IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

LORI COWEN et al.,	)	
	)	
Plaintiffs,	)	Case No.: 1:17-cv-01530
v.	)	
	)	Judge Robert W. Gettleman
LENNY & LARRY'S, INC.,	)	
	)	Magistrate Young B. Kim
Defendant.	)	
	)	
	)	

MEMORANDUM IN SUPPORT OF
FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I. INTRODUCTION

This matter comes before the Court for final approval after contentious motion practice, extensive settlement meetings, this Court's preliminary approval of the parties' class action settlement, notice to the class of the original preliminarily approved settlement, and notice to claimants of an amendment to the terms of the Settlement. Here, plaintiffs Lori Cowen, Rochelle Ibarrola, Ava Adames, Amanda Wells, and Barbara Whalen (together, "Plaintiffs") and defendant Lenny & Larry's, Inc. (converted to and now known as Lenny and Larry's, LLC) ("Defendant") (together the "Parties") submit this memorandum in support of their motion for final approval of a modified class action settlement.

Plaintiffs primarily claim that the labeling and packaging for The Complete Cookie inaccurately stated its nutritional content and values. Third Amended Complaint ("TAC") (Dkt. No. 72), ¶ 24. Defendant, however, denies these allegations. Defendant sells The Complete Cookie in eleven different flavor variations in a 2 oz. size and a 4 oz. size. *See* generally Complaint (Dkt. No. 1); First Amended Complaint ("FAC") (Dkt. No. 33); Second Amended Complaint ("SAC") (Dkt. No. 56); TAC (Dkt. No. 72). Defendant also markets and distributes other high-protein baked goods. See *Lenny & Larry's Profile, Inc. 2015 5000, #2072*, https://www.inc.com/profile/lenny-larrys.

Despite the Parties' disagreements over the merits of Plaintiffs' claims, the Parties worked hard to reach a fair and equitable settlement that takes into account the risks and expense of litigation, stage of the proceedings, discovery exchanged between the parties, complexity of the claims, and relevant law. The settlement, as amended, should be approved by the Court.

II. BACKGROUND AND SUMMARY OF LITIGATION

A. The Litigation

On February 28, 2017, plaintiffs Lori Cowen and Rochelle Ibarrola, individually and on behalf of putative class members, initially brought this matter against Defendant in the United States District Court for the Northern District of Illinois, Eastern Division, in a case styled *Lori Cowen, et al. v. Lenny & Larry's, Inc.*, Case No. 1:17-cv-01530 (the "Litigation"). The original complaint alleged that The Complete Cookie's packaging mistakenly stated the amount of protein that the cookies contained. The complaint argued that the mislabeling violated the consumer protection statutes of California and many other states, and sought a nationwide class. Complaint ("Complaint") (Dkt. No. 1), ¶¶ 50-54. The Complaint included claims for breach of implied warranty and unjust enrichment. Complaint, ¶¶ 70-83.

The Parties and Court proceeded with motion practice, and on May 25, 2017, plaintiffs Lori Cowen, Rochelle Ibarrola, and Ava Adames, individually and on behalf of putative class members, filed an amended complaint. The FAC added allegations as to the amount of calories, carbohydrates, fats, and sugars in The Complete Cookie. The FAC, however, limited the allegations to violations of the consumer protection statutes of California, Illinois, Missouri, New Jersey, New York and Pennsylvania. FAC, ¶¶ 58-62. In addition to claims for breach of implied warranty and unjust enrichment, the FAC included claims for breach of express warranty, negligent misrepresentation, and intentional misrepresentation. FAC, ¶¶ 88-127. On October 12, 2017, the Court struck from the FAC all national class claims and claims for cookies the class representatives did not purchase. *See* Memorandum Opinion and Order (Dkt. No. 50).

On November 28, 2017, the Parties held a mediation with the Honorable James Holderman (retired). The Parties were unable to settle the case at that time.

On December 21, 2017, plaintiffs Lori Cowen, Rochelle Ibarrola, and Ava Adames, individually and on behalf of putative class members, filed a Second Amended Complaint. Dkt.

No. 56. The SAC included the same allegations as to The Complete Cookie as the FAC. However, the SAC limited its claims to violations of the consumer protection statutes of Illinois and Pennsylvania, in addition to the common law warranty and misrepresentation claims included in the FAC. SAC (Dkt. No. 56) ¶¶ 58-122.

