UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE DEVA CONCEPTS PRODUCTS LIABILITY LITIGATION	Master File No. 1:20-cv-01234-GHW

DECLARATION OF CARLA A. PEAK IN SUPPORT OF
SETTLEMENT NOTICE PROGRAM

I, Carla A. Peak, declare as follows:

1.   My name is Carla A. Peak. I have personal knowledge of the matters set forth herein, and if called as a witness I could and would testify competently to them.

2.   I am a nationally recognized expert in the field of legal notice and I have served as an expert in dozens of federal and state cases involving class action notice plans.

3.   I am the Vice President of Legal Notification Services for KCC Class Action Services, LLC ("KCC"), a firm that provides comprehensive class action services, including claims administration, legal notification, email and postal mailing campaign implementation, website design, call center support, class member data management, check and voucher disbursements, tax reporting, settlement fund escrow and reporting, and other related services critical to the effective administration of class action settlements. Our experience includes many of the largest and most complex settlement administrations of both private litigation and of actions brought by state and federal government regulators. KCC has been retained to administer more than 7,000 class actions and distributed settlement payments totaling well over a trillion dollars in assets.

4.   This Declaration describes KCC's experience, as well as the proposed notice plan (the "Notice Plan" or "Notice Program") designed to provide notice to class members for this class action settlement.

RELEVANT EXPERIENCE

5.   KCC has administered class action administrations for such defendants as HP-Compaq, LensCrafters, United Parcel Service, Ford, Mitsubishi, Nissan, Whirlpool, ATI Video Cards, and Twentieth Century Fox. Some relevant case examples which KCC has been involved with include: *Barrera v. Pharmavite LLC*, No. 2:11-cv-04153 (C.D. Cal.); *Beck-Ellman v. Kaz Inc.*, No. 10-cv-2134 (S.D. Cal.); *Card v. Joe's Jeans Inc.*, No. 37-2015-00021834 (Cal. 4th Cir. Ct.); *Carmody v. Big 5 Sporting Goods Corp.*, No. 37-2016-0002469 (Cal. 4th Cir. Ct.); Crane v. Sexy Hair Concepts, LLC, No. 1:17-cv-10300 (D. Mass.); *Delarosa v. Boiron USA, Inc.*, No.10-cv-1569 (C.D. Cal.); *Dowlatshahi v. McIlhenny Company*, No. 30-2017-00911222 (Cal. 4th Cir. Ct.); *Flannery v McCormick & Schmick*, No. BC487942 (Cal. 2nd Cir. Ct.); *Forcellati v. Hyland's, Inc.*, No. 2:12-CV-01983 (C.D. Cal.); *Friend v. FGF Brands (USA), Inc.*, No. 1:18-cv-07644 (N.D. Ill.); *Gonzalez v. Luby's Fuddruckers*, No. BC565138 (Cal. 2nd Cir. Ct.); *Haftevani v. Chaya Restaurant*, No. BC529641 (Cal. 2nd Cir. Ct.); *Hall v. Innovative Dining Group, LLC*, No. BC 493144 (Cal. 2nd Cir. Ct.); *Hazlin v. Botanical Laboratories, Inc.*, No. 13-CV-00618 (S.D. Cal.); *Hendricks v. StarKist Co.*, No. 13-CV-00729-HSG (N.D. Cal.); *Hoffman v. Peg Perego U.S.A., Inc.*, No. 3:14-cv-02227 (S.D. Cal.); *Hofmann v. True Religion Apparel, Inc.*, No. 37-2014-0041658 (Cal. 4th Cir. Ct.); *Holliday v. Vitacost.com Inc.*, No. 2015 CA 010160 (Fla. 15th Cir. Ct.); *In Re Ultramist Sunscreen Litigation*, No. 1:13-cv-00131 (N.D. Ill.); *Jovel v. i-Health, Inc.*, 1:12-cv-05614 (E.D.N.Y.); *Kearney v. Equilon Enterprises LLC dba Shell Oil*, No. 3:14-cv-00254 (D. Ore.); *Klacko v. Diamond Foods, Inc.*, No. CGC-14-538387 (Cal. 1st Cir. Ct.); *Kumar v. Safeway, Inc.*, No. RG 14726707 (Cal. 1st Cir. Ct.); *Lair v. Outerwall, Inc. d/b/a Coinstar*, No. 14-2-00040-2 (Co. 18th Cir. Ct.); *LaRosa v. Nutramerica Corp.*, No. BC 309427 (Cal. 2nd Cir. Ct.); *Lerma v. Schiff Nutrition International, Inc.*, No. 11-CV-1056 (S.D. Cal.); *Marty v. Anheuser-Busch*

