;

- (e) Incorporate the Release set forth in this Settlement and make the Release effective as of the date of the Final Order and Final Judgment;
- (f) Authorize the Parties to implement the terms of the Settlement;
- (g) Dismiss the Actions with prejudice; and
- (h) Retain jurisdiction over the Settlement to interpret and enforce its terms and conditions, and for any other necessary purpose.

IV. SETTLEMENT CONSIDERATION

46. In consideration for the Release contained in this Settlement, JJCI will implement the following:

A. Prospective Non-Monetary Relief.

(1) Non-Sale of Recalled Aerosol Products

47. JJCI shall not in the future ship, distribute, offer for sale or otherwise make available for purchase or use any unit of Aerosol Products subject to the Aerosol Product Recall.

(2) Isobutane Raw Material Supply

48. To prevent recurrence, JJCI shall undertake or, where applicable, has already undertaken, the following corrective and preventive actions prior to manufacturing any additional units of Aerosol Products:

- (a) Purge of Inventory: JJCI shall direct its external manufacturer to purge any existing inventory of isobutane intended for use in such Products.
- (b) Raw Material Specification: JJCI shall adopt a new specification applicable to any supplier of isobutane raw material for use in Aerosol Products, that requires such raw material to contain not more than one (1) part per million (PPM) benzene. Such specification shall be subject to review by Class Counsel and shall remain in effect for a minimum period of two (2) years from the date of execution of this Class Action Settlement Agreement.
- (c) Testing by Raw Material Supplier: JJCI shall direct its external manufacturer to require that, prior to dispatching any shipment of isobutane raw material intended

for use in Aerosol Products, the raw material supplier test for the presence of benzene at one (1) PPM or more in such raw material, and to refrain from shipping such raw material to JJCI's external manufacturer unless the shipment has passed such test. This requirement shall remain in effect for a minimum period of two (2) years from the date of execution of this Class Action Settlement Agreement.

- (d) Testing of Raw Material by External Manufacturer: JJCI shall require that, upon receipt of any shipment of raw material isobutane intended for use in Aerosol Products, JJCI's external manufacturer test for the presence of benzene at one (1) PPM or more in such raw material, and to refrain from use of such raw material unless it has passed such test. This requirement shall remain in effect for a minimum period of two (2) years from the date of execution of this Class Action Settlement Agreement.

(3) Finished Goods Aerosol Product Testing

49. JJCI shall require its external manufacturer to engage an independent, ISO-certified laboratory to test a reasonable number of random samples from at least 25% of manufacturing lots of finished goods Aerosol Products for the presence of benzene, and to withhold release of such finished goods from any such lot unless all such samples have passed such test. The parties agree that such testing shall be conducted utilizing gas chromatography and detection by mass spectrometry ("GC-MS") instrumentation. The results of this testing will be timely made available to FDA and Class Counsel. This requirement shall remain in effect until at least January 21, 2022.

B. Refunds for Aerosol Products Subject to Aerosol Product Recall.

(1) Refund Program

50. The Aerosol Products Refund Program is ongoing. For refunds of three or fewer units, no proof of purchase is required. Claimants seeking refunds for more than three units must submit Proof of Purchase.

(2) Continuation of Aerosol Products Refund Program

51. Subject to certain agreed-upon enhancements delineated below, JJCI will hold open and

not discontinue the Aerosol Products Refund Program until January 14, 2022.

52. JJCI will cause to be published on its Aerosol Products Refund Program website a notification to consumers that the refund amount is calculated based on the full average retail selling price of the affected product(s).

(3) Enhancements to Aerosol Products Refund Program

53. Within fourteen (14) days of entry of the Preliminary Approval Order, JJCI will modify the Aerosol Products Refund Program in the following respects:

- (a) Ombudsman: JJCI shall inform claimants of the availability of an external ombudsman to assist in resolving any complaints or concerns about, or claims submitted in connection with, the Aerosol Products Refund Program. Information regarding the availability and contact information for the ombudsman shall appear on the Settlement Website, as well as the dedicated webpage for submitting a claim pursuant to the Aerosol Products Refund Program. The ombudsman shall be mutually agreed upon by the parties and, unless otherwise agreed, shall be a representative of the Settlement Administrator. In the event of a disagreement, the ombudsman shall retain final decision-making authority with respect to claims submitted pursuant to the Aerosol Products Refund Program. JJCI shall bear the cost for the services performed by the Ombudsman, subject to the \$500,000 cap on costs of administration as provided by Paragraph 58 below.

(4) Voucher Program for Non-Aerosol Products:

- (b) The Aerosol Products Refund Program is limited to the products subject to the Aerosol Products Recall. However, under this Settlement, Class Members will be able to submit a Claim for a Voucher to be used to acquire replacement or substitute Neutrogena or Aveeno products. The face value of the Voucher will be equal to the average retail selling price of the Non-Aerosol Product(s) purchased, up to a maximum of two (2) such units per household.
- (c) Vouchers shall be transferable, may be aggregated and shall expire not less than

twelve (12) months from their issuance. The email or cover letter accompanying the Voucher and the Voucher provided to Class Members pursuant to the terms of this Settlement shall conspicuously state the Voucher's expiration date. Vouchers may be used toward the purchase of any Neutrogena or Aveeno product(s) and will not be limited to the specific Non-Aerosol Product previously purchased, nor to sunscreen products in general.

- (d) Through the notice program described in Paragraph 55 below, Class Members will be informed that they may be eligible for a Voucher if they submit a timely, valid written Claim Form, the value of which is based on the number of units claimed (with a maximum of two (2) units per household) and that, should the claims exceed One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00), each claim will be reduced on a *pro rata* basis.
- (e) In no event will the total face value of all Vouchers issued to Class Members who timely submit a valid written Claim Form be more than One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00). In the event that claims exceed this amount, the value of each Voucher will be reduced on a *pro rata* basis.
- (f) JJCI will also notify consumers on its Aerosol Products Refund Program website of the availability of this Voucher program.

C. Notice Program and Claims Process.

54. In connection with the Settlement Agreement, the Parties will request that the court appoint an independent Settlement Administrator to, *inter alia*, provide consumer purchasers of Aerosol Products and Non-Aerosol Products with notice of the settlement and its essential terms. The Class Notice will inform the Class of the Vouchers available under this Settlement, and of their right to opt out of the Settlement. The Settlement Administrator will also establish a dedicated Settlement Website to provide information regarding the settlement; be designated as the person or entity to receive and process opt-out forms; and provide notice to appropriate authorities in compliance with the provisions of the Class Action Fairness Act, see 28 U.S.C. § 1715.

55. Subject to the rights and limitations set forth in this Settlement, every Class Member shall have the right to submit a claim for Vouchers under this Settlement. A claim shall be a Valid Claim only if submitted on the Claim Form pursuant to and in compliance with the procedures set forth herein during the Claim Period. Submission of a claim, regardless of whether it is determined to be a Valid Claim, shall confer no rights or obligations on any Party, any Class Member, or any other person, except as expressly provided herein.

56. JJCI shall be responsible for paying all Settlement Notice and administration costs, which shall not exceed Five Hundred Thousand Dollars (\$500,000.00).

D. Incentive Awards to Settlement Plaintiffs.

57. In recognition of the time and effort the Settlement Plaintiffs expended in pursuing this Action and in fulfilling their obligations and responsibilities as class representatives, and of the relief conferred on all Class Members by the Settlement, Class Counsel may ask the Court to approve the payment of an Incentive Award to each of the Settlement Plaintiffs. Within thirty (30) days of final approval by the Court of the Settlement Agreement, including any appeal relating thereto, JJCI shall, subject to court approval, pay to Katherine Brennan, Heather Rudy, Fred Salter, Judith Barich, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham, the sum of \$250 each, for a total of \$3,000, for their service as class representatives. However, this settlement is not contingent on the court's approval of such Incentive Award.

58. The Settlement Administrator shall issue an IRS Form 1099-MISC to Settlement Plaintiffs solely for the amount awarded by the Court for each Incentive Award. Settlement Plaintiffs shall be solely and legally responsible to pay all applicable taxes, penalties, or interest arising as a result of the Incentive Awards.

59. Payment by JJCI of the Incentive Award is separate from, and in addition to, the other relief afforded to the Class Members in the Settlement.

E. Attorneys' Fees and Expenses.

60. Class Counsel, Aylstock, Witkin, Kreis and Overholtz, PLLC and Bradley/Grombacher

LLP, may make an application to the Court for an award of Attorneys' Fees and Expenses in the Action to be paid by JJCI for their work in connection with the *Brennan* Action and the *Serota* Action, and as co-lead counsel for the Settlement Class(es), which shall be the sole aggregate compensation received by Class Counsel.

61. JJCI will not object to a fee application up to and including the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000), plus reimbursement of reasonable costs and expenses up to and including the sum of One Hundred Thousand Dollars (\$100,000), being approved by the Court. JJCI agrees to pay the approved fee amount, up to \$2,500,000 million, and costs, up to \$100,000, within thirty (30) days of the Effective Date.

62. Nothing in this Agreement shall restrict Settlement Plaintiffs or Class Counsels' ability to appeal any decision by the Court to award less than the requested Attorneys' Fees and Expenses. Any order relating to the award of Attorneys' Fees and Expenses or any appeal from any order relating thereto or reversal or modification thereof, will not operate to terminate or cancel this Settlement Agreement.

63. Any Attorneys' Fees and Expenses awarded by the Court will be in lieu of statutory fees Settlement Plaintiffs and/or Class Counsel might otherwise have been entitled to recover from JJCI. Settlement Plaintiffs and Class Counsel agree that JJCI shall not pay, or be obligated to pay, Class Counsel in excess of any award of Attorneys' Fees and Expenses authorized by the Court.

64. JJCI shall have no liability or other responsibility for allocation of any such Attorneys' Fees and Expenses awarded, and, in the event that any dispute arises relating to the allocation of Attorneys' Fees and Expenses, Class Counsel agree to hold JJCI harmless from any and all such liabilities, costs, and expenses of such dispute. JJCI shall pay its own fees and costs incurred in this Action.

V. RELEASE

65. Upon the Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Order and Final Judgment shall have, fully, finally and forever released, relinquished, and discharged all Released Claims against the Released Parties.

66. Members of the Class who have sought exclusion from the Settlement prior to termination of the Objection Exclusion Period do not release their claims and will not obtain any benefits under the terms and conditions of the Settlement.

67. Class Members are not releasing any claims for bodily injuries.

68. Upon the Effective Date: (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Settlement Plaintiffs and Class Members; and (b) Settlement Plaintiffs and the Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting against the Released Parties in any federal or state court or tribunal all Released Claims.

VI. SETTLEMENT IMPLEMENTATION PROCEDURE

A. Provision of Settlement Benefits.

69. JICI shall transmit to the Settlement Administrator the aggregate dollar value of all Attorneys' Fees and Expenses, Attorney costs, Incentive Awards, and Administrator Fees by no later than Fifteen (15) calendar days after the Effective Date.

B. Responsibilities of Settlement Administrator.

70. The Parties shall jointly recommend and retain Rust Consulting to be the Settlement Administrator. Following the Court's preliminary approval of this Settlement and the Court's appointment of the proposed Settlement Administrator, the Settlement Administrator shall disseminate the Class Notice as specified in the Preliminary Approval Order and in this Settlement, and in order to comply with all applicable laws, including, but not limited to, the Due Process Clause of the United States Constitution.

71. In fulfilling its responsibilities in providing Class Notice, the Settlement Administrator, without limitation, shall be responsible for: (a) dissemination of the Class Notice pursuant to the requirements of this Settlement; (b) designing and implementing notice to the Class by various electronic media as set forth herein; (c) responding to requests from Class Counsel and/or Defense Counsel; and (d) otherwise implementing and/or assisting with the dissemination of the notice of the Settlement pursuant to the requirements of this Settlement.

72. The Settlement Administrator also shall be responsible for implementing the terms of the claim process and related administrative activities that relate to the Voucher that include communications with the Class concerning the Settlement, the claim process, and their options thereunder. In particular, the Settlement Administrator shall be responsible for: (a) printing, e-mailing, mailing, or otherwise arranging for the distribution of the Claim Forms in response to requests by members of the Class; (b) making any electronic or physical mailings required under the terms of this Settlement; (c) establishing the Settlement Website that contains the Claim Form that can be completed and submitted online; (d) establishing a toll-free voice response unit with message and interactive voice response (IVR) capabilities to which the Class may refer for information about the Action and the Settlement; (e) receiving and maintaining any correspondence from the Class regarding requests for exclusion and objections to the Settlement; (f) forwarding inquiries from the Class to Class Counsel or their designee for a response, if warranted; (g) establishing a post office box for the receipt of Claim Forms, exclusion requests, objections, and any correspondence from the Class; (h) reviewing Claim Forms according to the review protocols agreed to by the Parties and set forth in this Settlement; (i) providing weekly updates via e-mail each Friday to Defense Counsel and Class Counsel regarding the number of claims, requests for exclusion, and objections; and (j) otherwise implementing and/or assisting with the claim review process and payment of Valid Claims.

73. The Settlement Administrator shall administer the Settlement in accordance with the terms and conditions of this Settlement and, without limiting the foregoing, shall:

- (a) Treat any and all documents, communications and other information and materials received in connection with the administration of the Settlement as confidential and shall not disclose any or all such documents, communications, or other information to any person or entity except as provided for in this Settlement or by Court order;
- (b) Receive correspondence from members of the Class to exclude themselves from the Settlement. If the Settlement Administrator receives any exclusion (i.e., opt-out) requests from members of the Class after the deadline for the submission of such requests, the Settlement Administrator shall promptly provide Class Counsel

and Defense Counsel with copies thereof;

- (c) Receive copies of objections from members of the Class who are objecting to any aspect of the Settlement; and
- (d) Receive and maintain all other correspondence from any Class Member regarding the Settlement.

74. If the Settlement is not approved or for any reason the Effective Date does not occur, no payments or distributions of any kind shall be made pursuant to this Settlement, except for the costs and expenses of the Settlement Administrator, which shall be paid by JJCI up to a maximum of \$500,000, and for which Settlement Plaintiffs and/or Class Counsel are not responsible.

75. In the event the Settlement Administrator fails to perform its duties, and/or makes a material or fraudulent misrepresentation to, or conceals requested material information from, Settlement Plaintiffs, Class Counsel, Defendant, and/or Defense Counsel, then the Party to whom the misrepresentation is made shall, in addition to any other appropriate relief, have the right to demand that the Settlement Administrator immediately be replaced. No Party shall unreasonably withhold consent to remove the Settlement Administrator. The Parties will attempt to resolve any disputes regarding the retention or dismissal of the Settlement Administrator in good faith, and, if they are unable to do so, will refer the matter to the Court for resolution.

C. Notice to the Class.

76. The Parties agree that the notice plan contemplated by this Settlement, as described in the Notice Protocol attached as Exhibit D hereto, is valid and that if effectuated, it would provide reasonable notice to the Class, and that it represents the best practicable notice under the circumstances.

