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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JAMIE PETTIT, et al., ,
Plaintiffs,

v.

PROCTER & GAMBLE COMPANY,
Defendant.

CASE NO. 3:15-cv-2150 RS

**REPLY IN SUPPORT OF PLAINTIFFS’
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
APPLICATION FOR ATTORNEYS’
FEES, COSTS AND CLASS
REPRESENTATIVE PAYMENTS**

Date: March 28, 2019
Time: 1:30 p.m.
Courtroom 3, 17th Floor
Judge: Hon. Richard Seeborg

1 No objections were made to this settlement. In addition, there have been only a small
2 number of opt-outs, and the percentage of class members who filed claims is higher here than in
3 comparable settlements. This overwhelmingly positive response from class members weighs
4 strongly in favor of final approval of the settlement and the requested attorneys' fees, costs, and
5 payments to the Class Representatives. *See In re: Mego Financial Corp. Securities Litigation*, 213
6 F.3d 454, 459 (9th Cir. 2000) (low number of objectors and opt-outs supports trial court's finding
7 that settlement was "fair, adequate and reasonable"); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011,
8 1027 (9th Cir. 1998) (low number of opt-outs provide "objective positive commentary as to its
9 fairness").

10 The notice program was comprehensive; 101 million impressions of the online notice were
11 delivered over 45 days; and the Settlement Website was viewed over 600,000 times by more than
12 276,000 people. *See* Declaration of Jeanne Finegan, Dkt. # 130-4 ("Finegan Decl.") ¶ 11; Shaffer
13 Decl. ¶ 10. Class Counsel remained in regular contact with the Claims Administrator to ensure the
14 notice was carried out fully and to monitor class members' responses. *See* Supplemental
15 Declaration of Adam Gutride ("Supp. Gutride Decl."), ¶ 5; see also Plaintiffs' Motion for Final
16 Approval, Dkt. # 130, p. 9.

17 Approximately 180,000 individuals filed timely claims for purchases of the Product
18 (excluding purchases in the State of New York), representing approximately 4.6% of class
19 members. *See* Shaffer Decl. ¶ 16; *cf.* Finegan Decl., ¶ 5, n. 3 (noting a class size of approximately
20 3,884,000 purchasers).¹ This rate exceeds the rate in comparable settlements, including two other
21 recent product labeling cases litigated by Class Counsel in this District, where the claims rate was
22 estimated to be less than one percent in a large common fund settlement that offered up to \$25 per
23 claimant, and 2.8% in a claims made settlement offering up to \$5 per claimant. *See* Declaration of
24 Adam Gutride, Dkt. # 130-1, Ex. 1 (settlements in *Koller v. Deoleo USA, Inc.*, Case No. 14-cv-

25 _____
26 ¹ In fact, a total of approximately 188,000 timely claims were received, but about 8,000 of those
27 were for purchases in the State of New York, which are not included in this settlement. *See*
28 Shaffer Decl. ¶ 17. Pursuant to the terms of the Settlement Agreement, the Claims Administrator
intends to reject those claims. *See id.* In addition, the Claims Administrator is continuing to
validate the accuracy and legitimacy of the claims that were timely submitted. *See id.* The parties
will be prepared to update the Court on the status of that effort at the hearing.

1 2400-RS, and *Kumar v. Salov North America Corp.*, Case No. 14-cv-2411-YGR); *see also* Mot.
 2 for Final Approval, Dkt. # 130, at 16-17 (discussing claims rate in other comparable settlements).

3 No objections have been filed and just 58 class members opted out of the settlement. *See*
 4 Shaffer Decl. ¶¶ 14-15. Class Counsel did not receive complaints from class members about the
 5 settlement, and no class member was paid or offered anything to refrain from making an objection.
 6 *See* Supp. Gutride Decl. ¶ 6. While attorneys from the offices of Attorney Generals from the states
 7 of Arizona, California, Indiana, Michigan, Missouri and Texas contacted the parties with questions
 8 regarding the settlement, they have not filed an objection. *See id.* ¶ 4. Instead, the parties
 9 responded to their inquiries regarding the settlement in a telephone call on February 12, 2019. *Id.*

10 As set forth in the Supplemental Declaration of Adam Gutride, Class Counsel has incurred
 11 a small number of hours over the last two months in connection with work on this case. *See id.* ¶¶
 12 7-8. As Class Counsel's total lodestar exceeds the amount of requested attorneys' fees and costs,
 13 this additional time spent will not impact class members' recovery or the amount to be paid by
 14 P&G in connection with this settlement.

15 Accordingly, Plaintiffs have now demonstrated that this settlement is fair, reasonable and
 16 adequate, so it is appropriate to finally approved the settlement, award the requested fees, costs
 17 and payments to the Class Representatives, and enter judgment.

18 CONCLUSION

19 For the foregoing reasons, Plaintiffs request that the Court enter final judgment certifying
 20 the settlement class and approving the settlement, granting Plaintiff Pettit's application for a Class
 21 Representative Payment of \$5,000, granting Plaintiffs Ramcharitar, Wiltrakis, and Senko's
 22 applications for Class Representative Payments of \$3,000 each, awarding the other Plaintiffs
 23 \$1,000 each, and awarding Plaintiffs' Counsel \$2,150,000 in attorneys' fees and costs.

24 Dated: March 14, 2019

Respectfully submitted,

GUTRIDE SAFIER LLP

/s/ Adam J. Gutride

Adam J. Gutride (State Bar No. 181446)

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