

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI

FILED

VERNITA MORRIS,)
individually and on behalf of all others)
similarly situated,)
Plaintiff,)
vs.)
EViG, LLC d/b/a Balance of Nature,)
Defendant.)

Case No. 25PH-CV01551

OCT 27 2025

MARLAINA WALLACE
CIRCUIT CLERK
PHELPS COUNTY, MO

**FIRST AMENDED ORDER GRANTING PLAINTIFF'S UNCONTESTED MOTION
FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiff Vernita Morris, individually and on behalf of all others similarly situated (“Plaintiff” or “Class Representative”), has moved the Court for preliminary approval of a proposed class action settlement with Defendant Evig, LLC d/b/a Balance of Nature (“Defendant”), the terms and conditions of which are set forth in the Settlement Agreement filed with the Court on September 24, 2025 (“Settlement Agreement”).

The Court signed its original order granting preliminary approval of the proposed settlement on October 7, 2025. In that Order, the Court appointed the Angeion Group to serve as the Settlement Administrator. Since that time, Plaintiff has filed an unopposed motion asking the Court to remove the Angeion Group as the Settlement Administrator and approve the Fidexis Group as the Settlement Administrator in its place. Plaintiff and Class Counsel believe the Fidexis Group is better suited to serve as the Settlement Administrator in this case. The Parties have conferred and Defendant does not oppose the requested relief. The Court approves the request and amends the previous order granting preliminary approval. This amended order also changes the current Final Approval Hearing set at 9:00 a.m. on February 6, 2025, and resets the hearing at 9:00 a.m./p.m. on March 6, 2026.

This case is based on allegations that Defendant engaged in deceptive trade practices, breaches of warranties, fraud by silence, and unjust enrichment in the manufacture and sale of Balance of Nature nutritional supplements, including Balance of Nature Fruits capsules, Balance of Nature Veggies capsules, and Balance of Nature Fiber & Spice powder (collectively, the “Products,” and each a “Product”), and in its advertising and marketing representations of the Products. The alleged misrepresentations include allegedly false statements about the quality of the Products and their ingredients and the standards under which they are manufactured, and statements that the Products can prevent, treat, cure, or mitigate the symptoms of serious disease conditions such as diabetes, arthritis, influenza, chronic fatigue, fibromyalgia, heart disease, and cancer.

Plaintiff seeks to recover the difference between the actual value of the Products and the value of the Products if they had been as represented, on behalf of a class of all purchasers in the United States who purchased the Products between March 28, 2019, and October 7, 2025, except for re-sellers, those who previously received full refunds of their purchases of the Products, and other exclusions listed in the Settlement Agreement.

Defendant denies that there is any factual or legal basis for Plaintiff’s allegations. Defendant contends that the labeling of the Products was truthful and non-misleading, and that purchasers did not pay a “premium” for the Products as the result of any misrepresentations. Defendant, therefore, denies any liability. It also denies that Plaintiff or any other members of the Settlement Class have suffered injury or are entitled to monetary or other relief. Defendant further denies that this case should be certified as a class action, except for purposes of settlement. In that regard, Defendant specifically and without limitation denies that there are questions of fact or law common to the class, that the Class Representative is typical of consumers in the United States,

that common issues predominate over individual issues, and that a class action is an appropriate method for fairly and efficiently adjudicating the controversy; however, in the interest of settling, Defendant does not oppose Plaintiff's request to certify the Settlement Class.

The Parties, to avoid the costs, disruption, and distraction of further litigation and without admitting the truth of any allegations made in the Action, or any liability with respect thereto, have engaged in arms-length settlement negotiations that resulted in this Agreement. Those discussions were built on an earlier class action settlement agreement, now terminated, that resulted from a mediation under the supervision of retired United States District Judge Wayne Andersen in the case *Billie Powell, individually and on behalf of all others similarly situated, v. Evig LLC d/b/a Balance of Nature*, Case No. 2422-00555, in the Circuit Court for the City of St. Louis, MO (the "Powell Case"). This Agreement provides greater relief to class members than the now terminated settlement agreement in the *Powell* Case.

Prior to mediation in the *Powell* Case, Defendant produced to Plaintiff's counsel numerous documents related to the issues in the case, including sales data for the purpose of evaluating the putative class's damages, as well as thousands of pages of materials relating to the accuracy of the labeling claims, and information exchanged with the U.S. Department of Justice. Those documents were available to counsel in negotiating this Agreement. A formal mediation followed that took place in Chicago, Illinois, with Judge Andersen on September 25, 2024. Those negotiations were rigorous, time-consuming, challenging, and far from certain.