77. Because the names of Class Members and other personal information about them will be provided to the Settlement Administrator for purposes of providing Vouchers to Class Members and processing opt-out requests, the Settlement Administrator will execute a confidentiality and non-disclosure agreement with Defendant and Class Counsel and will take all reasonable steps to ensure that any information provided to it by Class Members will be used solely for the purpose of effecting

its obligation under the terms and conditions of this Settlement.

(1) The Long Form Notice

78. The Long Form Notice shall be in a form substantially similar to the document attached to this Settlement as Exhibit A and shall comport to the following:

- (a) General Terms: The Long Form Notice shall contain a plain and concise description of the nature of the Action and the proposed Settlement, including information regarding the definition of the Class, the identity of members of the Class, how the proposed Settlement would provide relief to Class Members, what claims are released under the proposed Settlement, eligibility requirements for receiving a Voucher, and other relevant information.
- (b) Alert as to Voucher Program: The Notice will inform Class Members of the limited availability of vouchers for Non-Aerosol Products and shall instruct Class members on how to file a claim for Vouchers for Non-Aerosol Products.
- (c) Opt-out Rights: The Long Form Notice shall inform the Class Members that any member of the Class has the right to seek exclusion from (i.e., opt out of) the Settlement. The Long Form Notice shall provide the deadlines and procedures for exercising this right.
- (d) Objection to the Settlement: The Long Form Notice shall inform the Class Members that any member of the Class has the right to object to the Settlement and appear at the Fairness Hearing. The Class Notice shall provide the deadlines and procedures for exercising these rights.
- (e) Claim Process and Claim Form: The Long Form Notice shall inform the Class about how to file a Valid Claim prior to the Claim Form Deadline in order to be eligible to obtain a Voucher under the terms and conditions of the Settlement. The Claim Form shall be available as part of the Class Notice.
- (f) Attorneys' Fees and Expenses and Incentive Awards: The Long Form Notice shall provide information about the Attorneys' Fees and Expenses and Incentive Awards

sought by Class Counsel and Plaintiffs.

(2) Settlement Website

79. Before the dissemination of the Class Notice, the Settlement Administrator shall establish an Internet website that will inform the Class of the terms and conditions of this Settlement, their rights, important dates and deadlines, and related information. The Settlement Website shall include, in .pdf format, materials agreed upon by the Parties and/or required by the Court, including but not limited to the Long Form Notice, the Claim Form, the Preliminary Approval Order, and this Settlement Agreement.

(3) Toll-Free Telephone Number

80. Prior to the dissemination of the Class Notice, the Settlement Administrator shall establish a voice response unit with message and interactive voice response (IVR) capabilities to which the Class may refer for information about the Action and the Settlement.

D. Claim Submission.

81. Each Class Member may submit a Claim Form pursuant to the instructions set forth therein.

82. Any Class Member who does not submit a Valid Claim in accordance with the terms and conditions of this Settlement will not be entitled to receive a Voucher pursuant to this Settlement, but will in other respects be bound together with all Class Members by all of the terms of this Settlement, including the terms of the Final Order and Final Judgment to be entered in the Action and the Release provided for herein, and will be barred from bringing any action in any forum (state or federal) against the Released Parties concerning any of the Released Claims.

E. Claim Administration Protocol.

83. The Settlement Administrator shall take all reasonable efforts to administer the Settlement and claims for Vouchers efficiently and to avoid unnecessary fees and expenses. As soon as work commences, the Settlement Administrator shall provide a detailed written accounting of all fees and expenses on a regular basis to Class Counsel and Defense Counsel, and shall respond promptly to inquiries by Class Counsel and Defense Counsel concerning the administration and notice fees and

expenses.

84. The Parties are entitled to observe and monitor the performance of the Settlement Administrator to assure compliance with the Settlement and this Protocol. The Settlement Administrator shall promptly respond to all inquiries and requests for information made by JJCI, its counsel, or Class Counsel.

85. The Settlement Administrator shall provide periodic reports to Class Counsel and Defense Counsel regarding the implementation of the Settlement and this Protocol.

86. The Settlement Administrator may retain one or more persons to assist in the completion of its responsibilities.

(1) Locating, Obtaining, and Submitting Claims Forms

87. The Claim Form, which is substantially similar to the form attached as Exhibit C to the Settlement, shall be available as part of the Class Notice, on the Settlement Website, in response to requests through the toll-free voice response unit with message and interactive voice response (IVR), and also through contacting by telephone or by mail or other similar service the Settlement Administrator and requesting a copy of the Claim Form be sent. The Claim Form on the Settlement Website and the hard copy Claim Form shall be consistent in all substantive respects. Class Members shall have access to the Claim Form by using a unique Class Member identifier provided by the Settlement Administrator.

88. Class Members may submit a claim to the Settlement Administrator during the Claim Period. As part of the claim process, Class Members shall be eligible for the Vouchers provided in the Settlement, provided Class Members complete and timely submit the Claim Form to the Settlement Administrator within the Claim Period, subject to the terms herein and in the Settlement.

89. Claims may be submitted by completing the Claim Form in hard copy by mail or other similar delivery service or on-line through a web-based Claim Form at the Settlement Website.

90. The Settlement Administrator shall establish and maintain the Settlement Website that shall be easily accessible through commonly used Internet Service Providers for the submission of claims. The Long Form Notice, Claim Form, Settlement Agreement, and Preliminary Approval

Order, in addition to any other materials agreed upon by the Parties and/or required by the Court, shall be available on the Settlement Website. The Settlement Website shall be designed to permit Class Members to readily and easily submit claims and obtain information about their rights and options under the Settlement. The Settlement Website shall be maintained continuously until the end of the Claim Period. The Settlement Administrator shall be solely responsible for receiving and processing requests for Claim Forms and for promptly delivering Claim Forms to the Class Members who request them.

91. The Settlement Administrator also shall establish a toll-free telephone number that will have recorded information answering frequently asked questions about certain terms of the Settlement, including, but not limited to, the claim process and instructions about how to request a Claim Form and/or Class Notice.

(2) Claim Form Review and Processing

92. Class Members must submit their claims so that they are postmarked, or submitted online no later than the Claim Form Deadline. The Claim Form shall be deemed to have been submitted when it is actually received by the Settlement Administrator. The web-based Claim Form shall include necessary disclaimers to comply with federal and state law.

93. The Settlement Administrator shall determine whether a Claim Form meets the requirements set forth in this Settlement. Each Claim Form shall be submitted to and reviewed by the Settlement Administrator, who shall determine in accordance with the terms and conditions of the Settlement the extent, if any, to which each claim shall be allowed. The Settlement Administrator shall have the authority to determine whether a claim by any Class Member is complete and timely. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate and/or fraudulent claims, including, without limitation, indexing all funds provided to Class Members. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties can require information from Class Members or deny claims, subject to the supervision of the Parties and ultimate oversight by the Court.

94. The Settlement Administrator shall gather, review, prepare, and address the Claim Forms

received pursuant to the Settlement as follows:

- (a) Claims that have been properly submitted shall be designated as “Valid Claims.” The Settlement Administrator shall examine the Claim Form before designating the claim as a Valid Claim, to determine that the information on the Claim Form is reasonably complete and contains sufficient information to enable the mailing or electronic delivery of Voucher(s) to the Class Member.
- (b) No Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Class Member. The Settlement Administrator shall determine whether there is any duplication of claims, if necessary by contacting the Class Member(s) or their counsel. The Settlement Administrator shall designate any such duplicative claims as rejected claims to the extent they allege the same purchases on behalf of the same Class Member.
- (c) The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the claim process. The Settlement Administrator may, in its discretion, deny in whole or in part any claim to prevent actual or possible fraud or abuse.
- (d) By agreement, the Parties can instruct the Settlement Administrator to take whatever steps it deems appropriate to preserve the funds provided under the Settlement to further the purposes of the Settlement if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any claim to prevent actual or possible fraud or abuse.

95. If a Valid Claim is not contested by the Parties, that claim shall be processed for payment by the Settlement Administrator.

96. Claim Forms that do not meet the terms and conditions of this Settlement shall be

promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Class Member of the reason(s) why the Claim Form was rejected.

- (a) However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information, the Settlement Administrator shall send a Notice of Missing or Inaccurate Information explaining what information is missing or inaccurate and needed to validate the claim and have it submitted for payment. The Settlement Administrator shall notify the Class Member using the contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Class Member's physical or e-signature. Class Members shall have until the end of the Claim Period, or twenty-one (21) calendar days from when the Notice of Missing or Inaccurate Information was mailed, whichever is later, to reply to the Notice of Missing or Inaccurate Information, and provide the required information.
 - (i) In the event the Class Member timely and adequately provides the requested information and/or documentation, the claim shall be deemed validated and shall be processed by the Settlement Administrator for payment.
 - (ii) In the event the Class Member does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the claim unless Defendant and Class Counsel otherwise agree.
- (b) Where a good faith basis exists, the Settlement Administrator may reject a Class Member's Claim Form for, among other reasons, the following:
 - (i) The Class Member purchased products that are not covered by the terms of this Settlement;
 - (ii) Failure to fully complete and/or sign the Claim Form;
 - (iii) Illegible Claim Form;

- (iv) The Claim Form is fraudulent;
- (v) The Claim Form is duplicative of another Claim Form;
- (vi) The person submitting the Claim Form is not a Class Member;
- (vii) The person submitting the Claim Form requests that payment be made to a person or entity other than the Class Member for whom the Claim Form is submitted;
- (viii) Failure to submit a Claim Form by the Claims Form Deadline; and/or
- (ix) The Claim Form otherwise does not comply with the requirements of this Settlement.

97. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

- (a) The Settlement Administrator shall have thirty (30) days from the end of the Claim Period to exercise the right of rejection based on findings of fraud or duplication.
- (b) A request for additional information shall not be considered a rejection for purposes of this Paragraph.
- (c) If a claim is rejected for fraud or duplication, the Settlement Administrator shall notify the Class Member using the contact information provided in the Claim Form. Class Counsel and Defense Counsel shall be provided with copies of all such notifications to Class Members.
- (d) The Settlement Administrator's determination as to whether to approve or deny a claim shall be final and binding, except that, if any Claimant whose Claim Form has been rejected, in whole or in part, desires to contest such rejection, the Claimant must, within fifteen (15) business days from receipt of the rejection, transmit to the Settlement Administrator by e-mail or U.S. mail a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting further review by the Settlement Administrator, in consultation with Class Counsel and Defense Counsel, of the

denial of the claim. If Class Counsel and Defense Counsel cannot agree on a resolution of the Claimant's notice contesting the rejection, then the Settlement Administrator's determination shall become final.

98. The Settlement Administrator shall provide all information gathered in investigating claims, including, but not limited to, copies of all correspondence and email and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel or Defense Counsel. Additionally, Class Counsel and Defense Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

99. No person shall have any claim against JJCI, Defense Counsel, Settlement Plaintiffs, the Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

100. Not later than seven (7) days before the date of the Fairness Hearing, the Settlement Administrator shall file with the Court the details regarding the number of Valid Claims received and processed by the Settlement Administrator to date.

(3) Claim Calculation and Payment of Valid Claims

101. The Settlement Administrator shall identify the timely, valid, and approved claims submitted pursuant to the claim process to be paid by JJCI pursuant to the terms and conditions of this Settlement.

102. Thirty-one (31) days after the Effective Date the Settlement Administrator shall begin to issue Vouchers. Not later than ninety (90) days after the occurrence of the Effective Date, the Settlement Administrator shall have completed issuance of Vouchers to Class Members who have submitted Valid Claims pursuant to the claim process.

F. Objections and Opt-outs.

103. Class Members who fail to file with the Court and serve upon the Settlement Administrator, Class Counsel, and Defense Counsel timely written objections in the manner specified in this Settlement and the Class Notice shall be deemed to have waived all objections and shall be

foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. Any member of the Class who submits a timely request for exclusion (i.e., to opt out) may not file an objection to the Settlement and shall have no rights or entitlement to Vouchers under this Settlement.

104. Any Class Member who intends to object to the fairness, reasonableness, and/or adequacy of the Settlement must, in addition to timely filing a written objection with the Court, send the written objection to the Settlement Administrator by U.S. mail (at the mailing address to be included in the Long Form Notice, substantially in the form attached as Exhibit A or by e-mail to the following e-mail address: info@sunproductsettlement.com, along with a copy by U.S. mail or e-mail to Class Counsel and Defense Counsel (at the addresses set forth below) postmarked no later than the date specified in the Preliminary Approval Order. Class Members who object must set forth: (a) their full name; (b) current address; (c) a written statement of their objection(s) and the reasons for each objection; (d) a statement of whether they intend to appear at the Fairness Hearing, and if so, whether they will appear with separate counsel; (e) their signature; (f) the case name and case number (*In re Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation*, MDL No. 3015); (g) a detailed list of any other objections submitted by the Class Member, or his/her counsel, to any class actions in any court, whether state or otherwise, in the United States in the previous five (5) years; and (h) documents sufficient to establish the person's standing as a Settlement Class Member, i.e., verification under penalty of perjury as to the person's purchase of Aerosol Products or Non-Aerosol Products during the Class Period, or a Proof of Purchase. If the Class Member or his/her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the objection to this Settlement. Objections must be served on the Settlement Administrator (at the mailing address to be included in the Long Form Notice, substantially in the form attached as Exhibit A or by e-mail to the following e-mail address: info@sunproductsettlement.com, as well as Class Counsel and Defense Counsel as follows:

Upon Class Counsel at:

and Upon Defense Counsel at:

Kiley Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Dr., Suite 240
Westlake Village, CA 91361
kgrombacher@bradleygrombacher.com

Steven A. Zalesin
PATTERSON BELKNAP
WEBB & TYLER LLP
1133 Avenue of the Americas
New York, New York 10036
sazalesin@pbwt.com

R. Jason Richards
AYLSTOCK, WITKIN, KREIS &
OVERHOLTZ, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502
jrichards@awkolaw.com

105. No Class Member shall be entitled to object to the Settlement, and no written objections or briefs submitted by any Class Member shall be received or considered by the Court at the Fairness Hearing, unless written notice of the objecting Class Member's intention to appear (or not appear) at the Fairness Hearing and copies of any written objections and/or briefs, shall have been filed with the Court and served on the Settlement Administrator, Class Counsel, and Defense Counsel on or before the date specified in the Preliminary Approval Order. Objections that are mailed to the Court (and not filed with the Court), or objections that are served on the Parties but not filed with the Court, shall not be received or considered by the Court at the Fairness Hearing.

106. The Parties shall request that the Court allow any interested party to file a response to any objection, as described in Paragraph 109, no later than seven (7) days before the Fairness Hearing, or as the Court may otherwise direct.

