

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE: DEVA CONCEPTS PRODUCTS
LIABILITY LITIGATION**

This Document Relates To:

All Cases

Master File No. 1:20-cv-01234-GHW

**PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

Plaintiffs Wendy Baldyga, Marisa Cohen, Tami Nunez, Stephanie Williams, Erika Martinez-Villa, Tahira Shaikh, Lauren Petersen, Jody Shewmaker, Diana Hall, Alanna Hall and Marcy McCreary individually and on behalf of others similarly situated (“Plaintiffs”), hereby move this Court to:

1. Preliminarily approve the Settlement described in the “Settlement Agreement”¹ between Plaintiffs and Defendant Deva Concepts, LLC. (“Defendant”), and the attachments thereto, including the Short-Form Notice, Long-Form Notice, and the Claim Form, and the Proposed Preliminary Approval Order attached to the Declaration of Gary E. Mason, filed herewith in support of this Motion;

2. Conditionally certify the Settlement Class;

¹ Capitalized terms shall have the meaning that the Settlement Agreement ascribes to them. *See generally* Settlement Agreement (filed as Exhibit 1 to the Declaration of Gary E. Mason).

3. Appoint Wendy Baldyga, Marisa Cohen, Tami Nunez, Stephanie Williams, Erika Martinez-Villa, Tahira Shaikh, Lauren Petersen, Jody Shewmaker, Diana Hall, Alanna Hall and Marcy McCreary as Class Representatives;

4. Appoint Gary E. Mason of Mason Lietz & Klinger LLP and Charles E. Schaffer of Levin Sedran & Berman, LLP as Class Counsel;

5. Approve a Short-Form Notice to be mailed and/or emailed to Settlement Class Members in a form substantially similar to that attached as Exhibit 6 to the Settlement Agreement;

6. Approve a Long-Form Notice to be posted on the Settlement Website in a form substantially similar to the one attached as Exhibit 5 to the Settlement Agreement;

7. Appoint KCC Class Action Services LLC as the Settlement Administrator, who shall select a Special Master, Lien Administrator and such others as necessary to administer the Settlement;

8. Approve the Notice Plan as set forth in the Declaration of Carla A. Peak in Support of Settlement Notice Program and in the Settlement Agreement;

9. Approve the use of a Claim Form substantially similar to that attached as Exhibit 1 to the Settlement Agreement; and

10. Set a hearing date and schedule for Final Approval of the Settlement and consideration of Settlement Class Counsel's Motion for Attorneys' Fees and Costs and Service Awards.

This Motion is based upon: (1) this Motion; (2) the Memorandum of Points and Authorities in Support of this Motion, filed herewith; (3) the Declaration of Gary E. Mason, filed herewith; (4) the Settlement Agreement, attached as Exhibit A to the Declaration of Gary E. Mason; (5) the Class Notices (including the Long-Form Notice and Short-Form Notice); (6) the Claim Form; (7)

the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; (8) the [Proposed] Final Approval Order; (9) the records, pleadings, and papers filed in this action; and (10) upon such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

Dated: July 26, 2021

Respectfully submitted,

/s/ Gary E. Mason

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