The settlement agreement in the *Powell* Case was terminated after more than seven months. The Parties re-opened negotiations that resulted in the proposed settlement before this Court, which provides greater benefits to the settlement class than the settlement agreement in the *Powell* Case. Also, Plaintiff's counsel has agreed to reduce the maximum attorneys' fee they are allowed

to request for their work in the case and their expenses.

The Class Representative has moved the Court for preliminary approval of a proposed class action settlement with Defendant, the terms, and conditions of which are set forth in the Settlement Agreement filed with the Court. As noted, the Settlement was negotiated over several months with the assistance of Judge Andersen and then again over the course of months in 2025. The terms of the Settlement are summarized in the proposed Settlement Notices to Settlement Class Members, which are attached as Exhibits B1 (Long Form Notice for Settlement Website), B2 (Email Notice), and B3 (Postcard Notice) to the Settlement Agreement. In brief, Defendant has agreed that each member of the Settlement Class may submit a claim for a partial refund of the purchase price of Balance of Nature Products they purchased during the Class Period. Those with valid Proof of Purchase may recover up to \$6.00 per Bottle, up to 5 Bottles, with a maximum payment of \$30.00 per Household for purchases dated within the Class Period. Proof of Purchase, as defined in the Settlement Agreement, can be provided through a receipt, order confirmation, or other documentation from Defendant or an authorized third-party retailer which reasonably establishes the fact and date of purchase of the Product during the Class Period in the United States.

The Total Settlement Amount is \$9,950,000. After the payment of any Fee Award, the remainder is set aside for the payment of Valid Claims and Administrative Expenses (the “Total Claim and Administration Amount). If the Total Claim and Administration Amount (the latter of which shall not exceed \$175,000), exceeds that remainder, the amount payable to each Claimant shall be proportionately reduced, such that Defendant’s maximum liability for Valid Claims and Administrative Expenses will not exceed the Total Claim and Administration Amount in the aggregate.

As part of the Settlement, Plaintiff’s attorneys may apply to this Court to award them up to

two-million-five-hundred-seventy-five thousand dollars and zero cents (\$2,575,000.00) from Defendant to pay their attorneys' fees, costs (including court costs), expenses, and disbursements incurred by them and their experts, staff, and consultants in connection with this action. Plaintiff's attorneys may also apply to this Court for a payment from Defendant to the Class Representative as a service award of up to \$5,000. Such amounts must be approved by the Court, and the Court will defer any ruling on the appropriateness of fees and service awards until the Final Approval Hearing. Defendant has taken no position with respect to the requested attorneys' fees. The Fee and Expense Award shall be paid from the Total Settlement Amount.

Having considered all matters submitted to it at the hearing on the motion and otherwise, including the complete record of this action, and good cause appearing therefore, the Court grants preliminary approval and hereby finds and concludes as follows:

1. The capitalized terms used in this Order shall have the same meaning as defined in the Settlement Agreement except as otherwise expressly provided.
2. The Court preliminarily approves the Settlement Agreement as within the range of possible final approval and as meriting submission to the Settlement Class for its consideration. The Agreement was reached through extensive arm's length negotiations and involved a well respected and experienced mediator. Additionally, before entering into the Agreement, Defendant produced significant document productions, which would have been provided as discovery in this Action, including documents relating to the marketing of the products, a consent decree entered into between Defendant and the U.S. Department of Justice, communications with the Department of Justice regarding that consent decree, documentation that the Food & Drug Administration determined that Defendant "appear[ed] to be in compliance with the Decree, the Federal Food, Drug, and Cosmetic Act ("the Act"), and its implementing regulations" on November 21, 2023,

scientific studies explaining the benefits of the Products, and detailed sales and pricing data. Thus, Plaintiff and her counsel had sufficient information to evaluate the strengths and weaknesses of the case and to conduct informed settlement discussions.

3. For purposes of the settlement only, the Court provisionally certifies the Settlement Class, which consists of all Persons who purchased Balance of Nature Fruits capsules, Balance of Nature Veggies capsules, and Balance of Nature Fiber & Spice powder (the “Products”) in the United States between March 28, 2019, and the date of this Order. Specifically excluded from the Settlement Class are: (a) all Persons who purchased or acquired the Product for resale; (b) all Persons who received a refund in an amount that equals or exceeds the amount paid for the Product; (c) Evig LLC and its directors, officers, employees, principals, affiliated entities, legal representatives, successors and assigns; (d) any Person who files a valid, timely Opt-Out request; (e) federal, state, and local governments (including all agencies and subdivisions thereof, but excluding employees thereof); and (f) the Judge in this case, the mediator, the Honorable Wayne R. Andersen (Ret.), any members of their immediate families, and any members of their chambers’ staffs.