107. Members of the Class may elect to exclude themselves from (i.e., opt out of) the Settlement, relinquishing their rights to Vouchers hereunder. Members of the Class who opt out of the Settlement will not release their claims pursuant to this Settlement. Members of the Class wishing to opt out of the Settlement must send to the Settlement Administrator by U.S. mail (at the mailing address to be included in the Long Form Notice, substantially in the form attached as Exhibit A) a personally signed letter including (a) their full name; (b) current address; (c) a clear statement communicating that they

elect to be excluded from the Class, do not wish to be a Class Member, understand that they will not receive any Voucher under the Settlement, and elect to be excluded from any judgment entered pursuant to the Settlement; (d) their signature; and (e) the case name and case number (*In re Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation*, MDL No. 301). Any request for exclusion must be postmarked on or before the exclusion deadline provided in the Court's Preliminary Approval Order. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. A member of the class cannot opt out on behalf of anyone but himself or herself. No Class Member shall be deemed to have opted out of the Settlement through any purported "mass" or "class" opt-outs, or via any class action, mass action, or collective or representative action. Members of the Class who fail to submit a valid and timely request for exclusion on or before the date specified in the Court's Preliminary Approval Order shall be bound by all terms of this Settlement and the Final Order and Final Judgment, regardless of whether they have requested exclusion from the Settlement. If a Class Member submits both a Claim Form and a request for exclusion, the Claim Form shall take precedence and be considered binding, and the opt-out request shall be deemed to have been sent by mistake and rejected.

108. The Settlement Administrator shall promptly provide copies of all requests for exclusion, objections, and/or related correspondence from the Class to Class Counsel and Defense Counsel. Not later than three (3) business days after the deadline for submission of requests for exclusion (i.e., to opt out), the Settlement Administrator shall provide to Class Counsel and Defense Counsel a complete opt-out list, which shall also be filed with the Court no later than seven (7) days before the Fairness Hearing, together with copies of the opt-out requests.

109. On the date set forth in the Preliminary Approval Order, a Fairness Hearing shall be conducted to determine final approval of the Settlement. Class Members who wish to be heard at the Fairness Hearing (whether individually or through separate counsel) and are objecting to the Settlement shall comply with the provisions of this Settlement. Class Members who wish to be heard at the Fairness Hearing (whether individually or through separate counsel) and are not objecting to

the Settlement shall file a notice of appearance with the Court, and serve the notice upon Class Counsel and Defense Counsel at the addresses indicated above at least fourteen (14) calendar days before the Fairness Hearing.

110. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage any Party or Settlement Class Member to submit Objections or Requests for Exclusion, or to appeal from the Court's Judgment.

VII. CAFA COMPLIANCE

111. Within ten (10) days following Preliminary Approval, the Settlement Administrator shall serve the CAFA Notice to appropriate state and federal officials pursuant to the Class Action Fairness Act ("CAFA") at 28 U.S.C. § 1715. The Settlement Administrator shall be responsible for drafting and preparing the notice in conformity with 28 U.S.C. § 1715 and for identifying the appropriate state and federal officials to be notified.

VIII. SCOPE AND EFFECT OF CONDITIONAL

CERTIFICATION OF THE CLASS SOLELY FOR PURPOSES OF SETTLEMENT

112. For purposes of settlement only, the Parties agree to seek provisional certification of the Class. The Parties further agree that the Court should make preliminary findings and enter the Preliminary Approval Order granting provisional certification of the Class subject to final findings and ratification in the Final Order and Final Judgment, and appointing the Settlement Plaintiffs as the representatives of the Class and Class Counsel as counsel for the Class.

113. JJCI does not consent to certification of the Class for any purpose other than to effectuate this Settlement. JJCI's agreement to conditional certification does not constitute an admission of wrongdoing, fault, liability, or damage of any kind to Settlement Plaintiffs or any members of the Class.

114. If this Settlement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Class for purposes of effectuating this Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically

vacated upon notice of the same to the Court; the Action shall proceed as though the Class had never been certified pursuant to this Settlement and such findings had never been made; and the Action shall return to the procedural status quo ante in accordance with this Paragraph. Class Counsel shall not refer to or invoke the vacated findings and/or order relating to this Settlement in this Action or any future proceeding in the event this Settlement is not consummated and the Action, including the appropriateness of class certification, is later litigated and contested by Defendant.

IX. CONFIRMATORY DISCOVERY

115. Following preliminary approval, the Parties agree to engage in confirmatory discovery in the form of the depositions of JJCI representatives Derek Henderson and Carla Oliveira.

X. MODIFICATION OR TERMINATION OF THE SETTLEMENT

116. The terms and provisions of this Settlement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Final Order and Final Judgment, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement and its implementing documents (including all Exhibits hereto) without further notice to the Class or approval by the Court if such changes are consistent with the Court's Final Order and Final Judgment and do not materially alter, reduce or limit the rights of Class Members under this Settlement.

117. In the event the terms or conditions of this Settlement are materially modified by any court, either Party in its sole discretion may, within fourteen (14) days after such a material modification, declare this Settlement null and void. For purposes of this Paragraph, material modifications include but are not limited to substantial changes to the definition of the Class, Class Members, the Vouchers, or Released Claims; substantial changes to the Notice Plan, the terms of the settlement consideration, or the terms of the Attorneys' Fees and Expenses and Incentive Awards. In addition to and without limiting the foregoing, either Party may declare this Settlement null and void if, during the Objection and Exclusion Period, more than 250 Class Members have opted out or excluded themselves from the Settlement. In the event that a Party exercises his/her/its option to withdraw from and terminate this Settlement, then the Settlement proposed herein shall become null and void and shall have no

force or effect, the Parties shall not be bound by this Settlement, and the Parties in the Action will be returned to their respective positions existing immediately prior to the execution of this Settlement. Notwithstanding the foregoing, in the event this Settlement is not approved by any court, or is declared null and void, or in the event that the Effective Date does not occur, Class Members, Settlement Plaintiffs, and Class Counsel shall not in any way be responsible or liable for any costs of notice and administration associated with this Settlement, except that each Party shall bear its own attorneys' fees and costs and Defendant's future payment obligations to Class Counsel or Class Members pursuant to this Settlement shall cease.

XI. SETTLEMENT NOT EVIDENCE AGAINST PARTIES

118. The Parties expressly acknowledge and agree that this Settlement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute a compromise. In no event shall this Settlement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Action, any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to enforce this Settlement, or to enforce the rights of the Parties or their counsel under the terms and conditions of this Settlement. Without limiting the foregoing, neither this Settlement nor any related negotiations, statements, or court proceedings shall be construed as, offered 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, Defendant, the Released Parties, Settlement Plaintiffs, or the Class, or as a waiver by Defendant, the Released Parties, Settlement Plaintiffs, or the Class of any applicable privileges, claims or defenses.

119. The provisions contained in this Settlement are not and shall not be deemed a presumption, concession, or admission by Defendant of any fault, liability or wrongdoing as to any facts or claims alleged or asserted in the Action, or in any actions or proceedings, nor shall they be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal or administrative.

XII. COOPERATION

120. The Parties (including their counsel, successors, and assigns) agree to cooperate fully and in good faith with one another and to use their best efforts to effectuate the Settlement, including without limitation in seeking preliminary and final Court approval of this Settlement, carrying out the terms of this Settlement, and promptly agreeing upon and executing all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

121. Settlement Plaintiffs shall provide JJCI the opportunity to review such filings related to settlement approval in advance. The Parties acknowledge that JJCI has provided certain confidential information, data and evidence in connection with the Parties' settlement negotiations. The Parties will meet and confer and reach mutual agreement as to the appropriate form of disclosing such information to the Court, which may involve filing under seal. The Parties acknowledge and recognize that, in accordance with the interest of public transparency, the filing of any such information under seal will not be requested unless the Parties believe it is necessary to do so.

122. In the event that the Court does not approve the Settlement or does not issue the Final Order and Final Judgment, the Parties agree to use all reasonable efforts, consistent with this Settlement, to cure any defect identified by the Court.

123. The Parties shall cooperate in connection with effectuating the Settlement or the administration of claims thereunder. Any requests for cooperation shall be narrowly tailored and reasonably necessary for the requesting Party to recommend the Settlement to the Court, and to carry out its terms.

XIII. MISCELLANEOUS PROVISIONS

124. The Parties agree that the recitals are contractual in nature and form a material part of this Settlement.

125. This Settlement and its accompanying Exhibits set forth the entire understanding of the Parties. No change or termination of this Settlement shall be effective unless in writing and signed by Class Counsel and Defense Counsel. No extrinsic evidence or parol evidence shall be used to interpret this Settlement.

126. Any and all previous agreements and understandings between or among the Parties regarding the subject matter of this Settlement, whether written or oral, are superseded and hereby revoked by this Settlement. The Parties expressly agree that the terms and conditions of this Settlement will control over any other written or oral agreements.

127. All of the Parties warrant and represent that they are agreeing to the terms of this Settlement based upon the legal advice of their respective attorneys, that they have been afforded the opportunity to discuss the contents of this Settlement with their attorneys, and that the terms and conditions of this Settlement are fully understood and voluntarily accepted.

128. The waiver by any Party of a breach of any term of this Settlement shall not operate or be construed as a waiver of any subsequent breach by any Party. The failure of a Party to insist upon strict adherence to any provision of this Settlement shall not constitute a waiver or thereafter deprive such Party of the right to insist upon strict adherence.

129. The headings in this Settlement are inserted merely for the purpose of convenience and shall not affect the meaning or interpretation of this document.

130. This Settlement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. The date of execution shall be the latest date on which any Party signs this Settlement.

131. This Settlement has been negotiated among and drafted by Class Counsel and Defense Counsel. Settlement Plaintiffs, Class Members, and JJCI shall not be deemed to be the drafter of this Settlement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter or otherwise resort to the *contra proferentem* canon of construction. Accordingly, this Settlement should not be construed in favor of or against one Party as to the drafter, and the Parties agree that principles of construing ambiguities against the drafter shall have no application. All Parties agree that counsel for the Parties drafted this Settlement during extensive arms' length negotiations. No parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement was made or executed.

132. Settlement Plaintiffs and Class Counsel will not issue any press releases or communicate with the media regarding the Settlement or the Action without prior approval by JJCI of the statement or communications. However, if Settlement Plaintiffs or Class Counsel receive an inquiry from any third party, they may decline to comment, refer to the Class Notice, refer to the Complaint, or refer to the Court docket. Settlement Plaintiffs and Class Counsel agree not to make disparaging public statements about JJCI, the Products, and/or Defense Counsel out-of-court. Settlement Plaintiffs and Class Counsel are free to (a) respond in a truthful and non-disparaging manner to inquiries regarding the Action and/or Settlement from the Class; and (b) state they served as legal counsel in this Action and reference the terms and amount of the Settlement on their firm websites, biographies, or similar marketing materials, and in connection with future applications to serve as interim-class or lead counsel, or as otherwise required by law. JJCI and Defense Counsel agree not to make disparaging public statements about Settlement Plaintiffs, Class Counsel, or the Settlement.

133. Each Party represents and warrants that the individual(s) executing this Settlement are authorized to enter into this Settlement on the Party's behalf.

134. Any disagreement and/or action to enforce this Settlement shall be commenced and maintained only in the Court in which this Action is pending. The Parties agree that the Court shall retain jurisdiction over the Settlement to interpret and enforce its terms and conditions, and for any other necessary purpose.

135. Whenever this Settlement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays and legal holidays) express delivery service as follows:

Upon Class Counsel at:

and

Upon Defense Counsel at:

Kiley Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Dr., Suite 240
Westlake Village, CA 91361
kgrombacher@bradleygrombacher.com

Steven A. Zalesin
PATTERSON BELKNAP WEBB &
TYLER LLP
1133 Avenue of the Americas
New York, New York 10036
sazalesin@pbwt.com

R. Jason Richards
AYLSTOCK, WITKIN, KREIS &
OVERHOLTZ, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502
jrichards@awkolaw.com

136. The Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement.


137. This Settlement may be signed with a facsimile signature and in counterparts, each of which shall constitute a duplicate original.

138. The Parties believe that this Settlement is a fair, adequate, and reasonable settlement of the Action, and they have arrived at this Settlement through arms'-length negotiations, taking into account all relevant factors, present and potential.

IN WITNESS WHEREOF, the Parties hereto, by and through their respective attorneys, and intending to be legally bound hereby, have duly executed this Settlement as of the date set forth below.

PLAINTIFFS

Dated: December 17, 2021

DocuSigned by:

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Katherine Brennan

Dated: December ___, 2021

Michelle Mang

Dated: December ___, 2021

Meredith Serota

R. Jason Richards
 AYLSTOCK, WITKIN, KREIS &
 OVERHOLTZ, PLLC
 17 East Main Street, Suite 200
 Pensacola, FL 32502
 jrichards@awkolaw.com

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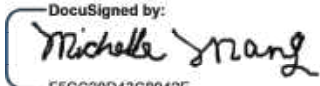
IN WITNESS WHEREOF, the Parties hereto, by and through their respective attorneys, and intending to be legally bound hereby, have duly executed this Settlement as of the date set forth below.

PLAINTIFFS

Dated: December ___, 2021

 Katherine Brennan

Dated: December ¹⁷ ___, 2021

DocuSigned by:

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 Michelle Mang

Dated: December ___, 2021

 Meredith Serota

R. Jason Richards
 AYLSTOCK, WITKIN, KREIS &
 OVERHOLTZ, PLLC
 17 East Main Street, Suite 200
 Pensacola, FL 32502
 jrichards@awkolaw.com

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PLAINTIFFS

Dated: December ___, 2021

 Katherine Brennan

Dated: December ___, 2021

 Michelle Mang

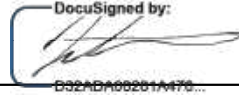
Dated: December ¹⁷ ___, 2021

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 Meredith Serota

Dated: December ¹⁷ ___, 2021

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Jacob Somers

Dated: December ___, 2021

Lauren Harper

Dated: December ___, 2021

Dini Casaliggi

Dated: December ___, 2021

Kelly Granda

Dated: December ___, 2021

Kyra Harrell

Dated: December ___, 2021

Carman Grisham

DEFENDANT

Dated: December ___, 2021

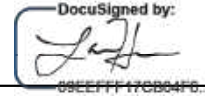
Johnson & Johnson Consumer Inc.

By: _____

Dated: December __, 2021

Jacob Somers

Dated: December ¹⁷ __, 2021


DocuSigned by:
Lauren Harper
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Lauren Harper

Dated: December __, 2021

Dini Casaliggi

Dated: December __, 2021

Kelly Granda

Dated: December __, 2021

Kyra Harrell

Dated: December __, 2021

Carman Grisham

DEFENDANT

Dated: December __, 2021

Johnson & Johnson Consumer Inc.

By: _____

Dated: December ___, 2021

Jacob Somers

Dated: December ___, 2021

Lauren Harper

Dated: December __^{DC}_, 2021

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Dina Casaliggi
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Dina Casaliggi

Dated: December ___, 2021

Kelly Granda

Dated: December ___, 2021

Kyra Harrell

Dated: December ___, 2021

Carman Grisham

DEFENDANT

Dated: December ___, 2021

Johnson & Johnson Consumer Inc.

By: _____

Dated: December ___, 2021

Jacob Somers

Dated: December ___, 2021

Lauren Harper

Dated: December ___, 2021

Dina Casaliggi

Dated: December ¹⁷ ___, 2021


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Kelly Granda

Dated: December ___, 2021

Kyra Harrell

Dated: December ___, 2021

Carman Grisham

DEFENDANT

Dated: December ___, 2021

Johnson & Johnson Consumer Inc.