On March 23, 2018, plaintiffs Rochelle Ibarrola, Amanda Wells, and Barbara Whalen, individually and on behalf of putative class members, filed a Third Amended Complaint. Dkt. No. 72. The TAC includes the same allegations as to The Complete Cookie as the FAC. However, the TAC only alleges a violation of Illinois's consumer protection statute and claims for intentional misrepresentation and unjust enrichment. TAC (Dkt. No. 72) ¶¶ 55-74.

Following the November 28, 2017 mediation, an exchange of discovery materials, and extended, ongoing settlement communications, the Parties reached a Settlement.[1] The Settlement provided for valuable forms of relief that benefited the Settlement Class.

B. The Settlement and Preliminary Approval

In October 2018 the Parties entered into a Settlement Agreement that created a $5 million common fund compromised of $1.85 million in cash along with product with a retail value of up to $3.15 million to be distributed to Settlement Class Members on a claims made basis during an initial product distribution. On October 25, 2018, the Parties filed their preliminary approval motion. Dkt. Nos. 95-95. On November 1, 2018, the Court granted preliminary approval of the Parties' Settlement. Dkt. No. 97.

In order to reach retail customers, the Parties devised an expansive notification process but estimated that they would receive substantially less than 10,000 claims for the Settlement. Based on this estimate, the Parties created mechanisms for both an initial and a secondary

[1] Herein "Settlement" encompasses the Settlement Agreement attached as Appendix 1.

distribution. Specifically, the Settlement called for $350,000 of a $1.85 million cash amount to be made available to pay claims as submitted by the estimated less than 10,000 claimants. The Settlement also provided that any remaining amount of unclaimed product, based on retail value, would be distributed to the Settlement Class during a secondary distribution to third-party retail locations that normally sold Defendant's products, such as GNC and Vitamin Shoppe.

C. Class Notice

Because Defendant did not widely sell directly to customers and did not maintain customer lists or contact information, the Court ordered, and Defendant provided, notice primarily by publication. The Court concluded that "the form, manner, and timing of the notice to the Settlement Class regarding the pendency of this Action and of this Settlement . . . meet the requirements of due process and provide the best notice practicable under the circumstances and shall constitute valid, due, and sufficient notice to all Settlement Class Members." Dkt. No. 97.

The claims administrator implemented the notice plan. Declaration of Cameron R. Azari, Esq. ("Azari Decl."), ¶¶ 5, 7. Notice of the Settlement was published in PR Newswire on 11/30/18, banner ads on Google, Facebook, and Yahoo from 11/30/18 through 12/30/18, sponsored search listings on Google, Bing, and Yahoo from 11/30/18 through 1/29/19, Sports Illustrated magazine on 12/13/18, and People magazine on 12/14/18. *See* Azari Decl., ¶¶ 17-19. For class members for whom Defendant had contact information, the claims administrator sent notice of the Settlement on 11/30/18. Azari Decl., ¶ 12.

D. The Overwhelming Response from Class Claimants

In December 2018, the claims administrator notified the Parties that there were already more than 33,000 claims. Based on the claims rate, the Parties began discussing a revision to the Settlement that would reallocate funds available for the secondary distribution to the cash

claimants. The total number of claims submitted ultimately reached a staggering 90,677.

Based on the original $350,000 cash amount, the claimants would have received only a relatively small portion of their claim amount. The Parties and Counsel were well into discussions regarding the modification of the Settlement when on January 28, 2019, Theodore Frank filed an objection to delay the Settlement until the amount of claims were known. Patrick S. Sweeney filed an objection stating i) payment of class counsel's attorneys' fees should be delayed until the payment to the class was completed; ii) the notice of the Settlement was deficient; and iii) class counsel's attorneys' fees were excessive. In addition, on February 15, 2019, the United States Department of Justice ("DOJ") filed a statement of interest. The DOJ and the professional objectors contended that the secondary distribution would not necessarily go to class members. In early 2019, the Parties had calls with the DOJ wherein they disputed the DOJ's conclusion about the secondary distribution, but also informed the DOJ that they were already in the process of adjusting the terms of the Settlement based on the unexpectedly large number of claimants. The proposed adjustments would render moot the DOJ's concern regarding the secondary distribution because it was reallocating the value initially allocated for the secondary distribution to fulfill the much larger than expected number of cash claims.[2]

Because the final number of claims was more than nine times the initial estimate, the claims administrator needed more time than anticipated to review all the claims. The Parties decided that they needed to wait until they received the final claims information to determine how to modify the Settlement. Further, the claims administrator advised that a large number of claims appeared to be fraudulent. The Parties jointly moved the Court to continue the final approval hearing.