Companies, LLC, No. 1:13-cv-23656-JJO (S.D. Fla.); *Maxin v. RHG & Company, Inc. dba Vital Nutrients*, No. 16-cv-2625 (C.D. Cal.); *McCrary v. The Elations Company, LLC*, No. 5:13-cv-00242 (C.D. Cal.); *Morales v. Conopco Inc. dba Unilever*, No. 2:13-cv-02213 (E.D. Cal.); *Morrow v. Ascena Retail Group, Inc*., No. 1:16-cv-03340 (S.D.N.Y.); *Mullins v. Direct Digital LLC*, No. 1:13-cv-01829 (N.D. Ill.); *Nalbantian v. Barney's Worldwide, Inc*., No. BC 493145 (Cal. 2nd Cir. Ct.); *Olivares v. Evolution Hospitality*, No. 30-2015- 00765839 (Cal. 4th Cir. Ct.); *Paz v. AG Adriano Goldschmied Inc*., No. 3:14-cv-01372 (S.D. Cal.); *Poertner v. The Gillette Company*, No. 6:12-cv-00803 (M.D. Fla.); *Rossi v. The Procter & Gamble Company*, No. 11-cv-7238 (D. N.J.); *Russell v. Kohl's Department Stores Inc*., No. 5:15-cv-01143 (C.D. Cal.); *Soto v. Wild Planet Foods Inc*., No. 15-cv-05082 (N.D. Cal.); *Velasquez v. USPlabs, LLC*, No. 4:13-cv-00627 (N.D. Fla.); *Zeisel v. Diamond Foods, Inc*., No. 3:10-cv-1192 (N.D. Cal.); and *Zeller v. E. & J. Gallo Winery and Constellation Brands, Inc*., No. BC432711 (Cal. 2nd Cir. Ct.).

NOTICE PLAN DETAILS

Class Definition

6.   The class is defined as: "all persons who purchased and/or used any of the Products in the United States between February 8, 2008 and such date that is thirty (30) days after the Preliminary Approval Date, excluding (a) any officers, directors or employees, or immediate family members of the officers, directors or employees, of Defendant or any entity in which Defendant has a controlling interest, (b) any legal counsel or employee of legal counsel for Defendant, (c) the presiding Judge in the Lawsuit, as well as the Judge's staff and their immediate family members, and (d) all persons who timely and properly exclude themselves from the Class as provided in the Settlement." "Products" include the specific DevaCurl Products defined in the Settlement Agreement filed with Plaintiffs' Motion for Preliminary Approval.

Class Target

7.   GfK Mediamark Research & Intelligence, LLC (MRI)[1] does not measure Deva

Concepts/DevaCurl products specifically; therefore, data was studied among haircare brands

whose products have price points comparable to DevaCurl haircare products. Comscore-MRI

Fusion data was studied among a target of adults who have used select shampoo brands[2] or hair

conditioner brands[3] at home and who have shopped at Sephora or Ulta in the last three months

("Likely Class Members").

8.   Knowing the characteristics, demographics, interests, and media habits of a target

group aids in the media planning and selection process. Demographic highlights of Likely Class

Members includes: 99.2% speak English most often; 95.4% have graduated from high school and

78.3% have attended college or beyond; 91.1% have a household income of $30,000 or more,

81.1% have a household income of $50,000 or more, and 71.3% have a household income of

$75,000 or more; 87.7% are women; 86.9% live in a Metropolitan CBSA;   73.7% live in County

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[1] MRI is a nationally accredited research firm that provides consumer demographics, product and brand usage, and audience/exposure in all forms of advertising media. Established in 1979, MRI measures the usage of nearly 6,000 product and service brands across 550 categories, along with the readership of hundreds of magazines and newspapers, internet usage, television viewership, national and local radio listening, yellow page usage, and out-of-home exposure. Based on a yearly face-to-face interview of 26,000 consumers in their homes, MRI's Survey of the American Consumer™ is the primary source of audience data for the U.S. consumer magazine industry and the most comprehensive and reliable source of multi-media audience data available.

[2] The following shampoo brands were selected as a proxy to DevaCurl shampoo: Aveda, Aveeno, Bed Head, Bumble and bumble, John Frieda Brilliant Brunette, John Frieda Frizz Ease, John Frieda Sheer Blonde, Matrix, Nexxus, Paul Mitchell, and Redken. MRI also measures the following shampoo brands, which were omitted from our selected target audience: Alberto VO5, Aussie, Avon, Axe, Baby Magic Shampoo, Bath & Body Works, Clear, Dark & Lovely, Dove, Finesse, Garnier Fructis, Garnier Whole Blends, Head & Shoulders, Herbal Essences, Infusium, Johnson's Baby Shampoo, Just For Men Control GX, L'Oréal, Mane 'n Tail, Motions, Neutrogena, Neutrogena T/Gel, OGX, Pantene Pro-V, Pert, Pert Anti-Dandruff, Prell, Selsun blue, Suave, Suave Men, Tío Nacho, TRESemmé, White Rain, and Other.

