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25 **UNITED STATES DISTRICT COURT**
26 **CENTRAL DISTRICT OF CALIFORNIA**

27 ENZO FORCELLATI and LISA
28 ROEMMICH, on Behalf of Themselves
and all Others Similarly Situated,

Plaintiffs,

v.

HYLAND’S, INC., STANDARD
HOMEOPATHIC LABORATORIES,
INC., and STANDARD HOMEOPATHIC
COMPANY,

Defendants.

Case No. 2:12-CV-01983 ODW (MRW)

~~PROPOSED~~ SETTLEMENT
APPROVAL ORDER AND FINAL
JUDGMENT

Hon. Otis D. Wright, II

1 On February 7, 2017, this Court granted preliminary approval of a proposed
2 class action settlement between the parties in this Consolidated Action. In the
3 Preliminary Approval Order, the Court provisionally certified a Settlement Class of
4 all persons in the United States who purchased the following Hyland's products on
5 or after March 8, 2008: (i) Cold 'n Cough 4 Kids, (ii) Cough Syrup with 100%
6 Natural Honey, (iii) Sniffles 'n Sneezes 4 Kids, (iv) Cold Relief Strips 4 Kids with
7 Zinc, (v) Nighttime Cold 'n Cough 4 Kids, (vi) Complete Flu Care 4 Kids, (vii) Baby
8 Teething Gel, (viii) Baby Cough Syrup, (ix) Baby Gas Drops, (x) Baby Infant
9 Earache Drops, and (xi) Baby Nighttime Tiny Cold Syrup.¹ The Court also approved
10 the procedures for giving notice and the forms of notice. Additionally, in the
11 Preliminary Approval Order, the Court concluded that the parties' proposed
12 settlement, as set forth in the Stipulation of Settlement, was within range of possible
13 final approval.

14 Now, pending before the Court is the parties' Motion for Final Approval of
15 Class Action Settlement, and Plaintiffs' Motion for an Award of Attorneys' Fees,
16 Costs, and Incentive Awards. In accordance with the Preliminary Approval Order
17 and the parties' Stipulation of Settlement, on August 14, 2017, the Court held a duly
18 noticed Fairness Hearing for purposes of: (a) determining the fairness, adequacy, and
19 reasonableness of the settlement; and (b) ruling upon an application by Class
20 Counsel for a Fee and Expense Award and Plaintiffs' Incentive Awards.

21 The Court, having reviewed the papers filed in support of the Motions, heard
22 the arguments of counsel, and good cause appearing therefore, hereby GRANTS the
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24 _____
25 ¹ Excluded from the provisionally certified Settlement Class are: (a) Hyland's
26 employees, officers and directors, (b) persons or entities who purchased the Products
27 for the purpose of re-sale, (c) retailers or re-sellers of the Products, (d) governmental
28 entities, (e) persons who timely and properly exclude themselves from the Class as
provided herein, and (f) the Court, the Court's immediate family, and Court staff.
See Stipulation of Settlement Sections I-II.

1 Motion for Final Approval and Plaintiffs' Motion for an Award of Attorneys' Fees,
2 Costs, and Incentive Awards and hereby FINDS and ORDERS as follows:

3 1. This Court has personal jurisdiction over all Settlement Class Members,
4 and subject matter jurisdiction over the claims asserted in the Consolidated Action.
5 Venue is proper.

6 2. The parties have agreed to settle this Consolidated Action upon the
7 terms and conditions set forth in the Stipulation of Settlement, which has been filed
8 with the Court.

9 3. The Court has carefully reviewed the Stipulation of Settlement, as well
10 as the files, records, and proceedings to date in this matter. The definitions in the
11 Stipulation of Settlement are hereby incorporated as though fully set forth in this
12 Settlement Approval Order, and capitalized terms shall have the meanings attributed
13 to them in the Stipulation of Settlement.

14 4. Class Notice was given substantially in the form approved by the Court,
15 and in the manner approved by the Court. The Court-approved notice to the
16 Settlement Class, as set forth in the Preliminary Approval Order, was the best notice
17 practicable under the circumstances. Notice included direct mail and email notice,
18 publication in a national edition of USA Today, and online publication. Notice has
19 been successfully implemented and satisfies the requirements of Fed. R. Civ. P. 23
20 and due process. The Court further finds that Notice was sent in accordance with the
21 Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715.

22 5. The Court affirms certification of the Settlement Class for settlement
23 purposes only. Settlement Class Members who have excluded themselves from the
24 settlement, pursuant to the procedures set forth in Section VI of the Stipulation of
25 Settlement, shall no longer be considered Settlement Class Members and shall not be
26 bound by the Stipulation of Settlement or be eligible to make a claim for any benefit
27 under the terms of the Stipulation of Settlement.

1 6. The Court appoints Enzo Forcellati, and Lisa Roemmich as Class
2 Representatives.