[2] The only other portion of the DOJ's concerns focused on attorneys' fees. Plaintiffs will separately address that issue.

At a hearing on March 12, 2019, the Court granted the Parties' motion to continue the final approval hearing. The Court also set an April 2 deadline for the final approval motion with objections due by April 23.

The claims administrator's final review of the claims reported the following statistics.

Complete	66,647
Denied (as fraudulent)	17,915
Duplicate	6,056
Invalid	59
Total Claims	90,677

Of the 66,647 valid claims, 59,441 sought cash and 7,206 sought free cookies.

On April 2, based on the final claim numbers, the Parties executed an amendment to the settlement agreement. The Amended Settlement (attached as Appendix 2) provides substantial and increased benefits to the Settlement Class claimants as compared to the original settlement agreement.

III. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS BECAUSE IT MEETS ALL FRCP 23 REQUIREMENTS.

Settlement classes must satisfy the numerosity, commonality, typicality, adequacy, and predominance factors required by Federal Rule of Civil Procedure 23. Here, for settlement purposes only, the Parties stipulated to the certification of an amended Settlement Class, defined as:

> All United States resident consumers who purchased one or more of Lenny & Larry's The Complete Cookie or other Lenny & Larry's baked goods products at a retail establishment or online any time up to January 29, 2019.

Amended Settlement Agreement, Appendix 2, 1.19.[3] The Parties agree that the Amended

[3] A slight modification to the class definition was made to separate the definition from the Final

Settlement Class defined above satisfies the elements of Federal Rule of Civil Procedure 23. Specifically:

a. Rule 23(a)(1): The Amended Settlement Class Members are so numerous that joinder of all members is impracticable. Defendant does not know the exact number of Amended Settlement Class Members. However, Defendant has records of online purchasers that exceed 40,000. In addition, in response to the class notice, the claims administrator received over 90,000 claims;

b. Rule 23(a)(2): There are questions of law or fact common to the Amended Settlement Class, and there is a well-defined community of interest among the Amended Settlement Class Members with respect to the subject matter of the Litigation, which include:

   i. The nature of the protein content in certain Lenny & Larry's products;

   ii. The nature of the nutrient content in certain Lenny & Larry's products;

   iii. Whether the marketing, advertising, packaging, labeling, and other promotional materials for Lenny & Larry's products is deceptive;

   iv. Whether Defendant violated state consumer protection statutes; and

   v. Whether Defendant was unjustly enriched at the expense of Plaintiffs and Amended Settlement Class Members.

c. Rule 23(a)(3): The claims of Plaintiffs are typical of the claims of Amended Settlement Class Members, as they arise from Defendant's distribution and sale of The Complete Cookie and other baked goods products;

d. Rule 23(a)(4): Plaintiffs fairly and adequately protected the interests of the Amended Settlement Class. Plaintiffs retained counsel competent and experienced in complex food related class action litigation and have made themselves available for various meetings. Plaintiffs believe that Wexler Wallace LLP, Barbat, Mansour & Suciu PLLC, and Wasserman Law Group (referred to herein as "Class Counsel") are qualified to serve as

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Approval Hearing date when it became apparent that the hearing would need to be continued to a later date.

counsel for the Settlement Class.

e. Rule 23(b)(3):

i. Common questions of law or fact predominate over individual questions because, as discussed above, the nutritional content and packaging of the product form the basis of Plaintiffs' and Amended Settlement Class Members' claims against Defendant;

ii. Consumer class actions are frequently certified as classes for settlement purposes, and the method is superior to others.