By: _____

Dated: December ___, 2021

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Dated: December ___, 2021

Lauren Harper

Dated: December ___, 2021

Dina Casaliggi

Dated: December ___, 2021

Kelly Granda

Dated: December ¹⁷ ___, 2021


Kyra Harrell

Dated: December ___, 2021

Carman Grisham

DEFENDANT

Dated: December ___, 2021

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Dated: December ___, 2021

Jacob Somers

Dated: December ___, 2021

Lauren Harper

Dated: December ___, 2021

Dina Casaliggi

Dated: December ___, 2021

Kelly Granda

Dated: December ___, 2021

Kyra Harrell

Dated: December 17, 2021


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Carmen Grisham

DEFENDANT

Dated: December ___, 2021

Johnson & Johnson Consumer Inc.

By: _____

Dated: December __, 2021

Jacob Somers

Dated: December __, 2021

Lauren Harper

Dated: December __, 2021

Dini Casaliggi

Dated: December __, 2021

Kelly Granda

Dated: December __, 2021

Kyra Harrell

Dated: December __, 2021

Carman Grisham

DEFENDANT

Dated: December 17th, 2021

Johnson & Johnson Consumer Inc.

By:

Tina S. French

Secretary

ADDITIONAL PLAINTIFFS

Dated: December ¹⁷ ___, 2021

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Heather Rudy
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Heather Rudy

Dated: December ___, 2021

Fred Salter

Dated: December ___, 2021

Judith Barich

CLASS COUNSEL

Dated: December ___, 2021

Kiley Grombacher
BRADLEY/GROMBACHER LLP

Dated: December ___, 2021

R. Jason Richards
AYLSTOCK, WITKIN, KREIS &
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DEFENSE COUNSEL

Dated: December ___, 2021

Steven A. Zalesin
PATTERSON BELKNAP WEBB &
TYLER LLP

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DEFENSE COUNSEL

Dated: December 17, 2021



Steven A. Zalesin
PATTERSON BELKNAP WEBB &
TYLER LLP

EXHIBIT A

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

If You Bought Neutrogena® or Aveeno® Sunscreens, YOUR RIGHTS MAY BE AFFECTED BY A CLASS ACTION SETTLEMENT.

If You Bought Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen Lotion, Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen Lotion or Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion, YOU MAY BE ENTITLED TO RECEIVE A VOUCHER TO PURCHASE REPLACEMENT PRODUCTS.

A Court authorized this Notice. This is not a solicitation from a lawyer.

READ THIS NOTICE CAREFULLY. YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.

- There is a proposed settlement (“Proposed Settlement”) in a class action lawsuit that claims Johnson & Johnson Consumer Inc. (“JJCI” or “Defendant”) violated state laws regarding the manufacturing, labeling, sale and marketing of certain Neutrogena® and Aveeno® Sunscreen Products (*see* Question 2, below). JJCI denies it did anything wrong and denies all of the claims made in this lawsuit. The Court did not rule in favor of either party. Instead, the Parties agreed to a Proposed Settlement in order to avoid the expense and risks of continuing the lawsuit. For instructions on how to obtain the Proposed Settlement, please see www.sunproductsettlement.com.
- Anyone in the United States who bought one or more containers of the JJCI sunscreen products listed below under Question 6 (“Product(s)”), at any time between May 26, 2015 and the date of this Notice (“Notice Date”), is affected by the Proposed Settlement.
- Eligible purchasers of Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen Lotion, Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen Lotion, and Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion (“Non-Aerosol Products”) may be entitled to a voucher equal to the average retail price of the Non-Aerosol Products (\$11.35) to be used to purchase a replacement Neutrogena® or Aveeno® product (with a maximum of two (2) units per household). If claims exceed a total voucher value of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) the amount of the voucher you receive will be reduced *pro rata*. Vouchers may be used toward the purchase of any Neutrogena® or Aveeno® product(s) and will not be limited to the specific Non-Aerosol Product previously purchased, nor to sunscreen products in general.
- The Proposed Settlement will provide: (1) enhancements to JJCI’s prior refund/recall program for Aerosol Products (*see* Question 6 for a list of Aerosol Products); (2) vouchers to eligible Class Members who make claims, (3) the costs of notice and administration, (4) an incentive award to the named plaintiffs, if

QUESTIONS? VISIT www.sunproductsettlement.com, OR CALL [NUMBER] TOLL FREE

approved by the Court, and (5) attorneys' fees and expenses to Class Counsel as approved by the Court. JJCI has also agreed to implement meaningful modifications to its specifications and testing protocols for raw materials and finished goods.

- Your legal rights are affected whether you act or not. **Read this Notice carefully because it explains decisions you must make and actions you must take now.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT	
DO NOTHING	Get no voucher. Give up your rights to sue JJCI regarding any of the claims at issue in this case (aside from claims for bodily injuries).
SUBMIT A CLAIM FORM	Receive a voucher if a valid claim form is submitted by [CLAIMS FORM DEADLINE] (<i>see</i> Question 12).
EXCLUDE YOURSELF FROM THE CLASS	Receive no voucher but keep the right to participate in another lawsuit against Defendant about the claims and products at issue in this case. You must send in a written request to be excluded by [OPT OUT DEADLINE] in order to be excluded (<i>see</i> Question 15).
OBJECT TO THE PROPOSED SETTLEMENT	You can write to the Court by [OBJECTION DEADLINE] to explain why you think the Settlement is not fair or reasonable or that it is otherwise improper (<i>see</i> Question 18).
GO TO A HEARING	If you file a written objection, you can ask by [OBJECTION DEADLINE] to speak before the Court about the fairness of the Proposed Settlement (<i>see</i> Question 24). Even if you do not wish to object, you can also appear at the hearing by filing a Notice of Appearance by [APPEARANCE DEADLINE] .

- These rights and options—and the deadlines to exercise them—are explained in this Notice. The deadlines may be moved, cancelled or otherwise modified. Consult the Settlement Website at www.sunproductsettlement.com regularly for updates and further details.
- The Court in charge of this case still has to decide whether to finally approve the Proposed Settlement. If the Settlement is approved by the Court, processing claims will take several months. Please be patient. If you do not exclude yourself, the Proposed Settlement (if approved) will release certain claims and will affect your right to start or continue any other lawsuit or proceeding involving the Products. The release is set forth in the Proposed Settlement, available at www.sunproductsettlement.com. It has been reprinted in full below (*see* Question 10).

IMPORTANT QUESTIONS AND ANSWERS

BASIC INFORMATION.....4

1. Why was this Notice issued?
2. What is this lawsuit about?
3. What is a class action?
4. Why is there a Proposed Settlement?

WHO IS PART OF THE PROPOSED SETTLEMENT?.....5

5. Am I part of the Class?
6. Which Products are included in the Proposed Settlement?
7. What if I'm not sure if the Proposed Settlement includes me?

THE PROPOSED SETTLEMENT BENEFITS – WHAT YOU CAN GET.....6

8. What does the Proposed Settlement provide?
9. What can I get from the Proposed Settlement?
10. What am I giving up if I stay in the Class?
11. When will I get my Benefit, if any?

HOW TO RECEIVE A BENEFIT.....8

12. How can I get a Benefit?
13. What is the claim process?
14. What if I do nothing?

EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT.....10

15. How can I opt out of the Proposed Settlement?
16. If I exclude myself, can I still get a Benefit?
17. If I don't exclude myself, can I sue Defendant for the same thing later?

OBJECTING TO THE PROPOSED SETTLEMENT.....11

18. How can I tell the Court if I do not like the Proposed Settlement?
19. What is the difference between objecting and asking to be excluded?

THE LAWYERS REPRESENTING THE CLASS.....12

20. Do I have a lawyer in this case?
21. How will the lawyers be paid?

THE COURT'S FAIRNESS HEARING.....12

22. When and where will the Court decide whether to approve the Proposed Settlement?
23. Do I have to come to the Fairness Hearing?
24. May I speak at the Fairness Hearing?

GETTING MORE INFORMATION.....14

25. How can I get more information?

BASIC INFORMATION

1. Why was this Notice issued?

The Court ordered that this Notice be given because purchasers of the Products (*see* Question 6) at any time between May 26, 2015 and the Notice Date have the right to know about the Proposed Settlement of class action lawsuits, and about their rights and options, before the Court decides whether to finally approve the Proposed Settlement. You can follow the progress of the Settlement on the Settlement Website.

This Notice explains: (1) this lawsuit, (2) the Proposed Settlement, (3) your legal rights, (4) what Benefits are available, (5) who is eligible for what Benefits under the Proposed Settlement, (6) how to get a Benefit, and (7) other important information.

Information about the Proposed Settlement is summarized below. The settlement agreement, called the “Settlement,” and available on the Settlement Website (www.sunproductsettlement.com), gives greater detail on the rights and duties of the Parties and Class Members.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

If you are a Class Member, your legal rights are affected whether you act or do not act, so please read this notice carefully.

2. What is this lawsuit about?

The individuals who sued are called the “Plaintiffs.” JJCI is the defendant and together they are the “Parties.” This lawsuit concerns claims that Defendant violated certain state laws and consumer protection statutes in connection with the sale, advertising, marketing, labeling, distribution, and manufacturing of the Products. The lawsuit alleged that the sale, labeling and marketing of Defendant’s Products were improper because certain sunscreen Products sold in the United States were allegedly contaminated with benzene. Defendant denies all these claims.

The Court in charge of this lawsuit is the United States District Court for the Southern District of Florida. The class action lawsuits are two of sixteen lawsuits that have been centralized as Multi-district Litigation CASE NO.: 3015.

Information about the Proposed Settlement is summarized in this Notice. More detail is provided in the Settlement and other documents (including the First Amended Class Action Complaint), all available at www.sunproductsettlement.com.

3. What is a class action?

In a class action, one or more people called “named plaintiffs” or “class representatives” sue on behalf of themselves and other people whom they believe to have similar claims. Together, all of these people are referred to as the “class.” A court resolves the claims of the entire class in a class action, except for those who exclude themselves from the class (*see* Question 15). (To determine whether you are a member of the class covered by the Proposed Settlement (the “Class”), *see* Question 5.)

4. Why is there a Proposed Settlement?

The Court has not decided in favor of the Plaintiffs or Defendant. Instead, both sides have agreed to the Proposed Settlement. By agreeing to the Proposed Settlement, and if the Proposed Settlement is approved by the Court, they avoid the costs and uncertainty of a trial, and Class Members receive the Benefits described in this Notice. The Proposed Settlement does not mean that any law was broken or that Defendant did anything wrong, or that the Plaintiffs and the Class would or would not win their case if it were to go to trial. The Parties believe that the Proposed Settlement is fair, reasonable, and adequate and will provide a substantial benefit to the Class.

WHO IS PART OF THE PROPOSED SETTLEMENT?

5. Am I part of the Class?

You are a member of the Class ("Class Member") if:

- You are in the United States; and
- You purchased one or more containers of the Products described in Question 6 in the United States between May 26, 2015 and the Notice Date.

You are NOT a member of the Class if you:

- Are an employee, director, officer, and/or agent of Defendant, its subsidiaries, or affiliated companies;
- Purchased the Product(s) primarily for the purposes of resale;
- Are the judge presiding over the class action, his immediate family, and/or a member of the Court staff;
- Are a governmental entity; or
- Timely and properly exclude yourself from the Class (*see* Question 15).

6. Which Products are included in the Proposed Settlement?

The Products covered by this Proposed Settlement are as follows:

- **Aerosol Products:** Neutrogena® Beach Defense® Aerosol Sunscreen, Neutrogena® Cool Dry Sport Aerosol Sunscreen, Neutrogena® Invisible Daily™ Defense Aerosol Sunscreen, Neutrogena® Ultra Sheer® Aerosol Sunscreen, and Aveeno® Protect + Refresh Aerosol Sunscreen.
- **Non-Aerosol Products:** Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen Lotion, Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen Lotion, and Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion.

7. What if I'm not sure if the Proposed Settlement includes me?

If you are not sure whether you are a Class Member, or have any other questions about the Proposed Settlement, visit the Settlement Website, www.sunproductsettlement.com, or call the toll-free number, [NUMBER]. You may also send questions to the Settlement Administrator via email at info@settlementwebsite.com or via U.S. Mail at Rust Consulting, PO Box #####, -####.

THE PROPOSED SETTLEMENT BENEFITS – WHAT YOU CAN GET

8. What does the Proposed Settlement provide?

If the Proposed Settlement is approved and becomes final, it will provide benefits (“Benefits”) to Class Members. Defendant will (i) provide vouchers to those eligible Class Members who purchased Non-Aerosol Products and file a valid claim by submitting a claim form (*see* Question 12), (ii) pay for the costs associated with this Notice and administration of the Proposed Settlement, (iii) pay attorneys’ fees and expenses for Class Counsel awarded by the Court (*see* Question 21), and (iv) pay an incentive award to the named Plaintiffs if awarded by the Court (*see* Question 21).

In addition, to prevent recurrence, Defendant has agreed to: (1) adopt a new specification applicable to any supplier of isobutane raw material for use in Aerosol Products, that requires such raw material to contain not more than one (1) part per million (PPM) benzene; (2) direct its external manufacturer to require that, prior to dispatching any shipment of isobutane raw material intended for use in Aerosol Products, the raw material supplier test for the presence of benzene above one (1) PPM in such raw material, and to refrain from shipping such raw material to Defendant’s external manufacturer unless the shipment has passed such test; (3) require that, upon receipt of any shipment of raw material isobutane intended for use in Aerosol Products, Defendant’s external manufacturer test for the presence above one (1) PPM in such raw material, and refrain from use of such raw material unless it has passed such test.; and (4) require its external manufacturer to engage an independent, ISO-certified laboratory to test a reasonable number of random samples from at least 25% of manufacturing lots of finished goods Aerosol Products for the presence of benzene, and to withhold release of such finished goods from any such lot unless all such samples have passed such test. The Settlement, which is available at www.sunproductsettlement.com, has more information on these changes.

9. What can I get from the Proposed Settlement?

If you purchased any of the Non-Aerosol Products listed in response to Question 6 and you submit a timely and valid claim form, you will receive a voucher in the amount of \$11.35 per Product to acquire replacement or substitute Neutrogena or Aveeno products up to a maximum of two (2) such units per household. Vouchers shall be transferable, may be aggregated and shall expire not less than twelve (12) months from their issuance. If claims exceed a total voucher value of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) the amount of the voucher you receive will be reduced *pro rata*.

10. What am I giving up if I stay in the Class?

Unless you affirmatively exclude yourself from the Proposed Settlement in writing, you can’t sue Defendant or be part of any other lawsuit against Defendant or other “Released Parties” about the issues in this case. Unless you exclude yourself, all of the decisions by the Court will be binding on you. The Settlement is available at www.sunproductsettlement.com and describes in detail the claims that you give up if you remain in the Class and the Released Parties.

If you do not affirmatively request exclusion from (*i.e.*, “opt out” of) the Class and otherwise satisfy the requirements in Question 5, you become a Class Member and you will automatically release Defendant and other Released Parties from any claims set forth below and will give up your rights to pursue or continue any action against Defendant and other Released Parties relating to the Products and the claims at issue in this lawsuit. **The definition of “Released Claims” from the Proposed Settlement is copied below.** Because Class Members will release a wide range of claims relating to the Products, **please carefully read** the following:

“Released Claims” means any and all claims, whether federal or state, known or unknown, asserted or unasserted, regardless of legal theory arising prior to the Effective Date for injunctive relief or economic loss arising from or relating to the facts, activities, or circumstances alleged in the Actions.