[3] The following hair conditioner brands were selected as a proxy to DevaCurl hair conditioner: Aveda, Aveeno, Bed Head, Biolage by Matrix, Bumble and bumble, John Frieda Brilliant Brunette, John Frieda Frizz Ease, John Frieda Sheer Blonde, Matrix, Nexxus, Paul Mitchell, Redken. MRI also measures the following hair conditioner brands, which were omitted from our selected target audience: Alberto VO5, Aussie, Avon, Clear, Dark & Lovely, Dove, Finesse, Garnier Fructis, Garnier Whole Blends, Herbal Essences, Infusium, L'Oréal, Mane 'n Tail, Motions, Neutrogena Conditioner, OGX, Pantene Pro-V, Suave, TRESemmé, White Rain Conditioner, and Other.

Size A or B, with 53.6% living in County Size A; and 72.9% are 18-54 years of age and 60.0% are 25-54 years of age.

9.   On average, likely Class Members:[4] are 43 years of age; have a household income of $106,116; and own a home valued at $304,648.

10.   Compared to the general adult population, likely Class Members are: 69.6% more likely to be women; 60.4% more likely to have a household income of $150,000 or more, 31.5% more likely to have a household income between $100,000-$149,999, and 28.5% more likely to have a household income between $75,000-$99,999; 42.2% more likely to have graduated from college or beyond and 13.1% more likely to have attended college as the highest degree received; 26.9% more likely to live in County Size A; and 26.0% more likely to be 35-44 years of age, 17.2% more likely to be 25-34 years of age, 11.0% more likely to be 45-54 years of age, and 10.8% more likely to be 18-24 years of age.

11.   Among likely Class Members, 68.4% consume an average amount or more of internet media; and 62.6% consume an average amount or more of social media.

12.   Internet usage of likely Class Members includes: 93.3% have used the internet; 85.3% have visited Facebook; 80.4% have used a cell phone or smartphone to access the internet; 68.9% have visited Instagram; and 66.4% have visited a website on the Google Display Network.

Individual Notice

13.   Defendant will provide KCC with a list of Class Member information that is derived from Defendant's sales records and/or regularly used for marketing purposes. This list is expected to include email addresses for approximately 330,000 Likely Class Members which represents

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[4] The average age for U.S. adults is 47, the average household income is $75,572, and the average home value is $251,161.

about fifty percent (50%) of the estimated Class.[5] A portion of these email addresses are expected to have corresponding postal addresses.

14.   KCC will send the Short Form settlement notice via email ("Email Notice") to every Likely Class Member for whom an email address is provided. The Email Notice will contain a summary of the settlement, as well as a link to the case website. The Email Notice content will be included in the body of the email, rather than as an attachment, to avoid spam filters and improve deliverability. For any email bounceback, or email that is known not to have been successfully delivered, KCC will send a Summary Notice via United States Postal Service (USPS), to the corresponding postal address provided in Defendant's records, if and where applicable.

15.   Prior to mailing, the postal addresses will be checked against the National Change of Address (NCOA)[6] database maintained by USPS; certified via the Coding Accuracy Support System (CASS);[7] and verified through Delivery Point Validation (DPV).[8] Notices returned by USPS as undeliverable will be re-mailed to any address available through postal service forwarding order information.

Media Campaign

16.   In addition to the individual notice effort described above, KCC will implement a digital media campaign. The media campaign was designed after extensive discussions with Defendant's internal and external advertising teams. Through these discussions the advertising teams confirmed that DevaCurl primarily advertises to its current and prospective customers using

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[5] Co-Lead Counsel have represented that they will provide an additional 5,000 email addresses.

[6] The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person's name and last known address.

[7] Coding Accuracy Support System is a certification system used by the USPS to ensure the quality of ZIP+4 coding systems.

[8] Records that are ZIP+4 coded are then sent through Delivery Point Validation to verify the address and identify Commercial Mail Receiving Agencies. DPV verifies the accuracy of addresses and reports exactly what is wrong with incorrect addresses.

a variety of websites and the social media platforms such as Facebook and Instagram. They also reviewed the target analysis described above, provided additional insight into the audiences they routinely target, and assisted in refining the target audience selected for this media campaign to ensure that Notice is adequate and appropriate. Using this information, as well as industry standard targeting, reach, and frequency data, KCC developed a digital media campaign similar to what DevaCurl would use when advertising to its current and prospective customers.

17.   Specifically, KCC will cause approximately 114.7 million digital impressions to be distributed via banner ads on various websites and social media platforms, including Facebook and Instagram. The impressions will be targeted to reach likely Class Members based on their demographics, as well as their online and offline behaviors and interests. The notices will appear on both desktop and mobile devices, including tablets and smartphones, in display and native ad formats. All digital media notices will include an embedded link to the case website. Sample digital notices are attached as **Exhibit 1**.