IV. STANDARDS FOR JUDICIAL APPROVAL.

A court may approve a settlement that would bind class members if it determines after a hearing that the proposed settlement is "fair, reasonable, and adequate." Fed.R.Civ.P. 23(e)(2). In the Seventh Circuit, the Court considers factors including the strength of plaintiff's case compared to the amount of defendant's settlement offer, an assessment of the likely complexity, length and expense of the litigation, an evaluation of the amount of opposition to settlement among affected parties, the opinion of competent counsel, and the stage of the proceedings and the amount of discovery completed at the time of settlement. *Isby v. Bayh*, 75 F.3d 1191, 1199 (7th Cir. 1996).

V. BECAUSE THE PARTIES AND COUNSEL DESIRE TO SETTLE THIS LAWSUIT, THE SETTLEMENT SHOULD BE APPROVED.

In counsel's opinion, this matter should be settled. Class Counsel and Defendant's Counsel have reviewed and analyzed the legal and factual issues presented in this Litigation, the risks and expense involved in pursuing the litigation to conclusion, the likelihood of recovering damages in excess of those obtained through this settlement, the protracted nature of the litigation, and the likelihood, costs, and possible outcome of a trial. Based on their review and analysis, Plaintiffs and Defendant entered into the Amended Settlement Agreement.

Specifically, in reaching the Amended Settlement, Plaintiffs' and Class Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation against the Defendant through trial and appeals. Plaintiffs' and Class Counsel have also taken into account the uncertain outcome and the risk of any litigation, especially complex cases such as this one, as well as the difficulties and delays inherent in such litigation. While Plaintiffs and Class Counsel believe the claims in their respective complaints have merit, Plaintiffs and Class Counsel are also aware of the difficulties of proving the claims asserted against Defendant, as well as the existence of possible defenses to those claims, and the difficulty of securing class relief.

Defendant denied and continues to deny the claims alleged by Plaintiffs, including all charges of wrongdoing against it, and the allegations that the Plaintiffs or the Amended Settlement Class were harmed. *See generally* Dkt. Nos. 35, 65. Nonetheless, Defendant has concluded that further prosecution of the Litigation could be protracted and expensive, and that it is desirable that the claims against it in the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in the Amended Settlement Agreement, in order to limit further expense, inconvenience, and distraction to Defendant. Defendant has also taken into account the uncertainty and risks inherent in any litigation, especially complex cases such as this one. Defendant has therefore determined that it is desirable and beneficial for the Litigation to be settled.

Plaintiffs and Class Counsel believe that the settlement set forth in the Amended Settlement Agreement confers substantial benefits upon the Amended Settlement Class. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the settlement set forth in the Amended Settlement Agreement is in the best interests of the Amended Settlement Class.

VI. THE SETTLEMENT SHOULD BE APPROVED BECAUSE THE REACTION OF THE SETTLEMENT CLASS HAS BEEN OVERWHELMINGLY POSITIVE.

As discussed above, the Parties expected to receive less than 10,000 claims, but the response to the settlement notice was an overwhelming 90,677 claims. Moreover, the Class' response was unquestionably positive because of the 90,677 claims, the Parties only received two objections which equals an objection rate of 0.002%.

Because Defendant's products are primarily sold *via* third-party retailers, the initial Settlement program contemplated a significant distribution of free product through some of those third-party retailers to persons including class members. The Parties believed that despite their lengthy efforts to notify class members of the Settlement, the notice program would not elicit a significant response. However, based on the overwhelming response to the Settlement program, the Parties have amended the Settlement to increase the benefits that go directly to claimants instead of distributing free products through third-party retailers.

The initial Settlement described in the notice program contemplated an initial distribution as follows:

a. Initial Settlement Distribution for Settlement Class Members With Proofs of Purchase. For each Settlement Class Member who submits a valid claim form supported by proof of purchase of a Lenny & Larry's product, that Settlement Class Member may elect to receive a cash distribution not exceeding the greater of (i) the amount reflected by the proof of purchase of up to $50.00 or (ii) $20.00. *Id.* All proofs of purchase submitted to establish a $20.00 cash distribution must be dated prior to the Notice Date. *Id.* Alternatively, the respective Settlement Class Member, with proof of purchase, may elect to receive free Complete Cookies with a retail value of up to $30.00 including

shipping charges and applicable costs. *Id.*

b. Initial Settlement Distribution for Settlement Class Members Without Valid Proof of Purchase. Settlement Class Members who do not have valid proof of purchase of purchase of a Lenny & Larry's product may elect to submit a completed claim form and affidavit. Settlement Agreement, ¶ 2.3. Such Settlement Class Members may receive $10.00 in cash or Complete Cookies with a retail value of up to $15.00. *Id.*

A secondary distribution would then be used to distribute unclaimed funds in the form of a free product distribution through third-party retailers.