Notwithstanding any other provision of this Settlement, “Released Claims” do not include claims for bodily injuries. Class Members are not releasing any claims, demands, rights, damages, obligations, suits, debts, liens, and causes of action relating to bodily injuries allegedly caused by the Products.

Class members who have opted out of the Settlement are not releasing their claims and will not obtain any Benefit from the Settlement.

11. When will I get my Benefit, if any?

Eligible Class Members who submit claims that are determined to be valid by the Settlement Administrator will receive their Benefits only after the Court grants final approval to the Proposed Settlement and after any appeals (*i.e.*, legal challenges to the Proposed Settlement) are resolved (*see* “The Court’s Fairness Hearing” and Questions 22-24 below). If there are appeals, resolving them can take time. Please be patient.

HOW TO RECEIVE A BENEFIT

12. How can I get a Benefit?

If you are a member of the Class and want to receive a Benefit under the Proposed Settlement, you must submit a claim form. A claim form and directions are attached as **Appendix A** to this Notice. You may also obtain and print a claim form and other relevant documents by visiting www.sunproductsettlement.com. Please read the instructions carefully and fill out the claim form completely and accurately. claim forms can be submitted electronically or by mail.

Your claim form must be submitted electronically at www.settlement.com no later than 11:59 p.m. Pacific Time on **[CLAIMS FORM DEADLINE]** or by mail postmarked no later than **[CLAIMS FORM DEADLINE]** and addressed to:

JJCI Settlement Administrator
c/o Rust Consulting
PO Box #####
-####

13. What is the claim process?

The Settlement Administrator will review each claim form. If a claim is deemed to be valid, you will receive payment for that claim in accordance with the terms of the Proposed Settlement. Claim forms that do not meet the terms and conditions of the Settlement shall be promptly rejected by the Settlement Administrator, except if the claim form is rejected for containing incomplete or inaccurate information, and/or omitting required information or proof, the Settlement Administrator shall send a notice of missing or inaccurate information explaining what information is missing or inaccurate. The Settlement Administrator shall notify the Class Member using the contact information provided in the claim form.

Class Members shall have until the end of the “Claim Period” (ending **[90 DAYS FROM DATE OF NOTICE]**), or thirty (30) calendar days from when the notice of missing or inaccurate information was mailed, whichever is later, to reply to the notice of missing or inaccurate information, and provide the required information.

If a Class Member fails to respond by the end of the Claim Period or within thirty (30) calendar days from when the notice of missing or inaccurate information was mailed, whichever is later, or the Settlement Administrator is unable to provide a notice of missing or inaccurate information as a result of the omitted information, the Settlement Administrator will reject the claim and will not be obligated to issue any voucher.

The Settlement Administrator shall have thirty (30) days from the end of the Claim Period to exercise the right of rejection based on findings of fraud or duplication. A request for additional information shall not be considered a rejection. If a claim is rejected for fraud or duplication, the Settlement Administrator shall notify the Class Member using the contact information provided in the claim form. Class Counsel and Defense Counsel shall be provided with copies of all such notifications to Class Members.

The Settlement Administrator’s determination as to whether to approve or deny a claim shall be final and binding, except that, if any claimant whose claim form has been rejected, in whole or in part, desires to contest such rejection, the claimant must, within fifteen (15) business days from receipt of the rejection, transmit to the Settlement Administrator by email or U.S. mail a notice and statement of reasons indicating the claimant’s grounds for contesting the rejection, along with any supporting documentation, and requesting further review by the Settlement Administrator, in consultation with Class Counsel and Defense Counsel, of the denial of the claim. If Class Counsel and Defense Counsel cannot agree on a resolution of the Claimant’s notice contesting the rejection, the Settlement Administrator’s determination will become final.

The Court will hold a Fairness Hearing on **[DATE]** at **[TIME]** to decide whether or not to approve the Proposed Settlement. The Court must finally approve the Proposed Settlement before any payments can be made. The Court will grant approval only if it finds that the Proposed Settlement is fair, adequate, and reasonable. (*see* Question 22-24 for more information on the Fairness Hearing.)

In addition, the Court’s order approving the Proposed Settlement may be subject to further legal challenges, or appeals. It is always uncertain whether these appeals can be resolved in favor of the Proposed Settlement, and resolving them takes time. Finally, there remains a possibility that this Proposed Settlement may be terminated for other reasons.

Everyone who submits a claim form can be informed of the progress of the Proposed Settlement by contacting the Settlement Administrator, Class Counsel, or by visiting www.sunproductsettlement.com. Please be patient. The Settlement Administrator will begin to process approved Claims no later than ninety (90) days after the Settlement is approved by the Court and becomes final.

14. What if I do nothing?

If you fall within the definition set forth in the response to Question 5 and you do nothing, you will still be bound by the Court’s decisions and the Proposed Settlement’s “Release and Waiver of Claims” (*see* Question 10). You will give up (or “release”) all claims that have been made and all related claims that could have been made in this lawsuit (this means that you are agreeing to fully, finally and forever release, relinquish, and discharge all Released Claims against the Released Parties, as set forth above in response to Question 10). To receive a voucher, you must complete and submit a claim form on or before **[CLAIMS FORM DEADLINE]** (*see* Question 12).

Unless you affirmatively exclude yourself from (*i.e.*, “opt out” of) the Class, if the Proposed Settlement is approved, you won’t be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant about the claims asserted in this lawsuit ever again, regardless of whether you submit a claim form.

The Settlement Agreement describes the Released Claims in more detail, so please read it carefully. If you have any questions, you can contact the lawyers listed in Question 20 for free to discuss, or you can talk to another lawyer of your own choosing if you have questions about what this means.

EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT

15. How can I opt out of the Proposed Settlement?

If you don’t want to be bound by the Proposed Settlement, and you want to keep the right to sue or continue to sue Defendant on your own about the legal issues in this case, then you must take steps to get out of the Class. This is called excluding yourself (*i.e.*, “opting out”) of the Class.

To exclude yourself from the Class, you must send by U.S. mail a letter or other written request to the Settlement Administrator. You may not opt out electronically. Your request must include all of the following:

1. Your full name and current address;
2. A clear statement that you wish to be excluded from the Class and that you understand you will not receive a Benefit under the Settlement;
3. The case name and case number (*In Re: Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation, MDL CASE NO.: 3015*); and
4. Your original signature (you must personally sign the letter).

Please write “**EXCLUSION REQUEST**” on the lower left-hand corner of the front of the envelope.

Your exclusion request must be postmarked no later than [OPT OUT DEADLINE]. Send your request to:

JJCI Settlement Administrator
c/o Rust Consulting
PO Box #####
-####

16. If I exclude myself, can I still get a Benefit?

No. You will not get a Benefit if you exclude yourself from the Proposed Settlement. If you request exclusion from the Class, then:

- You will not be eligible for a Benefit under the Proposed Settlement;
- You will not be allowed to object to or contest the terms of the Proposed Settlement;
- You will not release any claims against Defendant or other Released Parties; and
- You will not be bound by any subsequent rulings entered in this case if the Proposed Settlement is finally approved.

However, if your request for exclusion is late or not complete, you will still be a part of the Class, you will be bound by the Proposed Settlement and by all other orders and judgments in this lawsuit, and you will not be able to participate in any other lawsuits based on the claims in this case.

17. If I don't exclude myself, can I sue Defendant for the same thing later?

No. If the Court approves the Proposed Settlement and you do not exclude yourself from the Class, you give up (or "release") all claims that have been made and all related claims that could have been made in this lawsuit (this means that you are agreeing to fully, finally and forever release, relinquish, and discharge all Released Claims against the Released Parties, as set forth above in response to Question 10).

OBJECTING TO THE SETTLEMENT

18. How can I tell the Court if I do not like the Proposed Settlement?

Class Members have the right to tell the Court that you do not agree with, or "object to," the Proposed Settlement or any or all of its terms.

You can only object if you stay in the Class (i.e., if you do not "opt out" or exclude yourself).

To object, you must **file** a timely, written objection with the Court in accordance with the Court's procedures for accepting filings, including electronically, send (or "serve") the written objection by U.S. mail or email to the Settlement Administrator, and send by U.S. mail or email a copy to Class Counsel and Defense Counsel postmarked/time-stamped no later than **[OBJECTION DEADLINE]**. Class Members who fail to file and serve timely written objections as described here and in the Proposed Settlement shall be deemed to have waived all objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Proposed Settlement.

Your written objection must include:

- (1) your full name;
- (2) your current address;
- (3) a written statement of your objection(s) to the Proposed Settlement and the reasons for each objection;
- (4) a statement of whether you intend to appear at the Fairness Hearing;
- (5) your signature;
- (6) the case name and case number: *In Re: Johnson & Johnson Sunscreen Marketing, Sales Practices And Products Liability Litigation, MDL CASE NO.: 3015*; and
- (7) a detailed list of any other objections submitted by you or your counsel to any class actions in any court, whether state or otherwise, in the United States in the previous five (5) years. If you or your counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, you shall affirmatively so state.

If you choose to object, in order to be considered by the Court, your written objection(s) must be **filed with the Court and served by U.S. Mail or email on the Settlement Administrator, Class Counsel, and Defense Counsel no later than [OBJECTION DEADLINE]**. Objections that are served on the Parties but not filed with the Court shall not be received or considered by the Court at the Fairness Hearing.

Objections must be served:

Upon Settlement Administrator at:

JJCI Settlement Administrator
c/o Rust Consulting
xxx
E-mail: xxxx@sunproductsettlement.com

Upon Class Counsel at:

Kiley Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Dr., Suite 240
Westlake Village, CA 91361
E-mail: kgrombacher@bradleygrombacher.com

Bryan Aylstock
R. Jason Richards
AYLSTOCK, WITKIN, KREIS OVERHOLTZ, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502
E-mail: jrichards@awkolaw.com

Upon Defense Counsel at:

Steven A. Zalesin
PATTERSON BELKNAP WEBB & TYLER LLP
1133 Avenue of the Americas
New York, New York 10036
E-mail: sazalesin@pbwt.com

If you file objections, but the Court approves the Proposed Settlement, you can still complete a claim form to be eligible for a voucher under the Settlement, subject to the terms and conditions discussed in this Notice and in the Settlement, including the requirement that such claims be submitted before [CLAIM FORM DEADLINE].

19. What is the difference between objecting and asking to be excluded?

Objecting is simply a way of telling the Court that you don't like something about the Proposed Settlement. You can only object if you stay in the Class. You will also be bound by any subsequent rulings in this case and you will not be able to file or participate in any other lawsuit based upon or relating to the Released Claims. If you object to the Proposed Settlement, you still remain a Class Member and you will still be eligible to submit a claim form. Excluding yourself (*i.e.*, opting out) is telling the Court that you don't want to be a part of the Class. If you exclude yourself, you have no basis to object to the Proposed Settlement or appear at the Fairness Hearing because it no longer affects you.

THE LAWYERS REPRESENTING THE CLASS

20. Do I have a lawyer in this case?

The Court has appointed attorneys at the law firms of Aylstock, Witkin, Kreis and Overholtz, PLLC, Bradley/Grombacher LLP, Beasley, Allen, Crow, Methvin, Portis & Miles, PC, Keller Lenkner LLC, and Walsh Law PLLC to represent you and the other Class Members in this lawsuit. The lawyers representing you and the Class Members are called “Class Counsel.” You will not be charged for these lawyers.

You may contact Class Counsel as follows:

Kiley Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Dr., Suite 240
Westlake Village, CA 91361
E-mail: kgrombacher@bradleygrombacher.com

Bryan Aylstock
R. Jason Richards
AYLSTOCK, WITKIN, KREIS OVERHOLTZ, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502
E-mail: jrichards@awkolaw.com

You have the right to retain your own lawyer to represent you in this case, but you are not obligated to do so. If you do hire your own lawyer, you will have to pay his or her fees and expenses. You also have the right to represent yourself before the Court without a lawyer.

Class Counsel, Defense Counsel, or the Settlement Administrator may not advise you on the tax consequences of participating or not participating in the Settlement.

21. How will the lawyers be paid?

Class Counsel have not been paid anything to date for their work on this case. Class Counsel will request Attorneys’ Fees of no more than \$2.5 million and Expenses of no more than \$100,000. The Court has to approve any Attorneys’ Fees and Expenses awarded in this case.

Class Counsel will also ask the Court to approve Incentive Awards of \$250 each (no more than \$3,000 in total) for the named Plaintiffs (Katherine Brennan, Michelle Mang, Heather Rudy, Fred Salter and Judith Barich, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham) for their work on behalf of the Class. Any such payment to these individuals also must be approved by the Court.

Class Counsel’s motion(s) for attorneys’ fees and expenses and incentive awards to the named Plaintiffs will be filed on or before **[90 DAYS AFTER NOTICE DATE]**. The motion(s) will be posted on the Settlement Website at www.sunproductsettlement.com.

THE COURT'S FAIRNESS HEARING

The Court will hold a final hearing (called a Fairness Hearing) to decide whether to finally approve the Proposed Settlement. You may attend and ask to speak, but you don't have to.

22. When and where will the Court decide whether to approve the Proposed Settlement?

On [DATE], at [TIME], the Court will hold a Fairness Hearing at the United States District Court for the Southern District of Florida, before the Honorable Raag Singhal, in Courtroom 110, U.S. Federal Building and Courthouse, 299 East Broward Boulevard Fort Lauderdale, Florida 33301.

The hearing may be moved to a different date or time, or via videoconference rather than in-person, so it is a good idea to check the Settlement Website (www.sunproductsettlement.com) for updates. At the Fairness Hearing, the Court will consider whether the Proposed Settlement is fair, reasonable, and adequate. The Court will also decide whether to award attorneys' fees and expenses, as well as incentive awards to the named Plaintiffs. If there are objections, the Court will consider them at that time. After the Fairness Hearing, the Court will decide whether to approve the Proposed Settlement. We do not know how long these decisions will take.

23. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have at the Fairness Hearing. But you are welcome to come at your own expense. Please note that the Court has the right to change the date and/or time of the Fairness Hearing, so it is a good idea to check the Settlement Website (www.sunproductsettlement.com) for updates. If you are planning to attend the Fairness Hearing, you should confirm the date, time, and format on the Settlement Website.

24. May I speak at the Fairness Hearing?

Yes, you may ask the Court for permission to speak at the Fairness Hearing. You must include with your objection a statement of whether you wish to speak, or you may file a document called a "Notice of Intention to Appear" with the Court. If you or your attorney wants to appear and speak at the Fairness Hearing, you (or your attorney) must, in addition to filing a Notice of Intention to Appear at the Fairness Hearing with the Court, mail or email copies to the Settlement Administrator, Class Counsel, and Defense Counsel, whose addresses are listed above in Question 20. Your Notice of Intention to Appear at the Fairness Hearing must be filed and received by the Court, and mailed and/or emailed to the Settlement Administrator, Defense Counsel, and Class Counsel no later than [OBJECTION DEADLINE]. Class Members wishing to appear without objecting may file a Notice of Appearance no later than [APPEARANCE DEADLINE].

