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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

MIKE XAVIER and STEVEN PRESCOTT,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

BAYER HEALTHCARE LLC, a Delaware
limited liability company; BEIERSDORF INC.,
a Delaware corporation,

Defendants.

Case No.: 5:20-CV-00102-NC

Case Filed: Jan. 3, 2020
FAC Filed: May 15, 2020
SAC Filed: July 14, 2021

Assigned to the Hon. Nathanael M. Cousins

**SUPPLEMENTAL DECLARATION OF
MARK SCHEY RE: CLASS REACTION
AND ESTIMATED CLAIMS**

Final Approval Hearing Information

Date: Dec. 15, 2021
Time: 2:00 p.m. (PST)
Courtroom: 5

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SUPPLEMENTAL DECLARATION OF MARK SCHEY

I, Mark Schey, declare as follows:

1. I am a founding partner of Digital Settlement Group, LLC (“**DSG**” and/or “**Administrator**”), a company that provides class action notice and claims administration, and the Court-appointed Administrator for the settlement in this action. I make this declaration pursuant to the Court’s order granting preliminary approval of the class action settlement on July 29, 2021 (ECF 107), requiring the Administrator to submit a list of Settlement Class Members (“**SCMs**”) that submitted valid and timely requests for exclusion and estimates the number and dollar amount of claims. The following statements are based on my personal knowledge and information provided by other DSG principals and employees working under my supervision. If called upon to do so, I could and would testify competently about the following matters.

2. **Administration Summary.** On September 17, 2021, notice of the settlement in this action commenced and the deadline to respond lapsed on November 17, 2021. To timely submit a claim, objection, or request for exclusion, SCMs need only complete the online claim form or mail the claim form, objection, or opt-out, postmarked by November 17, 2021. I have concurrently submitted herewith as **Exhibit 15** a true and correct copy of DSG’s most recent summary, dated November 28, 2021, that accurately outlines, throughout this response period, disaggregated by week: (1) the total number of DSG’s interactions with SCMs; (2) the total number of claims, opt-outs, and objections received and the total number of claimed products with and without an indicated proof of purchase; and (3) data analytics for the Notice Plan (e.g., total unique visits to Settlement Website, claim form downloads, and digital ad impressions).

3. **Estimated Claims (Pre-Validation).** The summary of total claims, including the number of claimed products with and without proof of purchase, are estimates as DSG has not completed its process to validate claims, allow SCMs a reasonable opportunity to correct deficiencies, and calculate the final allocation of claim-payments. Based on DSG’s prior experience administering similar settlements, DSG estimates it will have approximately 8,000 to 12,000 deficient claims that will require processing. DSG anticipates that process will complete within 90 to 120 days of the Court granting final approval. The estimates on number of claims, claimed

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1 products, and estimated dollar amounts accounting for *pro rata* adjustments, are reiterated in **Figure**
 2 **1**, below, to provide the Court with reasonable estimates, pre-claim validation, of the average
 3 estimated claim payments.

4 **Figure 1: Coppertone Mineral-Based Class Action Settlement—Pre-Validation Claim**
 5 **Estimates (12/1/2021)**

		Estimated Amount	
Total Number of Claims		84,601	
	Total Number of Claims with Proof of Purchase	891	
	Total Number of Claims without Proof of Purchase	83,710	
Total Number of Units of Products Claimed		414,335	
	Total Units of Product Claimed with Proof of Purchase	31,878	
	Total Units of Product Claimed without Proof of Purchase	382,457	
Estimated Total Dollar Amount of All Claims		\$885,073.00	
Estimated Net Fund Available for Payment of Claims ¹		\$1,028,757.45	
Average Estimated <i>Pro Rata</i> Payout Per Product ²		\$2.48	
Average Estimated <i>Pro Rata</i> Payout Per Claimant (if Claims without Proof of Purchase are Capped at 4 units of Product)		\$10.46	

18 _____
 19 ¹ The conservatively estimated net fund available to pay valid SCM claims is calculated by
 20 subtracting the following from the \$2.25 million settlement amount: (1) \$675,000 (30%) for
 attorneys' fees; (2) \$6,242.55 for litigation expenses; (3) \$10,000 for service awards to the named-
 plaintiffs (\$5,000 each); and (4) \$530,000 for costs of notice and claims administration.

21 ² The estimated *pro rata* downward adjustment from \$2.50 to \$2.48 per product is calculated based
 22 on the 414,335 products claimed multiplied by \$2.48. The \$2.48 total is the highest value dollar
 23 amount allowable that does not exceed the net fund of \$1,028,757.45. It is very likely that the *pro*-
 24 *rata* adjustment will change to increase the dollar amount SCMs receive as the number of products
 25 claimed (414,335) will likely decrease as DSG processes and validates claims. Based on DSG's
 26 experience with similar settlements, SCMs often claim, without proof of purchase, a total number of
 27 products that exceeds the maximum number of units allowable without proof of purchase (here, four
 28 (4) units). After DSG sends deficiency notices to those SCMs, and a reasonable amount of time
 lapses without the SCMs providing proof of purchase, DSG performs a final pre-disbursement
 accounting to determine the exact number of products validly claimed to adjust payouts *pro rata*
 to exhaust the net fund. Thus, the estimated \$2.48 *pro rata* payout per product provides a minimum
 estimate of the total payout per product based on the total products claimed pre-validation. The
 estimated average \$10.46 *pro rata* payout per claimant, which is calculated by automatically writing
 off any products exceeding the 4-unit cap on claims made without proof of purchase, provides an
 estimate of the *likely* average payment per claimant, assuming deficient claims are not timely
 remedied.

*Please note that the foregoing provides reasonable *estimates* on number of claims, products claimed, and payouts. Once DSG completes the claim validation process, the total number of valid claims and validly claimed products is likely to reduce, causing payouts to increase slightly.

4. **Total Objections.** As of the signing of this declaration, DSG has not received any objections to the class action settlement in this case.

5. **Total Exclusion Requests.** As of the signing of this declaration, DSG has not received any requests for exclusion from the class action settlement in this case.

I declare under the penalty of perjury under the laws of the United States of America that the above is true and correct to the best of my knowledge and that this declaration was executed this 1st day of December, 2021.



MARK SCHEY
Digital Settlement Group, LLC

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