Based on the claims administrator receiving over nine times the expected number of claims, the Parties shifted the resources that would have been allocated to the secondary distribution to the awards that will go directly to the claimants. This change more than doubles the amount of cash available to claimants seeking a monetary payment from $350,000 to up to $889,867.17. Pursuant to the Amended Settlement Agreement, the Parties have agreed to modify the settlement of this action as follows:

c. In consideration for the releases herein, Final Settlement Approval, and the other terms and conditions of the Settlement Agreement, Defendant shall pay the valid and timely claims submitted as follows: For valid claims without receipts, Defendant shall pay $14.60 per claim for cash claims, and will provide one box of 12 cookies to each claimant who requested cookies. For valid claims submitted with receipts seeking cash, Defendant shall pay a minimum of $20 per claim, up to a maximum of $50 per claim where such higher amount is supported by proof of purchase in like amount. For valid claims submitted with proof of purchase seeking cookies, Defendant shall provide each claimant with free cookies with a retail value of at least $22 and up to $35 as supported by proof of purchase, with such values including shipping and handling. Amended Settlement Agreement, ¶ 2.1. Defendant shall pay an amount not to exceed $889,867.17 for the valid cash claims, and up to $300,000 in free cookies supported by valid claims for cookies. Amended Settlement Agreement, ¶ 2.1.

The Amended Settlement thus increases the awards to nearly all claimants.

Initial Settlement Distribution	**Amended Settlement Distribution**
Claimants with no proof of purchase: ***Cash*** - $10 ***Cookies*** – Cookies with a retail value of $15	*Claimants with no proof of purchase:* ***Cash*** - $14.60 ***Cookies*** – 12 box of cookies (retail value $21.95)
Claimants with proof of purchase: ***Cash*** – From $20-$50 depending on proof ***Cookies*** – Cookies up to $30 including shipping and handling, depending on proof	*Claimants with proof of purchase:* ***Cash*** – From $20-$50 depending on proof ***Cookies*** – Cookies from $22 up to $35 including shipping and handling, depending on proof

The Parties believe that the class members will again react positively to the amendment because it only serves to increase the benefits to claimants. Based on the overwhelmingly positive response to the initial Settlement notice and an amendment that awards more to the claimants, the Parties believe that the Settlement Class' reaction to the settlement favors settlement.

VII. THIS LITIGATION WAS IN ITS EARLY STAGES WHEN THE PARTIES REACHED A SETTLEMENT, AND THE REMAINING FACTORS WEIGH IN FAVOR OF SETTLEMENT.

The remaining factors including (1) strength of Plaintiffs' case compared to the amount of Defendant's settlement offer, (2) an assessment of the likely complexity, length and expense of the litigation, and (3) the stage of the proceedings and the amount of discovery completed at the time of settlement, all weigh in favor of settling the case.

At the time that the Parties reached the Settlement, the case was still in its primary stages. Plaintiffs had modified their operative complaint three times and had yet to move the Court to

certify a class. Moreover, no conclusions of law had been established against Defendant, and Plaintiffs still bore the burden of proving every element of their case. If that had been done, Plaintiffs still had to prove damages. Any possible relief to Plaintiffs or any possible class was uncertain and years away.

Under the Amended Settlement, Defendant shall pay up to $889,867 for the valid cash claims by the class claimants, and up to $300,000 in free cookies supported by valid claims for cookies. In addition, Defendant shall pay the cost of claims administration not to exceed $667,132.83, including amounts already paid, and subject to Court approval, an amount not to exceed $455,000 for Plaintiffs' Incentive Awards and for such attorneys' fees and costs as approved by the Court. The aggregate maximum of these amounts is $2,312,000 to settle claims where Defendant still disputes liability.

The Amended Settlement eliminates the uncertainty and risk involved with Plaintiffs establishing their case and provides immediate, guaranteed, and significant compensation to Plaintiffs and the class claimants.