GETTING MORE INFORMATION

25. How can I get more information?

This Notice summarizes the Proposed Settlement. More details are in the Settlement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Website at www.sunproductsettlement.com. You also may write with questions to the Settlement Administrator at: JJCI

Settlement Administrator, c/o Rust Consulting, PO Box #####, -####, call the toll-free number, [NUMBER], or email questions to xxxx@sunproductsettlement.com.

PLEASE DO NOT CALL THE COURT.

Dated: [NOTICE DATE], 2022

EXHIBIT B

If You Bought Neutrogena® or Aveeno® Sunscreens, You Could Get Vouchers for Replacement Products from a Settlement.

There is a proposed Settlement in a class action lawsuit against Johnson & Johnson Consumer Inc. (“Defendant”) regarding certain Neutrogena® and Aveeno® aerosol and lotion Sunscreen Products. Defendant denies all claims made in this lawsuit.

WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?

Anyone in the United States who bought certain Neutrogena and Aveeno aerosol or lotion Sunscreen Products, at any time between May 26, 2015 and the date of this Notice, is affected by the Settlement. The lotion products include: Neutrogena® Ultra Sheer®, Dry-Touch Water Resistant Sunscreen Lotion, Neutrogena® Sheer Zinc™, Dry-Touch Face Sunscreen Lotion, or Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion. A full list of all products covered by the Settlement is available at www.sunproductsettlement.com or by calling 1-8XX-XXX-XXXX.

WHAT DOES THIS PROPOSED SETTLEMENT PROVIDE?

The Settlement will provide vouchers to eligible Class Members who purchased the lotion products listed above, as well as pay for costs associated with the notice and administration of the Settlement, attorneys’ fees and costs to the attorneys for the Class, and an incentive award to the named Plaintiffs. Purchases of aerosol products are not eligible for vouchers.

In addition, the Defendant has agreed to adopt new requirements and testing protocols to ensure that Sunscreen Products produced in the future are not contaminated with benzene. Full details are available at www.sunproductsettlement.com.

HOW CAN I GET A VOUCHER?

If you bought one of the included lotion products listed above, you may submit a Claim Form online at www.sunproductsettlement.com or by mail by **Month XX, 2022** (limit two products per household). Vouchers will be worth \$11.35 each and may be used toward the purchase of any Neutrogena or Aveeno product. Vouchers are transferable and may be combined and used within 12 months from issuance. The value of the Voucher you receive may be reduced if claims exceed a total value of \$1,750,000.

WHAT ARE YOUR OPTIONS?

Even if you do nothing, you will be bound by the Court's decisions. If you want to keep your right to sue the Defendant yourself, you must exclude yourself from the Settlement by **[DATE], 2022**. If you stay in the Settlement but disagree with the terms, you may object to it by **[DATE], 2022**.

The Court will hold a hearing on **[DATE], 2022** to consider whether to approve the Settlement, a request for attorneys' fees and costs up to \$2,600,000, and incentive award payments of \$3,000. You may appear at the hearing, but you are not required to appear.

For more information or to File a Claim:

www.sunproductsettlement.com 1-XXX-XXX-XXXX

EXHIBIT C

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**Must Be Postmarked
No Later Than
[CLAIM FORM
DEADLINE]**

NEUTROGENA® & AVEENO® NON-AEROSOL SUNSCREEN SETTLEMENT CLAIM FORM

As detailed in the Notice, this settlement applies to the following non-aerosol sunscreen products (“Non-Aersol Sunscreen Products”):

- Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen Lotion
- Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen Lotion
- Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion

If you purchased one or more of these Non-Aerosol Sunscreen Products, you may file a claim to receive a voucher. Your completed Claim Form must be postmarked, if returned by mail, on or before **[CLAIM FORM DEADLINE]** or submitted online at www.sunproductsettlement.com on or before 11:59 pm PT on **[CLAIM FORM DEADLINE]**.

Please read the full notice of this Settlement (available at www.sunproductsettlement.com) carefully before filling out this Claim Form. Claim Forms may be submitted online or by mail:

Online: Visit www.sunproductsettlement.com and submit your claim online.

Mail to:

JJCI Settlement Administrator
c/o Rust Consulting
PO Box #####
####

Failure to submit a complete, truthful, accurate and timely Claim Form will result in a reduction or the denial of your Claim.

A. CLASS MEMBER INFORMATION.

Name (required):

First Name

Last Name

[illegible]

Street Address (required):

[illegible]

City (required):

State (required):

Zip Code (required): _____ - _____ (zip4 optional)

Email Address:

[illegible]

Unique Class Member Identifier (to be provided by Settlement Administrator)

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B. POTENTIAL VOUCHER AWARD

If you submit a claim you may be eligible for a voucher in an amount up to a maximum of \$11.35 per container of Non-Aerosol Sunscreen Product(s) you purchased. There is a maximum redemption of two (2) Products per household. If claims exceed a total voucher value of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000) the amount of the voucher you receive will be reduced *pro rata*.

Total number of containers of Non-Aerosol Sunscreen Product(s) purchased: _____. My purchase(s) is/are broken down as follows:

_____ containers of Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen Lotion

_____ containers of Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen Lotion

_____ containers of Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion

C. SIGN AND DATE YOUR CLAIM FORM

		
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Signature

Type/Print Name

Date _____

Claim Forms must be electronically submitted or postmarked no later than [CLAIM FORM DEADLINE].

Please keep a copy of your Claim Form for your records.

ACCURATE CLAIMS PROCESSING TAKES TIME. THANK YOU FOR YOUR PATIENCE.

Questions? Visit www.sunproductsettlement.com or call, toll-free, [NUMBER]

EXHIBIT D

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle**

IN RE:

MDL CASE NO.: 3015

**JOHNSON & JOHNSON AEROSOL SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION**

_____ /

THIS DOCUMENT RELATES TO: ALL CASES

_____ /

**DECLARATION OF TIFFANEY A. JANOWICZ
REGARDING NOTICE TO CLASS MEMBERS**

I, Tiffaney Janowicz, hereby declare as follows:

1. I am a senior vice president of Rust Consulting, Inc. (“Rust”), a nationally recognized notice and administration firm. Rust designs and implements notice and administration programs of all sizes and types, including consumer, antitrust, securities, insurance, healthcare, labor and employment, property, finance, telecom, and products liability class actions. A C.V. outlining Rust’s services and experience is attached as Exhibit A.

2. I have over 25 years of experience at Rust. I lead Rust’s consumer, insurance, and healthcare practice areas, and I also have a significant depth of experience in antitrust and product liability matters. I have designed and/or managed hundreds of class action notice and administration programs. I speak on class action matters (Continuing Legal Education courses), and I have been a co-author or panelist on relevant topics in the notice and administration industry. Attached as Exhibit B is my C.V., which outlines my experience and qualifications.

3. I submit this declaration in connection with the above-captioned matter to describe the plan of notification and administration (“Notice Program”) and notices. This declaration is based upon my personal knowledge and information provided by my associates and staff. The information included in this declaration is of a type reasonably relied upon in the fields of class notice and administration.

4. Subject to the approval of the Court, the parties have agreed to jointly request that the Court appoint Rust to fulfill the role of Settlement Administrator in the above-captioned case to design the Notice Program and help implement the terms and conditions of the Settlement Agreement. I submit this declaration to describe the Notice Program to reach class members and why it is reasonable and adequate under the circumstances.

OVERVIEW

5. I understand that the class includes all persons and entities in the United States who purchased one or more of the Aerosol Products or Non-Aerosol Products defined in the Settlement Agreement for personal, family, or household use and not for resale.

NOTICE PROGRAM

6. The Notice Program is designed to reach the greatest practicable number of class members; provide class members opportunities to learn about the Settlement and act upon their rights; and ensure that they will be exposed to, see, review, and understand the Notices.

7. Based on information provided by Counsel, there is no readily available Class Member list, therefore, a notification program was designed that includes print, digital, and social media advertising, and a national press release.

8. The Notice Program also includes Notices designed to meet due process requirements.

Paid Media Notice

9. The proposed media program was designed to satisfy due process by reaching a broad target audience that includes class members and targeting online media to reach known purchasers of Aveeno and Neutrogena Sunscreen.

10. The first step in determining what media is appropriate to reach potential class members is to establish an equivalent demographic profile, otherwise known as a target audience, of potential class members. The second step is to analyze available data (demographics, media habits) about that target audience. This information is used to select the most appropriate media to reach potential class members.

11. We used media survey data from MRI-Simmons 2021 *Doublebase Study* (“MRI”)¹ to choose the target audience and analyze the notice program. In this case, MRI measures individuals who used Aveeno and Neutrogena in the last 12 months (“Aveeno/Neutrogena Sunscreen Users”).

¹ MRI-Simmons produces an annual survey, called a *Doublebase Study*. The study includes survey responses from over 50,000 people and covers thousands of brands and hundreds of product categories.

Paid Media

12. The paid media notice is designed to ensure that the Notice is placed in media outlets whose audiences are likely to include potential class members. This paid media program includes print, digital, and social media.

Consumer Magazines

13. Most adults read one or more magazines during an average month, and nearly three out of five adults read or look at a magazine daily. Aveeno/Neutrogena Sunscreen Users read an average of five magazines per month.

14. The Publication Notice will appear once as a 1/2-page ad in *People*, a national magazine with the following circulation:

Magazine	Circulation
<i>People</i>	3,400,000

Digital Advertising

15. The Notice Program includes Internet advertising to provide class members with additional notice opportunities beyond the print placement. Over 96% of Aveeno/Neutrogena Sunscreen Users have used the Internet in the past 30 days.² Internet advertising delivers an immediate message and allows the viewer of an advertisement to instantly click through to the website for further information.

² 2021 MRI-Simmons *Spring Study*.

16. An estimated 35,300,000 gross impressions³ will be delivered nationally across mobile, tablet, and desktop platforms for six weeks on Google Display Network, Facebook, Instagram, and Conversant, with an estimated frequency⁴ of 2.1.

17. Targeted Internet advertising will also be used to reach potential class members digitally using third party data sources. These sources collect information from credit card purchase data and loyalty rewards programs. Ads will be targeted to individuals who have purchased Aveeno or Neutrogena Sunscreen.

Earned Media Program

18. An earned media program also will be implemented to amplify the paid media and provide additional notice to class members. The message will be distributed to media outlets (newspapers, websites, and television and radio stations) to spark press interest and generate coverage.

19. The earned media program will focus on a press release highlighting the toll-free telephone number and Settlement website address so that class members can obtain complete information about the proceeding and settlement. The press release will be distributed on P.R. Newswire's US1 national wire. It will reach approximately 5,400 traditional media outlets (T.V., radio, newspaper, magazine), relevant trade publications, and 4,000 national websites.

³ *Gross impressions* are the total number of times a digital ad will be shown. This figure does not represent the total number of unique viewers of the ad, as some viewers will see the ad on more than one website.

⁴ Frequency is the estimated average number of opportunities an audience member has to see a notice.

Class Member Response Mechanisms

20. Rust will establish a website to enable class members to get information about the Settlement, including the Long Form Notice, the Claim Form, frequently asked questions, the Settlement Agreement, and other court documents from this action. Class members will be able to download materials and the Claim Form and file a claim online. The Settlement Website will be operational before the Notice Program begins.

21. Rust will establish a toll-free informational number to allow class members to call and listen to answers to frequently asked questions 24 hours a day and seven days a week. The toll-free informational number will be operational before the Notice Program begins.

22. Rust will establish a U.S. Mail Post Office Box to allow class members to submit Requests for Exclusion, Claim Forms, and correspondence by mail with any specific requests or questions.

CONCLUSION

23. The Notice Program is expected to reach at least 75% of the class.

24. The Notice Program incorporates a modern approach to Notice. The reach is within the guidelines established by the Federal Judicial Center.⁵

25. It is my opinion that the Notice Program is adequate and reasonably designed to maximize the likelihood of reaching the largest number of class members that is practicable under

⁵ The Federal Judicial Center, *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide*, <https://www.consumerclassdefense.com/wp-content/uploads/sites/235/2013/06/FJC-Notice-Checklist-and-Plain-Language-Guide.pdf> (last visited Dec. 17, 2021).

the circumstances. It is consistent with the standards employed by Rust in administering these types of class action settlements and designing effective notice programs to reach class members.

I declare that the foregoing is true and correct to the best of my knowledge.

Executed in Niwot, Colorado this 17th day of December 2021.

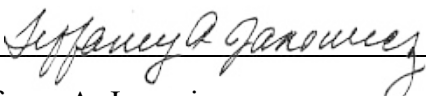

Tiffany A. Janowicz

EXHIBIT A



Qualifications Summary

This document outlines Rust Consulting's qualifications to serve as the administrator for class action, mass tort, and regulatory settlements, as well as to perform other similar, complex and time-sensitive matters such as remediation programs, data breach responses, and product recalls. It includes summary information categorized as follows:

- Firm Overview
- Practice Area Organization
- Personnel
- Services
- Representative Case Experience
- Data and System Security

Firm Overview

Rust, an Exela Technologies brand, is an industry-leading consulting and administration firm that provides public and private sector clients a full complement of services required to administer legal settlements and similar programs. These services include consulting; project management; data management; notification; contact center and websites; claims processing; and fund management, distribution, and tax reporting.

Rust grew out of the litigation support firm the Rust Consulting Group, which was founded in 1976. In 1988, the Group administered its first class action settlement, eventually leading in 1995 to the formation of Rust Consulting, Inc. as a separate entity focused on legal settlement administration. Since then, Rust has administered more than 7,500 settlements and projects.

Headquartered in Minneapolis, Rust also has an office in Faribault, Minnesota. Our subsidiary Kinsella Media maintains a Washington, D.C., location. Rust and Kinsella are wholly owned subsidiaries of Exela Technologies, Inc. (NASDAQ: XELA, XELAW and XELAU), one of the largest global providers of transaction processing solutions and enterprise information management.

Practice Area Organization

Rust administers programs spanning diverse subject matter. The depth and breadth of our legal settlement administration experience spans all prominent practice areas, such as antitrust, consumer, finance, insurance and healthcare, labor and employment, product liability, and securities matters on behalf of private sector clients and governmental agencies at all levels. Our services also lend themselves to our clients' non-settlement needs, including data breach responses, recalls, and remediation programs.

Our leadership and certain operations and client services personnel focus on specific practice areas relevant to our clients, deepening their subject matter expertise and directly relevant experience.

Personnel

Our permanent staff of approximately 200 includes professionals with backgrounds and disciplines including project management, information technology, finance, law, and operations. This cross-functional, innovative team includes experts in their respective disciplines, such as CPAs, Ph.D.s, attorneys, and PMPs.

Rust's team includes some of the most experienced practitioners in the industry, with much of that experience Rust-specific. Our senior vice presidents average 17 years of Rust experience and our functional directors average over 20 years.

Services

The Rust team provides high quality administrative services for matters of any size and scope. Specific approaches may vary depending upon the requirements of each individual matter; however, the below services are typical of our engagements.

Preliminary Consulting

Rust consults with clients prior to settlement to help set expectations based on our experience with similar matters and to anticipate otherwise identified issues that may arise in administration based on a settlement or program's characteristics.