4. The Court preliminarily finds and concludes, solely for purposes of considering this Settlement, that the requirements of Missouri Rule 52.08 are conditionally satisfied for certification of the Settlement Class for unjust enrichment and under the consumer protection laws of the fifty states and the District of Columbia (collectively, “states”). Solely for the purpose of considering this nationwide Settlement, the Court finds Plaintiff has met the requirements of Rule 52.08 for the reasons set forth in Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement, as well as for the reasons that follow.

a. The Settlement Class Members are too numerous to be joined in a single action;

- b. There are questions of fact or law common to the Settlement Class, and the common questions predominate over any questions affecting only individual members¹;
- c. The claims of the Class Representative are typical of the claims of the Settlement Class Members; and
- d. A Settlement Class is an appropriate method for fairly and efficiently adjudicating the controversy and is superior to alternative means of resolving the claims and disputes at issue in this litigation.

5. The Court further notes that Plaintiff's Complaint sets forth causes of action for a nationwide class between March 28, 2019 and the present; that Defendant does not oppose Plaintiff's request to certify a nationwide Settlement Class for the purpose of this Settlement; and that, in the event final approval of the Settlement Agreement is denied, or a mandate is issued reversing an award of final approval, or the Settlement Agreement is otherwise terminated, certification of the Settlement Class will be void; and that, in such event, Defendant does not waive, and instead expressly reserves, all rights to defend this Action and shall not be precluded from challenging class certification in further proceedings in the Action or in any other action.

6. The Court conditionally designates David Steelman of Steelman Gaunt and Crowley, Stuart Cochran of Condon Tobin Sladek Thornton Nerenberg PLLC, Matt Armstrong of Armstrong Law LLC, and Britton Monts of the Monts Firm as Class Counsel, and Vernita Morris as the Class Representative for purposes of this Settlement. The Court preliminarily finds that the Class Representative and Class Counsel fairly and adequately represent and protect the interests

¹ While the Court will consider differences in state laws as part of the predominance inquiry, this Court need not inquire "whether the case, if tried, would present intractable management problems, for the proposal is that there be no trial." *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997) (internal citations omitted). In that regard, Plaintiff has submitted extensive briefing and setting forth why the common issues predominate and why the differences are immaterial to this Action. *See* Mot. for Preliminary Approval of Class Action Settlement. Defendant is not opposed to certification for settlement purposes only and specifically and explicitly reserves the right to contest the issue of predominance (and all other issues under Rule 52.08 and otherwise) should the settlement be overturned in any respect.

of the absent Settlement Class Members. The Court designates, and approves, the Fidexis Group to serve as the Settlement Administrator.

7. Because the Settlement Agreement is within the range of reasonableness and possible final approval, notice shall be provided to the Settlement Class as described in Section IV of the Settlement Agreement.

- a. The Notice Plan consists of three parts: (1) a Settlement Website; (2) Notice to Class Members using the email addresses they provided to Defendant and/or a third-party marketplace when they ordered the Products²; and (3) first class mail Postcard Notice for those Class Members without valid email addresses and for whom the Settlement Administrator has a valid postal address.
- b. Prior to the Notice Date, the Settlement Administrator will establish the Settlement Website, which shall contain the Settlement Notice in both downloadable PDF format and HTML format with a clickable table of contents; answers to frequently asked questions; a contact information page that includes the address for the Settlement Administrator and addresses and telephone numbers for Plaintiff's counsel; the Settlement Agreement; the signed Preliminary Approval Order and publicly filed motion papers and accompanying papers; a downloadable and online version of the Claim Form; and a downloadable and online version of the Opt-Out form by which Settlement Class Members may exclude themselves from the Settlement Class. The Settlement Administrator shall add to the Settlement Website all other material filings by the parties or the Court regarding the

² During the Class Period, Defendant only sold the Products on its online website and as a third-party seller on the Amazon.com and Walmart.com Internet platforms. It did not sell the Products in retail stores during that time. Because each Class member was required to provide an email address and a shipping address to Defendant, Amazon, or Walmart to order the Products, the Court finds publication notice is unnecessary because the best notice practicable under the circumstances is Email Notice and for those Class Members without valid email addresses, first class Postcard Notice.

Settlement, including Plaintiff's application for attorneys' fees, costs, expenses, and/or payments to the Class Representative, the motion for final approval, and any orders with respect to such applications and motions.