VIII. THE COURT SHOULD OVERRULE THE OBJECTIONS

The objections of Theodore Frank and Patrick S. Sweeney were based on the premise that the Court should wait until the final claims numbers were determined before closing the window for objections; the Court should delay awarding attorneys' fees until the payment to the class is completed; the notice of the Settlement was deficient; and class counsel's attorneys' fees were excessive. Because the Parties modified the settlement in light of the overwhelming response, the Parties agreed to continue the Final Approval Hearing to a later time. In line with this, the Parties are providing a secondary email notice of the Amended Settlement and Class Counsel's amended

fee petition[4] to the claimants with a deadline to respond by April 23, 2019. Based on the above changes to the settlement, objector Frank's concerns regarding establishing final claims numbers are moot and thus his objection should be overruled.

Objector Frank also challenges the scope of the Released Claims. A federal court may "release not only those claims alleged in the complaint, but also a claim based on the identical factual predicate. . . even though the claim was not presented and might not have been presentable in the class action." *Wright v. Nationstar Mortg. LLC*, No. 14 C 10457, 2016 U.S. Dist. LEXIS 115729, at *45 (N.D. Ill. Aug. 29, 2016) (quoting *Williams v. GE Capital Auto Lease*, 159 F.3d 266, 273 (7th Cir. 1998)). The theoretical consumer fraud claim described by Frank is based on the identical factual predicate as the underlying claims here: purchasing health products that contained allegedly "misleading labels." Compare TAC ¶¶ 2-5, 16-44 with Dkt. No. 98-1 at ¶¶ 6-12. Although Frank describes alleged mislabeling on the front of the product packaging, the factual and legal predicates remain the same. Defendant would have "little incentive" to settle this Litigation absent a "broad release generally insulating [itself] from further litigation" related to alleged product mislabeling. Id. at 45-46 (citation omitted); *see also Smith v. Sprint Communs. Co. L.P.*, No. 99 C 3844, 2003 U.S. Dist. LEXIS 325, at *6 (N.D. Ill. Jan. 9, 2003) ("[A] class settlement can provide for the broad release of claims, including claims not stated in the complaint."). *Cf. Tropp v. W. Southern Life Ins. Co.*, 381 F.3d 591, 594, 596 (7th Cir. 2004) (plaintiff's claims barred by "very broad" release that encompassed claims "relating in any way directly or indirectly to the sale" of certain insurance policies). Indeed, "[i]t is not at all uncommon for settlements to include a global release of all claims past, present, and future, that the parties might have brought against each other." *Williams*, 159 F.3d at 274 (7th

[4] The prior challenges to Class Counsel's fee request should be resolved by the amended fee petition, filed concurrently herewith, or will otherwise be addressed therein.

Cir. 1998). The scope of the Released Claims is intended to prevent future lawsuits by Settlement Class Members based on the consumer fraud claims brought in this Litigation, and Settlement Class Members have been compensated for their releases. Accordingly, Frank's objections should be overruled.

With respect to the sufficiency of notice, objector Sweeney seems to argue that some details of the settlement were not in the notice but only in the settlement. The notice was drafted to provide many answers regarding the settlement including how much each claimant could claim, but not to provide every detail of the Settlement including the overall amounts set aside for cash and cookie distributions. However, the Settlement was posted to the settlement website where it was publicly and freely accessible for all to review in detail. Azari Decl., ¶ 13. Because the details of the Settlement were made available to all class members to freely access, this objection should be overruled.

On February 15, 2019, the United States Department of Justice filed a statement of Interest. The main issues raised in the DOJ's statement were that a large amount of the class settlement was allegedly going to non-class members and the amount of the attorneys' fees. As discussed above, based on large number of claims from the class members, the Parties proactively decided to more than double the amount of cash made available to the claimants requesting cash instead of allocating those funds to the free product distribution. While the Parties dispute the DOJ's position, the Parties believe the amendment satisfies the DOJ's concerns.

IX. CONCLUSION

The Parties believe that the settlement of this action on the terms and conditions set forth in the Settlement Agreement are fair, reasonable, and adequate, and would be in the best

interests of the Settlement Class. For the foregoing reasons, the Parties respectfully request that the Court approve the Settlement Agreement.

Dated: April 2, 2019

Respectfully

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Dated: March April 2, 2019

Respectfully

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed using this Court's CM/ECF system, which will send notification of such filing to all counsel of record on this 2nd day of April 2019.

/s/*Todd P. Stelter*

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