Project Management

Our project management personnel prepare plans of notice and administration, create or customize project tracking tools and reports, and oversee the creation of project-specific databases designed to house and capture appropriate information for use in claims administration. Throughout the administration process, project management personnel coordinate all activities between the parties, vendors, and internal Rust departments to ensure work is completed accurately and according to any service level agreements, internal standards, settlement documents, etc. We provide regular and on-demand reports and statistics to the appropriate parties and raise potential issues requiring their attention, as necessary. Upon completion of each major phase of administration, or as required, we prepare declarations or affidavits attesting to the scope and results of our work.

Data Management

The secure and efficient handling of data underlies all aspects of claims administration; Rust creates and customizes data management processes, databases, applications to meet the unique needs of each settlement or project. Tasks associated with data management throughout administration may include:

- Intaking original client data.
- Normalizing data for cross-platform usability, such as meeting mailing or other outreach requirements.
- Consolidating and deduplicating data from multiple sources.
- Extracting data for standard or customized trace services.
- Extracting data for mailing or other outreach.
- Calculating awards.



Notification

Rust disseminates hundreds of millions of notices annually by mail and email. We also work with our subsidiary Kinsella Media, the leading provider of notice to unidentified audiences and the only firm in the nation with qualified, court-recognized notice expertise, to develop and implement notice plans.

With respect to legal settlements, these notice programs notify class members or other affected individuals of their legal rights and options. With respect to data breach responses, recalls, or remediation, these programs inform affected individuals about the situations and any options those affected individuals may have.

Among our notification-related services are:

- Designing notice programs (through Kinsella Media).
- Drafting plain language materials (through Kinsella Media).
- Designing and proofreading notice materials.
- Locating unidentified individuals and updated addresses.
- Printing and mailing.
- Processing and forwarding undeliverable mail.
- Opining about notice program adequacy (through Kinsella Media).

Contact Center

Rust supports the programs we administer through an assortment of contact center services including call center, websites, and email support up to 24/7 and for class members and other affected individuals worldwide.

Our call center services include inbound and outbound calls in our own domestic, in-house call center. The call center is located in our Minneapolis headquarters and is readily expandable to meet the needs of specific programs of any size.

All customer service representatives (CSRs)—permanent or temporary—undergo background checks and training on Rust's policies and technology, customer service fundamentals, and project-specific information. Typical engagements include English- and Spanish-speaking CSRs, while we provide support in additional languages, as required. In one case, Rust CSRs took live inbound calls in 10 languages.

In lieu of or in conjunction with live customer service, Rust builds and maintains automated Interactive Voice Response (IVR) systems that provide 24/7 service to toll-free numbers and include menus of prerecorded options such as program overviews, frequently asked questions and answers, and options for requesting forms or filing claims. Rust's IVR systems regularly support English- and Spanish-language speakers and can be programmed to support other languages, as required. In one case, Rust managed IVR support including translations of information pre-recorded by native speakers in 67 languages.



Claims Processing

Rust develops or executes claims processing or adjudication programs as required by the diverse terms of our engagements. We use several proprietary software applications and tested, streamlined processes to provide the most appropriate solutions for each engagement's needs, whether for paper or online claims. Our systems automate the claims administration process:

- Receipt.
- Link to class member database record.
- Data capture.
- Review of supporting documentation.
- Initial adjudication.
- Deficiency processing.
- Final adjudication.
- Rejection letters.
- Reporting/affidavits.

To meet the needs of each engagement, our systems can be configured to give clients or authorized parties secure online access to claimant data and reporting, or to class members to facilitate online claims filing.

Fund Management, Distribution, and Tax Reporting

Rust annually distributes billions of dollars associated with settlements and similar programs. Our Bank and Tax group is responsible for day-to-day banking and tax reporting functions for all settlement funds.

Banking Services	Tax Reporting Services
<ul style="list-style-type: none"> ▪ Account setup. ▪ Online bank reporting. ▪ Escrow, investment and distribution accounts. ▪ Escrow agent services. ▪ Positive Pay – all claimant checks are issued with Positive Pay verification. ▪ Check images. ▪ Wire transfers. ▪ Account reconciliation (daily, weekly or monthly). ▪ Balance inquiry and reporting. 	<ul style="list-style-type: none"> ▪ Tax identification numbers (federal and state). ▪ Qualified Settlement Fund (QSF) determination. ▪ Claimant award taxability and reporting. ▪ W-9 review. ▪ Annual 1120 SF tax returns and quarterly tax deposits. ▪ IRS and state 1099 and 1042S reporting and transmission. ▪ Backup withholding deposits and 945 annual reporting. ▪ Employment payroll taxes: 941, 940, SUTA, SIT, and local income taxes.



Representative Case Experience

Having administered more than 7,500 projects, a complete listing of our experience is voluminous. However, the below tables demonstrate the scope of our experience and capacity.

Note: All numbers are rounded

Notices	Case
183 million	<i>In re Domestic Airline Travel Antitrust Litigation</i> , MDL 2656 (D.D.C.).
83 million	<i>In re Target Corporation Customer Data Security Breach Litigation</i> , MDL 2522 (D. Minn.).
31 million	<i>In re Lawnmower Engine Horsepower Marketing and Sales Practices Litigation</i> , No. 2:08-md-01999 (E.D. Wis.).
24 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
15.7 million	<i>Blessing v. Sirius XM Radio</i> , No. 09-cv-10035 (S.D.N.Y.).

Distributed	Case
\$3.6 billion	Independent Foreclosure Review
\$1.5 billion	National Mortgage Settlement
\$800 million	<i>Naef v. Masonite Corp.</i> , No. CV 944033 (Ala. Cir. Ct. Mobile County).
\$800 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
\$762 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04 Civ. 8141 (S.D.N.Y.). (PwC, Company, Starr, and Gen Re Settlements)

Claims	Case
3.5 million	<i>In re Compact Disc Minimum Advertised Price Antitrust Litigation</i> , MDL No. 1361 (D. Me.).
3.2 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04-cv-8141 (S.D.N.Y.) (Company, PwC, Starr, and Gen Re settlements).
3 million	Abbott Infant Formula Settlements
2.8 million	<i>Fogel v. Farmers Group, Inc.</i> , No. BC300142 (Cal. Super. Ct. Los Angeles County).
1.2 million	National Mortgage Settlement

Calls	Case
3.6 million	Independent Foreclosure Review
1.5 million	<i>Dyson v. Flagstar Corp.</i> , No. DKC93-1503 (D. Md.).
1.4 million	National Mortgage Settlement
1.3 million	Abbott Infant Formula Settlements
1 million	<i>Naef v. Masonite Corp.</i> , No. CV 94-4033 (Ala. Cir. Ct. Mobile County).



Data and System Security

The security of systems and applications and confidentiality of data are of utmost importance to Rust, our clients, the parties to engagements we administer, and members of the public impacted by our operations. Thus Rust actively protects its systems and mitigates potential threats by adhering to a comprehensive assortment of security best practices, certifications, and audits that we refer to collectively as our “unified compliance posture.”

As part of our unified compliance posture, Rust:

- Has received from three federal agencies (CFPB, FTC, and SEC) an Authority to Utilize Controlled Unclassified Information under the guidelines of FISMA and NIST 800-171.
- Undergoes an annual SSAE18 SOC 2 Type II Report audit of our data and system security controls and protocols.
- Complies with applicable laws, such as the Sarbanes-Oxley Act (SOX), Gramm-Leach-Bliley Act (GLBA) and the Health Insurance Portability and Accountability Act (HIPAA).
- Continues to adhere to the (now invalidated) controls formerly known as the U.S.-E.U. Privacy Shield Framework.
- Adheres to documented and audited processes.
- Maintains a business continuity plan to ensure uninterrupted, secure service.
- Has implemented controls to prevent unauthorized access or disclosure, maintain data accuracy, and ensure the appropriate use and confidentiality of information, either for its own purposes or on behalf of our clients.
- Has put in place appropriate physical, electronic, and managerial procedures to safeguard and secure the information we process.
- Processes personal information only in ways compatible with the purpose for which it was collected or subsequently authorized to do.



EXHIBIT B



Senior Vice President

Tiffany A. Janowicz, Esq.

**625 Marquette Avenue, Suite 900
Minneapolis, MN 55402**

M: 612.770.8805

E: tjanowicz@rustconsulting.com

Education & Certifications

- **J.D.** William Mitchell College of Law, 1995 (St. Paul, MN)
- **B.S. Marketing Education** University of Minnesota, 1990 (Minneapolis, MN)

Tiffany Janowicz leads Rust's consumer, product liability, and insurance and healthcare practice areas, with a depth of experience in antitrust matters. She also has been recognized as a class action notice and claims administration expert by state and federal courts.

Janowicz began her career as a consultant at Rust in 1996 and was promoted to senior vice president in 2003. In her current role, Janowicz specializes in customer relations and strategic consultation on class action notice and claims administration programs. She also provides guidance to a team of project management professionals who handle projects within her practice areas. Rust's clients benefit from her expertise in developing and executing strategies designed to achieve their settlement administration goals.

Janowicz has overseen all aspects of hundreds of settlements, including many of the firm's largest claims-processing matters. Examples include Microsoft's antitrust settlements for the states of California, Iowa, Minnesota, New York and Wisconsin, as well as the multi-district litigation claiming that companies fixed the price of Dynamic Random Access Memory (DRAM) in the United States. Janowicz has also lead many of Rust's insurance-related settlements and a number of credit life settlements.

Recent Declarations

- *Hamm v. Sharp*, No. 19-cv-488 (M.D. Fla.).
- *Marya v. Warner Chappell*, No. CV 13-04460 (C.D. Cal.).
- *Gold v. Lumber Liquidators*, No. 3:14-cv-05373 (N.D. Cal.).
- *Fleisher v. Phoenix*, No. 11-cv-8405 (S.D.N.Y.).
- *Farar v. Bayer*, No. 3:14-cv-04601 (N.D. Cal.).
- *Royal Mile Company v. UPMC*, No. 2:10-cv-01609 (W.D. Penn.).

- *In re CenturyLink Sales Practices and Securities Litigation*, MDL 17-2795 (D. Minn.).
- *Opalka v. Amalie Oil*, No. 18-40605 (Fla. Cir. Ct. Miami-Dade County).

Case Experience

Following are some additional details of cases that Rust has administered under the leadership of Janowicz.

- ***In re: CenturyLink Sales Practices and Securities Litigation, No. 17-2795 (D. Minn.)***. Rust received several data files that constituted the class list and which included more than 17 million rows of information. The data team at Rust concatenated that data, sent it to National Change of Address, appended emails through a trace processes, and formatted the data to prepare for notification. Rust ultimately sent notice of the settlement to 6.5 million potential class members via email, and 6.7 million via First-Class Mail, eventually distributing 122,000 payments totaling nearly \$8.5 million.
- ***Parko v. Shell Oil Company, No. 3:12-cv-00336 (S.D. Ill.)***. Janowicz was personally appointed as the neutral arbitrator in this \$4.83 million class action settlement resolving claims against Shell and ConocoPhillips over groundwater contamination in Roxana, Illinois.
- ***Stinson v. The City of New York, No. 10 Civ. 4228 (S.D.N.Y.)***. In a major civil rights class action settlement valued at up to \$75 million, the City of New York agreed to provide compensation to class members who received summonses from New York police officers that had been issued without probable cause, allegedly in response to a summons quota within the NYPD. Rust mailed 922,000 notices and managed a website that received 131,000 unique visitors.
- ***Chaudhri v. Osram Sylvania, No. 11-CV-05504 (D. N.J.)***. A lawsuit claimed that Sylvania made misrepresentations regarding the performance of certain premium automotive lighting. The notice program used a mix of direct and media notice that included 1.6 million mailed postcards along with television, radio, and Internet advertising. Rust mailed 1.4 million checks totaling \$16 million; Sylvania also changed the packaging for the covered products to address the issues in the lawsuit.
- ***In re: Target Corporation Customer Data Security Breach Litigation, MDL No. 14-2522 (D. Minn.)***. Plaintiffs claimed that Target did not adequately protect their payment card data and personal information and that Target delayed in providing notice of a widespread data breach. Rust's direct notice program consisted of 12 million mailed notices and 71 million email notices.
- ***In re Dynamic Random Memory (DRAM) Antitrust Litigation, MDL No. 1486 (N.D. Cal.)***. The lawsuits combined into this multi-district litigation claimed that the Defendant companies fixed the price of DRAM in the United States, causing individuals and businesses to pay more for DRAM and DRAM-containing devices. The combined direct and indirect settlements totaled \$310 million.
- ***Maksimovic v. Sony of Canada Ltd., Ontario Superior Court of Justice, No. CV-11 425487-00CP***. This Canadian settlement resolved allegations that Sony failed to adequately safeguard the computer systems used to provide the Sony PlayStation Network, the Qriocity service, and the Sony Online Entertainment services, which were attacked by criminal intruders in April 2011. Rust managed the translation of all materials into French and provided all documentation and communication in both English and French. Rust also established a Canadian P.O. box for the matter and drop-shipped the mail to our processing center in Minnesota.



- ***In re Nutella Marketing and Sales Practices Litigation, No. 3:11-cv-01086-FLW-DEA (D.N.J.)***. Plaintiffs claimed that Defendant Ferrero U.S.A., Inc. made representations through its marketing and advertising of Nutella® brand hazelnut spread, improperly suggesting that Nutella is healthier than it actually is. Rust placed notice of the settlement in magazines and banner ads on popular websites; the settlement website received over 1 million visits and over a quarter million consumers filed claims.
- ***In re Online DVD Rental Antitrust Litig., MDL No. 2029 (N.D. Cal.)***. Rust sent over 34 million email notices to potential class members in this project. Rust has processed more than 1.1 million claims for gift cards or cash benefit in this ongoing project. Rust also created a settlement website which has to-date received over 2.2 million site visits.
- ***Microsoft I-V Cases, J.C.C.P. No. 4106, (Cal. Super. Ct. S.F. County)***. Janowicz was responsible for the design and management of the direct mail notice program that involved the mailing of 18 million notice-and-claim form packages and deployment of 7 million email notices to a class consisting of consumers who purchased at retail selected Microsoft software for use in California. During the first years of the multi-year program, Janowicz was actively involved in the daily project activities and second in project responsibility only to the company president. Janowicz was and continues to be responsible for overseeing project management, claims and voucher processing, benefits and cy pres distribution, and call center activities.
- ***The Authors Guild, Inc. v. Google, Inc., No. 05-cv-8135 (S.D.N.Y.)***. Janowicz led and continues to lead her team in the administration services provided this settlement involving rights-holders around the world. Janowicz oversaw the translations of the claim forms and supporting materials and well as the provision of telephone support in more than 30 languages. For this ongoing project, Rust's CSRs assist rights-holders in claiming their books and inserts, responding to questions related to the complex settlement and providing technical support throughout the online claims process.
- ***Thompson v. Metropolitan Life, No. 00-CIV-5071 (W.D. Pa.)***. Janowicz was second in project responsibility only to the company president in overseeing Rust's provision of services for this settlement, which included an estimated 25 million policies. Rust mailed more than 550,000 customized and 104,000 generic notices to potential class members. In this race-based underwriting insurance settlement, Rust received 220,000 claim forms, forwarded them on a rolling basis to the company for their research into class membership, and followed up on the company's direction by mailing 80,000 "cure" letters and more than 270,000 response letters to claimants. Rust's call centers answered calls generated by both the mailed notice and an extensive media campaign. During the national TV noticing campaign, there were 500 call center operators in two sites.
- ***McNeil v. American General Life & Accident, No. 3:99-1157 (D. Tenn.)***. Janowicz was second in project responsibility only to the company president in the management of Rust's claims administration services for a settlement covering 9 million class members. Rust mailed over 3 million notices within approximately two weeks. Rust also arranged for an ad campaign to help reach class members for whom the company did not have current addresses. Rust received 600,000 calls on this project, and printed and mailed more than 440,000 payments.
- ***Naef v. Masonite Corp., No. CV 944033 (Ala. Cir. Ct. Mobile County)***. Project involved receiving and processing according to pre-determined criteria (including proof of property ownership, proof of product ownership, and proof of damage) more than 400,000 claims, eventually distributing more than \$800



million to more than 260,000 claimants whose claims were validated. Janowicz co-directed the initial design of the claims intake process of this 10-year claims program, and managed claims review and contact center operations.