18.   The digital media campaign will be routinely monitored by KCC's digital specialists to analyze key campaign performance indicators (KPIs), such as click-through rates (CTRs) and costs per action (CPAs). This knowledge will be leveraged to allocate placements to sites that have demonstrated successful KPIs throughout the duration of the campaign.

Response Mechanisms

19.   KCC   will   establish   and   maintain   a   case   specific   website   at www.curlyhairsettlement.com to allow Class Members to obtain additional information and documents about the Settlement. Class Members will also be able to review a list of Frequently Asked Questions and Answers.

20.   KCC will establish a case specific toll-free number to allow Likely Class Members to call to learn more about the case in the form of frequently asked questions. It will also allow Likely Class Members to request to have additional information mailed to them.

CONCLUSION

21.   The Notice Plan is expected to reach approximately 85% of likely Class Members via the combined individual notice and media efforts described above.

22.   In my opinion, the Notice Plan proposed for this case exceeds the typical reach percentage that is commonly provided in other effective settlement notice programs. It is the best notice practicable and meets the "desire to actually inform" due process communications standard of *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). It provides the same or better reach and frequency evidence that Courts have approved and that has withstood appellate scrutiny, other expert critiques, as well as collateral review. The Notice is consistent with the guidelines set forth in Rule 23, the Manual for Complex Litigation, Fourth, and the Federal Judicial Center's 2010 Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide which considers 70-95% reach among class members to be a "high percentage" and reasonable.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

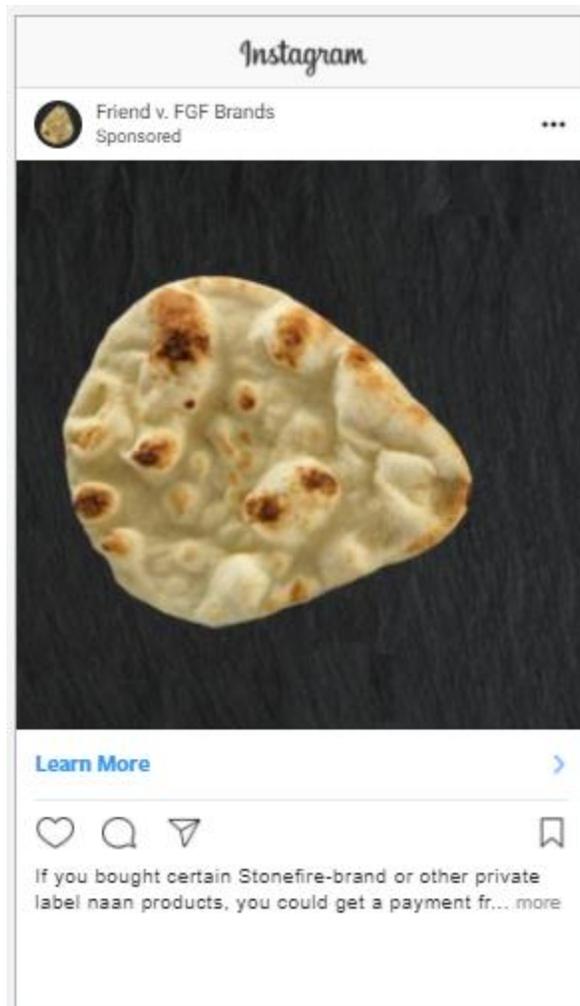Executed this 26th day of July 2021, at Ocean City, New Jersey.
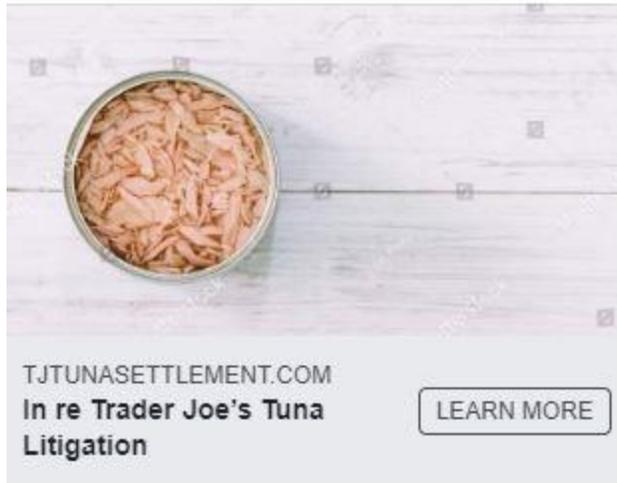
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Carla A. Peak

EXHIBIT 1
SAMPLE FORMS OF DIGITAL MEDIA IMPRESSIONS