

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BURSOR & FISHER, P.A.
L. Timothy Fisher (State Bar No. 191626)
Frederick J. Klorczyk III (State Bar No. 320783)
Neal J. Deckant (State Bar No. 322946)
Brittany S. Scott (State Bar No. 327132)
1990 North California Boulevard, Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
E-Mail: ltfisher@bursor.com
fklorczyk@bursor.com
ndeckant@bursor.com
bscott@bursor.com

O'MELVENY & MYERS LLP
Carlos M. Lazatin (State Bar No. 229650)
400 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
E-mail: clazatin@omm.com

Richard B. Goetz (State Bar No. 115666)
400 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
E-mail: rgoetz@omm.com

BURSOR & FISHER, P.A.
Joseph I. Marchese (admitted *pro hac vice*)
888 Seventh Avenue, Third Floor
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
E-Mail: jmarchese@bursor.com

Hannah Chanoine (*Pro Hac Vice*)
Times Square Tower
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061
E-mail: hchanoine@omm.com

BURSOR & FISHER, P.A.
Scott A. Bursor (State Bar No. 276006)
701 Brickell Avenue, Suite 1420
Miami, FL 331331
Telephone: (305) 330-5512
Facsimile: (305) 676-9006
E-Mail: scott@bursor.com

*Attorneys for Defendants McNeil
Nutritionals, LLC and Johnson & Johnson*

Class Counsel

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOANN MARTINELLI, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

JOHNSON & JOHNSON and McNEIL
NUTRITIONALS, LLC,

Defendants.

Case Number: 2:15-cv-01733-MCE-DB

**JOINT STIPULATION AND ORDER TO
SET A BRIEFING SCHEDULE ON
DEFENDANTS' MOTION TO
DECERTIFY THE CLASSES**

1 Plaintiff JoAnn Martinelli (“Plaintiff”) and Defendants Johnson & Johnson and McNeil
2 Nutritionals, LLC (“Defendants”), through their respective counsel of record, hereby stipulate and
3 agree as follows:

4 WHEREAS, on March 29, 2019, this Court granted in part and denied in part Plaintiff’s
5 Motion for Class Certification (Dkt. 216);

6 WHEREAS, on October 15, 2020, Defendants moved to decertify the Multi-State Express
7 Warranty Class and California Class pursuant to Fed. R. Civ. P. 23(c)(1)(C) (Dkt. 247);

8 WHEREAS, the deadline for Plaintiff to file her opposition to Defendants’ Motion to
9 Decertify is on or before October 29, 2020;

10 WHEREAS, the deadline for Defendants to file their reply in support of their Motion to
11 Decertify is on or before November 5, 2020;

12 WHEREAS, the hearing on Defendants’ Motion to Decertify is currently scheduled for
13 November 12, 2020;

14 WHEREAS, during this same time period, Plaintiff’s counsel is simultaneously working on
15 a reply in further support of plaintiff’s motion for class certification, oppositions to *Daubert*
16 motions, and conducting expert depositions in a similar matter regarding Benecol spreads
17 captioned *Chamlin v. Johnson & Johnson, et al.*, Case No. 1:19-cv-03852-AJN (S.D.N.Y. 2019),
18 which is currently due on November 6, 2020;

19 WHEREAS, the Parties seek an extension of time to file the opposition to the Motion to
20 Decertify, a reply in support of the motion, and an extension of the hearing in order to
21 accommodate the schedules of the parties and attorneys in this matter;

22 WHEREAS, on August 30, 2016, February 10, 2017, May 5, 2017, December 12, 2019,
23 and May 22, 2020, the parties previously obtained extensions of time for class certification briefing
24 in connection with requests to extend discovery as well as Plaintiff’s then-pending motion for leave
25 to amend, and a further extension of case deadlines due to the coronavirus pandemic and Judge
26 Barnes’ continuance of the motion to quash hearing (Dkt. Nos. 44, 70, 75, 217, and 233);

1 WHEREAS, the parties are diligently preparing for trial, and do not anticipate that this
2 extension will affect other case deadlines; and

3 NOW THEREFORE, subject to the Court's approval, the parties stipulate that the Court set
4 a briefing schedule on Defendants' Motion to Decertify the Classes as follows:

5

6 Event	Current	Proposed
7 Plaintiff's Opposition to 8 Defendants' Motion to 9 Decertify	October 29, 2020	December 2, 2020
10 Defendants' Reply In Support of Motion to Decertify	November 5, 2020	December 23, 2020
11 Hearing on Defendants' 12 Motion to Decertify	November 12, 2020	January 14, 2021

13 Dated: October 20, 2020

BURSOR & FISHER, P.A.

By: /s/ Neal J. Deckant

Neal J. Deckant

L. Timothy Fisher (State Bar No. 191626)
Frederick J. Klorczyk III (State Bar No. 320783)
Neal J. Deckant (State Bar No. 322946)
Brittany S. Scott (State Bar No. 327132)
1990 North California Boulevard, Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
E-Mail: ltfisher@bursor.com
fklorczyk@bursor.com
ndeckant@bursor.com
bscott@bursor.com

BURSOR & FISHER, P.A.

Joseph I. Marchese (admitted *pro hac vice*)
888 Seventh Avenue, Third Floor
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
E-Mail: jmarchese@bursor.com

BURSOR & FISHER, P.A.

Scott A. Bursor (State Bar No. 276006)
701 Brickell Avenue, Suite 1420
Miami, FL 331331
Telephone: (305) 330-5512
Facsimile: (305) 676-9006

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E-Mail: scott@bursor.com

Class Counsel

Dated: October 20, 2020

O'MELVENY & MYERS LLP

By: /s/ Carlos M. Lazatin
Carlos M. Lazatin

Carlos M. Lazatin (State Bar No. 229650)
400 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
E-mail: clazatin@omm.com


Richard B. Goetz (State Bar No. 115666)
400 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
E-mail: rgoetz@omm.com

Hannah Chanoine (*Pro Hac Vice*)
Times Square Tower
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061
E-mail: hchanoine@omm.com

*Attorneys for Defendants McNeil Nutritionals, LLC
and Johnson & Johnson*

IT IS SO ORDERED.

Dated: October 22, 2020



MORRISON C. ENGLAND, JR.
SENIOR UNITED STATES DISTRICT JUDGE