- c. In addition to the Settlement Website, direct notice shall be provided to Settlement Class Members using email addresses. If an email address for a Class Member is not provided or if the Email Notice is returned to sender, a Postcard Notice will be sent via First Class mail. The Parties and the Claims Administrator shall use their best efforts to ensure direct notice is provided to customers from amazon.com and walmart.com as well. The Settlement Administrator shall complete sending the Email Notice and, where necessary, the Postcard Notice within 45 days after the date the Court signs this amended preliminary approval order.
- d. Class members who do not exclude themselves from the settlement shall have 90 days after the date of Notice to file claims. The Settlement Administrator shall receive and process the Claim Forms and use its best efforts to pay all valid claims within 45 days after the Effective Date except that, in the event of an appeal from final approval that challenges only the award of Attorneys' Fees and Expenses and/or the Class Representative Service Award and does not challenge any other aspect of the Settlement and does not raise an argument, theory, or issue that could result in the reversal of final approval or modification of other terms of the Settlement, then all Valid Claims shall be paid within sixty days after entry of the Final Approval Order, unless otherwise ordered by the Court.

8. The Court further finds the Notice Plan is reasonably calculated to provide notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class, the terms of the Settlement Agreement, and the Final Approval hearing, is the best notice practicable

under the circumstances, and complies fully with the requirements of due process, Missouri Rule 52.08, and any other applicable law. The Parties and the Settlement Administrator shall comply with the Notice Plan as set forth in the Settlement Agreement.

9. Final Approval Hearing shall be held before this Court on March 6, 2026 at 9 a.m/p.m. in the Circuit Court of Phelps County State of Missouri, to address: (a) whether the proposed Settlement should be finally approved as fair, reasonable and adequate, and whether the Final Approval Order should be entered, and (b) whether Class Counsel's application for attorneys' fees, costs, and a payment to the Class Representatives should be approved.

10. The Court approves, as to form and content, the Claim Form and Notices that are substantially similar to the forms attached as Exhibits A, B1, B-2, and B-3 to the Settlement Agreement. The Claim Form and all the Notices are written in plain English and are easy to comprehend. The Parties shall have discretion to jointly make non-material minor revisions to the Claim Form and Notices before publishing. Responsibility for settlement administration, including, but not limited to, notice and related procedures, shall be performed by the Settlement Administrator, subject to the oversight of the Parties and this Court as described in the Settlement Agreement.

11. Any member of the Settlement Class who desires to be excluded from the Settlement Class, and therefore not be bound by the terms of the Settlement Agreement, must complete the online exclusion form on the Settlement Website, download it, and submit it to the Settlement Administrator online at www.supplementsettlement.com or by first class mail or submit by first class mail to the Settlement Administrator a valid request to exclude themselves that contains the same information required by the online exclusion form. Opt-Out requests mailed by first class mail must be Postmarked to the Settlement Administrator by the Opt-Out Deadline or

they shall not be valid. Class Members who elect to Opt-Out from this Settlement shall not be permitted to object to this Settlement or to intervene. Class Members shall be encouraged, but not required, to provide their email addresses in their requests for exclusion. The Opt-Out request must be submitted online by no later than 11:59 p.m. 60 days after the Notice Date or, if mailed, must be postmarked to the Settlement Administrator no later than 60 days after the Notice Date. If mailed, the Opt-Out request must be signed by the Class Member, contain their full name, address, and phone number(s), and the following statement: "I/We request to Opt-Out from the settlement in the Balance of Nature Action." No one shall be permitted to exercise any exclusion rights on behalf of any other Person, whether as an agent or representative of another or otherwise, except upon proof of a legal power of attorney, conservatorship, trusteeship, or other legal authorization and no one may exclude other Persons within the Settlement Class as a group, class, or in the aggregate.

12. Any member of the Settlement Class who desires to object to the proposed Settlement must submit that Objection in writing, by the Objection Deadline set forth above. Any Objection must include: (a) a reference at the beginning to this case, *Morris v. Evig LLC d/b/a Balance of Nature*, filed in the Circuit Court of Phelps County, State of Missouri; (b) the name, address, telephone number, and, if available, the email address of the Person objecting, and if represented by counsel, of his/her counsel; (c) a written statement of all grounds for the Objection, accompanied by any legal support for such Objection; (d) whether he/she intends to appear at the Final Approval Hearing, either with or without counsel; (e) whether he/she intends to present evidence at the Final Approval Hearing and a disclosure of the evidence to be presented sufficient to put the Parties on notice of the same, including identity of any witnesses or documents to be used, either with or without counsel; (f) a statement of his/her membership in the Settlement Class, including all information required by the Claim Form; and (g) a detailed list of any other objections submitted by the Class Member, or his/her counsel, to any class actions submitted in any court,

whether state or otherwise, in the United States in the previous five years. 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 years, he/she shall affirmatively state so in the written materials provided in connection with the Objection to this Settlement.

