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September 2, 2021

VIA ECF

The Honorable Kimba M. Wood
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *de Lacour v. Colgate-Palmolive Co., et al.*, Case No. 16-cv-8364 (KW)

Dear Judge Wood:

MEMO ENDORSED

Defendants Colgate-Palmolive Co. and Tom's of Maine, Inc. ("Tom's") submit this letter with the agreement of counsel for Plaintiffs in this action, to advise the Court that, on August 31, 2021, the Second Circuit Court of Appeals issued a Notice (attached) that it will hear oral argument on September 14, 2021 on Tom's petition for leave to file an appeal from this Court's class certification order (D.I. 42, Case No. 21-1234).

In light of that Notice and the upcoming hearing, counsel for Tom's and the Plaintiffs conferred and agreed to request that this Court stay implementation of the class notification plan (currently set to begin on September 10, 2021) until the Second Circuit hears argument and issues a ruling on Tom's Petition. The parties will confer following that ruling and promptly report back to the Court.

In support of this joint request, Tom's notes the following factors that it believes support this joint request:

- While neither party can predict the outcome of the Second Circuit's ruling on the Petition, or on any subsequently granted right for Tom's to appeal, it is clear that there is at least sufficient interest for Tom's Petition to be heard by a Second Circuit panel. Tom's expects

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that a ruling on the Petition will follow shortly after oral argument and that the stay of the notice campaign while awaiting that decision will be brief;

- Both parties will incur costs and potentially suffer injury in the event the notice campaign proceeds and there is a subsequent appeal from and reversal of the class certification order. And, a notice campaign started that must be subsequently rescinded or altered has significant potential to cause confusion among the consumers it is designed to serve; and
- The public interest will be best served in having any notice campaign done once, and done with whatever input comes out of any Second Circuit ruling.

As noted above, counsel for Tom's and counsel for Plaintiffs discussed this issue following the Second Circuit's notice, and jointly present this request to the Court for a stay on the class notification date as set in this Court's August 10, 2021 Order (D.I. 159) adopting the Notice Plan contained in D.I. 150, and as extended in this Court's Order of August 30, 2021 (D.I. 161).

Respectfully submitted,

/s/ David K. Callahan
David K. Callahan
of LATHAM & WATKINS LLP

cc: All attorneys of record (via ECF)

The parties' request is granted. The class notification date is stayed until after the Second Circuit resolves Defendants' motion for leave to appeal.

The parties shall file a joint status update informing the Court of the Second Circuit's decision within three (3) days of such decision. Within seven (7) days of the decision, the parties shall file a letter proposing next steps in the case. These communications may be combined with those required by the Court's August 10, 2021, scheduling order. (ECF No. 158.)

SO ORDERED.

**Dated: September 7, 2021
New York, N.Y.**

/s/ Kimba M. Wood

**KIMBA M. WOOD
United States District Judge**