Thought Leadership

- Co-Author, **"The Plain Language Toolkit for Class Action Notice,"** in *A Practitioner's Guide to Class Actions, 3rd Ed.* (Marcy Greer ed., 2021).
- Speaker, **"How to Get Your Notice Actually Noticed: Claims Stimulation 3.0,"** Women Antitrust Plaintiffs' Attorneys, Napa, CA (June 2018).
- Webinar Speaker, **"Balancing Due Process and Claims: A Conversation on Strategies to Safeguard Your Settlement,"** American Association for Justice (Sept. 2016).
- Speaker, **"Balancing Due Process and Claims: A Conversation on Strategies to Safeguard Your Settlement,"** Plaintiffs' Forum, Rancho Palos Verdes, CA (Apr. 2015).
- Co-Author, **"Estimating Claims – What Every Attorney Should Know,"** What We've Noticed, Feb. 2015
- Co-Author, **"Increasing Judicial Attention to Claims-Filing Rates,"** What We've Noticed, Oct. 2014
- Co-Author, **"The Case for Simplified Notice and Claims,"** What We've Noticed, July 2014
- Co-Author, **"Tracking Ted..."**, What We've Noticed, April 2014
- Panelist, **"Crafting Class Settlement Notice Programs: Due Process, Reach, Claims Rates, and More – Minimizing Court Scrutiny and Overcoming Objector Challenges,"** Strafford CLE Webinar, Feb. 2014
- Co-Author, **"Efficient, Cost-Effective Notification and Administration in Antitrust Class Actions,"** Class Action Perspectives, 2013
- Co-Author, **"Recent Court Decisions Indicate Greater Scrutiny of Class Notice Programs,"** What We've Noticed, Dec. 2013
- Panelist, **"Mechanics, Logistics & Statistics: How to Settle a Class Action Lawsuit,"** FDCC Section Presentations for CLE 2013 Winter Program, March 2013
- Panelist, **"Emerging Trends in Class Action Notice,"** CLE International 6th Annual Conference Class Actions: Hot Topics, Winning Strategies and More, June 2010
- Speaker, **"Class Action Notice and Claims Administration: Trends and Innovation,"** Women Antitrust Plaintiffs' Attorneys Networking Event, Aug. 2009
- Author, **"Anticipating Claims Filing Rates in Class Action Settlements,"** Class Action Perspectives, Nov. 2008

Bar Admissions

- Licensed to practice law in Minnesota



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL/Valle**

IN RE: JOHNSON & JOHNSON AEROSOL SUNSCREEN MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION _____/	MDL CASE NO.: 3015
THIS DOCUMENT RELATES TO: ALL CASES _____	

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

Plaintiffs Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, Carman Grisham, Heather Rudy, Fred Salter, and Judith Barich on behalf of the putative classes (“Plaintiffs” or “Class Representatives”) and Johnson & Johnson Consumer Inc. (“JJCI” or “Defendant”) (collectively Plaintiff and Defendant are “Parties”) have entered into a settlement agreement, which, together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice upon the terms and conditions set forth therein (the “Settlement”).

The Court has before it, Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (“Motion”) (ECF No. ____). After reviewing the Motion, the Settlement and

exhibits thereto, the arguments and authorities presented by the Parties and their counsel at the Preliminary Approval Hearing held on _____, 2022, and the record in the Action, and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Terms and phrases in this Order shall have the same meaning as ascribed to them in the Settlement, unless otherwise defined herein.

2. The Parties have moved the Court for an order approving the Settlement of the Action in accordance with the Settlement, which, together with the documents incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal of the Action with prejudice, and the Court having read and considered the Settlement and having heard the Parties, hereby preliminarily approves the Settlement Agreement in its entirety subject to the Final Approval Hearing referred to in Paragraph 19 of this Order.

3. This Court finds that it has jurisdiction over the subject matter of this Action and over all Parties to the Action.

4. The Court finds that, subject to the Final Approval Hearing, the Settlement is fair, reasonable, and adequate, within the range of possible approval, and in the best interests of the Settlement Class defined below. The Court further finds that the Settlement substantially fulfills the purposes and objectives of the class action, and provides substantial relief to the Settlement Class without the risks, burdens, costs, or delay associated with continued litigation, trial, and/or appeal. The Court also finds that the Settlement: (a) is the result of arm's-length negotiations between experienced class action attorneys; (b) is sufficient to warrant notice of the Settlement and the Final Approval Hearing to be disseminated to the Settlement Class; (c) meets all applicable requirements of law, including Federal Rule of Civil Procedure 23 and the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, and the U.S. Constitution; and (d) is not a finding or admission of liability by JJCI or any other person(s), nor a finding of the validity of any claims asserted in the Action or of any wrongdoing or any violation of law.

Certification of the Settlement Class

5. For purposes of settlement only: (a) Aylstock, Witkin, Kreis & Overholtz PLLC, Bradley/Grombacher LLP, Beasley, Allen, Crow, Methvin, Portis & Miles, PC, Keller Lenkner LLC, and Walsh Law PLC are appointed Class Counsel for the Class; and (b) Plaintiffs are appointed class representatives for the Class. The Court finds that these attorneys are competent and capable of exercising the responsibilities of Class Counsel and that Plaintiffs will adequately protect the interests of the Class defined below.

6. For purposes of settlement only, the Court conditionally certifies the following Settlement Class as defined in the Settlement:

all persons and entities in the United States who purchased one or more of the following products for personal, family, or household use and not for resale at any time between May 26, 2015 and the Notice Date: Neutrogena® Beach Defense® aerosol sunscreen, Neutrogena® Cool Dry Sport aerosol sunscreen, Neutrogena® Invisible Daily™ defense aerosol sunscreen, Neutrogena® Ultra Sheer® aerosol sunscreen, Aveeno® Protect + Refresh aerosol sunscreen, Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen, Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen, and Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion.

For the purposes of this definition, individuals living in the same household shall be deemed to be a single Class Member.

Excluded from the Class are (a) all persons who are employees, directors, officers, and agents of JJCI, or its subsidiaries and affiliated companies; (b) persons or entities who purchased the Products primarily for the purposes of resale to consumers or other resellers; (c) governmental entities; (d) persons or entities who timely and properly exclude themselves from the Class as provided in this Settlement; and (e) the Court, the Court's immediate family, and Court staff.

7. The Court finds, subject to the Final Approval Hearing referred to in Paragraph 19 below, that, solely within the context of and for the purposes of settlement only, the Class satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, specifically, that: (a) the Class is so numerous that joinder of all members is impracticable; (b) there are questions of fact and law

common to the Class; (c) the claims of the Class Representatives are typical of the claims of the members of the Class; (d) the Class Representatives and Class Counsel will fairly and adequately protect the interests of the members of the Class; (d) common questions of law or fact predominate over questions affecting individual Class Members; and (e) a class action is a superior method for fairly and efficiently adjudicating the Action.

8. If the Settlement does not receive the Court's final approval, if final approval is reversed on appeal, or if the Settlement is terminated or otherwise fails to become effective, the Court's grant of conditional class certification of the Class shall be vacated, the Parties shall revert to their positions in the Action as they existed prior to the Settlement, and the Class Representatives and the Class Members will once again bear the burden to prove their claims at trial.

Notice and Administration

9. The Court approves, as to form, content, and distribution, the Notice Plan set forth in the Settlement, including the Claim Form attached to the Settlement as Exhibit C, all forms of Notice to the Settlement Class as set forth in the Settlement and Exhibits A and B thereto, and finds that such Notice is the best notice practicable under the circumstances, and that the Notice complies fully with the requirements of the Federal Rules of Civil Procedure. The Court further finds that the Notice is reasonably calculated to, under all circumstances, reasonably apprise members of the Class of the pendency of this Action, the terms of the Settlement, and the right to object to the Settlement and to exclude themselves from the Class. The Court also finds that the Notice constitutes valid, due and sufficient notice to all persons entitled thereto, and meets the requirements of Due Process.

10. The Parties have jointly selected a reputable settlement administration company, Rust Consulting ("Rust"), to serve as the Settlement Administrator. The Court hereby appoints and authorizes Rust to be the Settlement Administrator, and thereby to perform and execute the notice responsibilities set forth in the Settlement.

11. The Parties, without further approval from the Court, are hereby permitted to revise the Claim Form and forms of Notice to the Settlement Class (Exhibits A through C of the Settlement)

in ways that are appropriate to update those documents for purposes of accuracy or formatting, so long as they are consistent in all material respects with the Settlement and this Order.

Submission of Claims and Requests for Exclusion from Class

12. Class Members who wish to receive a Voucher under the Settlement must complete and submit a timely and valid Claim Form in accordance with the instructions contained therein. All Claim Forms must be postmarked or electronically submitted by ninety (90) calendar days from the Notice Date (“Claims Deadline”).

13. Any person falling within the definition of the Class may, upon valid and timely request, exclude him or herself or “opt out” from the Class. Any such person may do so if they comply with the exclusion procedures set forth in the Settlement on or before ninety (90) calendar days from the date the Notice Date (“Objection and Exclusion Date”). Any members of the Class so excluded shall neither be bound by the terms of the Settlement nor entitled to a Voucher.

14. Class Members who fail to submit a valid and timely request for exclusion shall be bound by all terms of the Settlement and the Final Judgment (if issued), regardless of whether they have requested exclusion from the Settlement, regardless of whether they have submitted a Claim Form, and regardless of whether that Claim Form has been deemed valid.

Objections and Appearances

15. Any Class Member who has not timely filed a Request for Exclusion may object to the fairness, reasonableness, or adequacy of the Settlement, to a Final Judgment being entered dismissing the Action with prejudice, to the attorneys’ fees and costs sought by Class Counsel, or to the incentive awards sought for the Class Representatives in the amounts as set forth in the Notice and Settlement.

16. Any Class Member who wishes to object must do so by on or before the Objection and Exclusion Date. Class Members shall submit written objection to the Court by filing with the clerk of the United States District Court for the Southern District of Florida or via the ECF electronic filing system. In addition to timely filing a written objection with the Court, any Class Member who wishes to object shall send the written objection to the Settlement Administrator by U.S. mail

(at the mailing address to be included in the Long Form Notice, substantially in the form attached as Exhibit A to the Settlement or by e-mail to the following e-mail address: info@sunproductsettlement.com, along with a copy by U.S. mail or e-mail to Class Counsel and Defense Counsel postmarked no later than the Objection and Exclusion Date.

17. To validly object, the objection must comply with the objection procedures set forth in the Settlement, and include the following: (a) the Class Member's full name; (b) current address; (c) a written statement of their objection(s) and the reasons for each objection; (d) a statement of whether they intend to appear at the Fairness Hearing, and if so, whether they will appear with separate counsel; (e) their signature; (f) the case name and case number (*In re Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation*, MDL No. 3015); (g) a detailed list of any other objections submitted by the Class Member, or his/her counsel, in any class actions in any court, whether state or otherwise, in the United States in the previous five (5) years; and (h) documents sufficient to establish the person's standing as a Settlement Class Member, i.e., verification under penalty of perjury as to the person's purchase of Aerosol Products or Non-Aerosol Products during the Class Period, or a Proof of Purchase. If the Class Member or his/her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the objection to this Settlement.

18. Class Members who fail to file and serve timely written objections in compliance with the requirements of the foregoing paragraph and the Settlement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement and to any of the following: (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a judgment and order of dismissal with prejudice should be entered; (c) whether to approve the Fee Award to Class Counsel; and (d) whether to approve the payment of Class Representative Incentive Awards to the Class Representatives.

Final Approval Hearing

19. The Final Approval Hearing shall be held before this Court on _____, 2022, at ___ p.m. in Courtroom 110, of the United States District Court for the Southern District of Florida, U.S. Federal Building and Courthouse, 299 East Broward Boulevard Fort Lauderdale, Florida 33301, to determine: (a) whether the proposed Settlement is fair, reasonable, and adequate and should be given final approval by the Court; (b) whether a final judgment and order of dismissal with prejudice should be entered; (c) whether to approve the payment of the Fee Award to Class Counsel; and (d) whether to approve the payment of incentive awards to the Class Representatives.

20. Plaintiffs and Class Counsel shall file their Motion for Final Approval by no later than _____, 2022.

21. Plaintiffs and Class Counsel shall file their Fee Application by no later thirty-five (35) calendar days before the Objection/Exclusion Deadline and the Claim Deadline.

Related Orders

22. All further proceedings in the Action are ordered stayed until Final Judgment or termination of the Settlement, whichever occurs earlier, except for those matters necessary to obtain and/or effectuate final approval of the Settlement.

23. Class Members shall be bound by all determinations and judgments in the Action concerning the Action and/or Settlement, whether favorable or unfavorable.

24. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Parties, if appropriate, without further notice to the Class.

25. If the Settlement is not approved by the Court in complete accordance with its terms, each party will have the option of having the Action revert to its status as if the Settlement had not been negotiated, made, or filed with the Court. In such event, the Parties will retain all rights as if the Settlement was never agreed upon.

26. In the event that the Settlement is terminated pursuant to the provisions of the Settlement or for any reason whatsoever the approval of it does not become Final then: (a) the

Settlement shall be null and void, including any provision related to the award of attorneys' fees, costs and expenses, and shall have no further force or effect with respect to any party in this Action, and shall not be used in this Action or in any other proceeding for any purpose; (b) all negotiations, proceedings, documents prepared, and statements made in connection therewith shall be without prejudice to any person or party hereto, shall not be deemed or construed to be an admission by any party of any act, matter, or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in this Action or in any other action in any court or other proceeding, provided, however, that the termination of the Settlement shall not shield from subsequent discovery any factual information provided in connection with the negotiation of the Settlement that would ordinarily be discoverable but for the attempted settlement; and (c) other than as expressly preserved by the Settlement in the event of its termination, the Settlement shall have no further force and effect with respect to any party and shall not be used in the Action or any other proceeding for any purpose.

IT IS SO ORDERED.

DATED: _____

Honorable Raag Singhal
United States District Court Judge