3 7. The Court appoints Bursor & Fisher, P.A., Vozzolo LLC, and Faruqi &
4 Faruqi, LLP as Class Counsel.

5 8. The Class Representatives and Class Counsel adequately represented
6 the Settlement Class for purposes of entering into and implementing the Stipulation
7 of Settlement.

8 9. The Court finds that the settlement set forth in the Stipulation of
9 Settlement is fair, reasonable, adequate, and in the best interests of the Settlement
10 Class. The settlement set forth in the Stipulation of Settlement provides meaningful
11 relief to the Class including, cash relief, and injunctive relief, and certainly falls
12 within the range of possible recoveries by the Class. Additionally, among other
13 things, the fact that the parties' agreement is the result of arm's length negotiations,
14 the risk of trial, and the complex legal and factual posture of this Consolidated
15 Action support the finding that the settlement is fair, adequate, and reasonable. Any
16 objections to the settlement are overruled as without merit.

17 10. Accordingly, the Stipulation of Settlement is hereby finally approved in
18 all respects, and the Parties are hereby directed to perform its terms.

19 11. The Court awards to Class Counsel \$2.9 million, which includes
20 reimbursement of Class Counsel's costs and expenses, as attorney's fees and costs.

21 12. The Court awards to the Class Representatives \$5,000 as an Incentive
22 Award for their roles in this Action.

23 13. Defendants shall pay the Fee Award and Incentive Awards pursuant to
24 and in the manner provided by the Stipulation of Settlement.

25 14. Effective as of the Final Settlement Approval Date, each and every
26 Settlement Class Members (except any such person who has filed a proper and
27 timely Request for Exclusion) shall release and forever discharge, and shall be
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1 forever barred from asserting, instituting or maintaining against any or all of the
2 Released Persons, any and all claims, demands, actions, causes of action, lawsuits,
3 arbitrations, damages, or liabilities whether legal, equitable, or otherwise, relating in
4 any way to the claims asserted or the factual allegations made in the Consolidated
5 Action, including without limitation the allegation that Settlement Class Products’
6 ingredients are ineffective, the allegation that the Settlement Class Products are not
7 all natural, and/or the purchase of any of the Settlement Class Products during the
8 Settlement Class Period (collectively, the “Claims”).

9 15. Upon the Final Settlement Approval Date, the above release of claims
10 and the Stipulation of Settlement will be binding on, and have *res judicata* and
11 preclusive effect in all pending and future lawsuits or other proceedings maintained
12 by or on behalf of all Plaintiffs, Class Representatives, and Settlement Class
13 Members, and their predecessors, successors, assigns, heirs, or executors. All
14 Settlement Class Members who have not been properly excluded themselves from
15 the Settlement Class are hereby permanently barred and enjoined from filing,
16 commencing, prosecuting, intervening in, or participating (as class members or
17 otherwise) in any lawsuit or other action in any jurisdiction based on or arising out of
18 the Released Claims.

19 16. Neither the Stipulation of Settlement nor the releases given therein, nor
20 any consideration therefor, nor any actions taken to carry out the terms of the
21 Stipulation of Settlement, are intended to be, nor may they be deemed or construed
22 to be, an admission or concession of liability, or the validity of any claim, defense, or
23 of any point of fact or law on the part of any party. Hyland’s denies the material
24 allegations of the Consolidated Amended Class Action Complaint and the Second
25 Amended Complaint.

26 17. The parties are hereby authorized, without needing further approval
27 from the Court, to agree to written amendments, modifications, or expansions of the
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1 Stipulation of Settlement and its implementing documents (including all exhibits)
2 without further notice to the Settlement Class or approval by the Court if such
3 changes are consistent with this Settlement Approval Order and Final Judgment and
4 do not materially alter, reduce, or limit the rights of Settlement Class Members under
5 the Stipulation of Settlement.

6 18. This Settlement Approval Order and Final Judgment constitutes a
7 judgment within the meaning and for purposes of Rule 54 of the Federal Rules of
8 Civil Procedure. Subject to the terms and conditions of the Stipulation of Settlement,
9 this Court hereby dismisses the Action on the merits with prejudice except that,
10 without affecting the finality of this Final Judgment in any way, this Court hereby
11 retains continuing jurisdiction over, (a) implementation, enforcement, administration
12 of the settlement, including any releases in connection therewith; (b) resolution of
13 any disputes concerning class membership or entitlement to benefits under the terms
14 of the Stipulation of Settlement; and (c) all parties hereto, for the purpose of
15 enforcing and administering the settlement and the Action until each and every act
16 agreed to be performed by the parties has been performed pursuant to the Stipulation
17 of Settlement.

18 **IT IS SO ORDERED.**



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20 Dated: August 14, 2017

By: _____

Hon. Otis D. Wright, II
United States District Judge