13. Any Class Member who fails to timely file and serve a written Objection containing substantially all of the information listed in the items (a) through (g) of the previous paragraph, including notice of his/her intent to appear at the Final Approval Hearing, shall not be permitted to object to the Settlement and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by any means, including but not limited to an appeal.

14. Any Class Member who submits a timely written Objection may be subject to a deposition at the request of Class Counsel or Defendant's counsel, to occur at least ten days prior to the Final Approval Hearing. Any objector who fails to make him or herself reasonably available for a timely deposition or fails to appear at a deposition may be deemed to have withdrawn his or her objection.

15. At least five days prior to the Final Approval Hearing, the Settlement Administrator shall prepare a list of the names of the persons who, pursuant to the Settlement notice, have Opted Out from the Settlement Class in a valid and timely manner, and Class Counsel shall file that list with the Court.

16. If a Class Member submits both a Claim Form and an Opt-Out request, the Claim Form shall take precedence and be considered valid and binding, and the Opt-Out request shall be deemed to have been sent by mistake and rejected. The Court retains jurisdiction to resolve any disputed exclusion requests.

17. Any member of the Settlement Class wishing to make a claim must submit a Claim Form to the Settlement Administrator, pursuant to the instructions set forth in the Settlement

Notice. The request must be submitted online by no later than 90 days after the Notice date or, if mailed, it must be postmarked to the Settlement Administrator by no later than 90 days after the Notice date.

18. Any member of the Settlement Class who elects to be excluded shall not receive any benefits of the Settlement, shall not be bound by the terms of the Settlement Agreement, and shall have no standing to object to the Settlement or intervene in the Action. If the Settlement is granted final approval, all Settlement Class Members who do not timely submit a valid request for exclusion will be bound by the Final Approval Order and final judgment and enjoined from bringing or prosecuting any action relating to the released claims, including claims related to the sell-through of existing stock, as defined in the Settlement Agreement.

19. Any Settlement Class Member who does not submit a valid and timely request for exclusion may submit an objection to the Settlement Agreement. The written objection must be electronically filed with the Settlement Administrator or postmarked within 60 days after the Notice date, or it will be rejected.

20. Any Settlement Class Member shall have the right to appear and be heard at the Final Approval Hearing, either personally or through an attorney retained at the Settlement Class Member's own expense. However, if the Settlement Class Member wishes to object to the Settlement at the Final Approval Hearing (either personally or through counsel), the Settlement Class Member must submit a written objection as set forth in paragraph 6.4 of the Settlement Agreement.

21. Immediately upon receipt of any objection received electronically or postmarked by the appropriate date, the Settlement Administrator shall forward the objection and all supporting documentation to counsel for the Parties. No later than 14 days prior to the Final Approval Hearing,

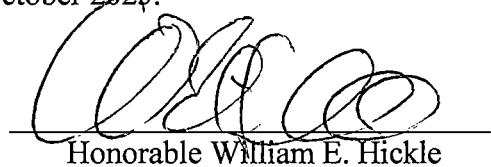
Plaintiff's counsel shall file all such objections and supporting documentation with the Court.

22. No later than 30 days prior to the Objection Deadline, Class Counsel will submit to the Court the Application seeking a Fee and Expense Award and Class Representative Service Award. The motion for final approval and any responses to timely objections will be filed no later than 7 days prior to Final Approval Hearing. Those motions and all supporting documentation shall be simultaneously posted to the Settlement Website.

23. In the event that the proposed Settlement is not finally approved by the Court, or in the event that the Settlement Agreement becomes null and void pursuant to its terms, this Preliminary Approval Order and all orders entered in connection herewith (including any order amending the petition) shall become null and void, shall be of no further force and effect, and shall not be used or referred to for any purposes whatsoever in this Action or in any other case or controversy; in such event the Settlement Agreement and all negotiations and proceedings directly related thereto shall be deemed to be without prejudice to the rights of any and all of the Parties, who shall be restored to their respective positions as of the date and time immediately preceding the execution of the Settlement Agreement.

24. This Order shall not be construed as an admission or concession by Defendant of the truth of any allegations made by Plaintiff or of liability or fault of any kind. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to the Settlement Class Members. The Final Approval Hearing may, from time to time and without further notice to the Settlement Class Members, be continued by Order of the Court.

IT IS SO ORDERED this 27th day of October 2025.



Honorable William E. Hickle