

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

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

PRELIMINARY APPROVAL ORDER

Plaintiffs Michele Baker, Charles Carr, Angela Corbett, Pamela Forrest, Michael Hickey, individually and as parent and natural guardian of O.H., infant, Kathleen Main-Lingener, Kristin Miller, as parent and natural guardian of K.M., infant, Jennifer Plouffe, Silvia Potter, individually and as parent and natural guardian of C.P., infant, and Daniel Schuttig (“Plaintiffs”), on behalf of themselves and the Settlement Class Members, and Defendants Saint-Gobain Performance Plastics Corp., Honeywell International Inc., and 3M Company (“Settling Defendants”), by their respective counsel, have submitted a Settlement Agreement to this Court, and Plaintiffs have moved under

Federal Rule of Civil Procedure 23(e) for an order: (1) preliminarily certifying the Municipal Water Property Settlement Class, the Private Well Water Property Settlement Class, the Nuisance Settlement Class, and the Medical Monitoring Settlement Class for purposes of settlement, and appointing Plaintiffs as the Class Representatives and their counsel as Interim Settlement Class Counsel; (2) preliminarily approving the Settlement; (3) approving the Notice Program; (4) appointing KCC as the General Administrator and directing it to commence the Notice Program; (5) providing authority pursuant to Local Rule of Civil Practice, Rule 17.1 and N.Y. C.P.L.R. § 1201 for parents and guardians of all named Minor Plaintiffs and absent Minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent; and (6) scheduling a Final Approval Hearing to consider final approval of the settlement and any application for attorneys' fees, expenses, and Class Representative Service Awards. The Court has considered the terms of the Settlement, the exhibits to the Settlement Agreement, the record of proceedings, and all papers and arguments submitted in support, and now finds that the motion should be, and hereby is, **GRANTED**.

ACCORDINGLY, THE COURT FINDS AND ORDERS:

1. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over the Plaintiffs and Settling Defendants (the "Parties") for purposes of the Settlement.
2. Capitalized terms not otherwise defined in this Order have the definitions set forth in the Settlement Agreement.

SUMMARY OF THE LITIGATION AND SETTLEMENT

3. On August 26, 2016, Plaintiffs filed their Master Consolidated Class Action Complaint alleging tort theories of negligence, trespass, nuisance, and strict liability based on the

presence of PFOA in the Village Municipal Water System, in private wells, on or at their properties, and/or in their blood. This pleading named Saint-Gobain Performance Plastics Corp. (“Saint-Gobain”) and Honeywell International Inc. (“Honeywell”) as Defendants.

4. On September 26, 2016, Defendants Saint-Gobain and Honeywell filed a Motion to Dismiss Plaintiffs’ Master Consolidated Class Action Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), which the Parties fully briefed. On February 6, 2017, the Court entered a Memorandum-Decision and Order granting in part and denying in part the Motion to Dismiss. In particular, the Court denied Defendants’ motion to dismiss Plaintiffs’ claims for negligence and trespass, as well as nuisance claims brought by Plaintiffs who obtain drinking water from a private well, but granted the motion to dismiss nuisance claims alleged by Plaintiffs who obtain drinking water from the Village Municipal Water System. The Court also certified its order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). On February 16, 2017, Saint-Gobain and Honeywell petitioned the Second Circuit Court of Appeals for permission to appeal pursuant to 28 U.S.C. § 1292(b) and to temporarily stay proceedings in the District Court pending determination of the petition for leave to appeal. Separately, Saint-Gobain and Honeywell each filed an Answer and Affirmative Defenses to the Master Consolidated Class Action Complaint on February 28, 2017.

5. On March 1, 2017, the Second Circuit granted a temporary stay of proceedings in the District Court pending disposition of the motion to stay by the Court. On December 8, 2017, the Second Circuit denied the motion to stay proceedings in the District Court but granted the petition to appeal this Court’s motion to dismiss order pursuant to 28 U.S.C. § 1292(b).

6. Following denial of Defendants’ motion to stay proceedings, discovery commenced before this Court. The parties thereafter engaged in significant discovery efforts, involving several sets of written discovery served by and on each party, voluminous document productions, quarterly

conferences with Magistrate Judge Stewart, depositions of each Plaintiff as well as 11 depositions of current or former employees of Saint-Gobain and/or Honeywell, Rule 30(b)(6) deponents for each company, and one third-party witness.

7. On February 23, 2018, Saint-Gobain and Honeywell filed an opening brief in the Second Circuit. This was followed by full briefing as well as multiple amicus briefs and oral argument. The Second Circuit ultimately affirmed this Court's motion to dismiss order on May 18, 2020.

8. On December 10, 2018, Plaintiffs filed their First Amended Master Consolidated Class Action Complaint, naming Defendants 3M Company ("3M") and E.I. DuPont de Nemours and Company ("DuPont") as additional Defendants. Each Defendant filed an Answer and Affirmative Defenses on February 26, 2019.

9. Plaintiffs thereafter propounded document requests and interrogatories on 3M and DuPont and engaged in motion practice with DuPont on the scope of discovery before Magistrate Judge Stewart. In response to Plaintiffs' document requests, both 3M and DuPont made extensive document productions.

10. On April 6, 2020, Plaintiffs filed a Notice of Motion for Class Certification and served eight supporting expert reports. In their motion, Plaintiffs sought to certify four classes, as follows: (i) a class of property owners who obtain drinking water from the Village Municipal Water System; (ii) a class of property owners who obtain drinking water from privately owned wells; (iii) a class of property owners and renters who obtain drinking water from a privately owned well upon which a point-of-entry treatment (POET) system was installed; and (iv) a class of individuals exposed to PFOA in their drinking water who subsequently received blood tests demonstrating the presence of PFOA in their blood serum. On April 9, 2020, Plaintiffs filed their

Second Amended Master Consolidated Class Action Complaint. All Defendants filed an Answer and Affirmative Defenses to this pleading on July 23, 2020.

11. Between June 23, 2020 and September 2, 2020, Plaintiffs deposed seven former DuPont employees. Each of these depositions occurred via Zoom because of the limitations imposed by the COVID-19 pandemic.

12. On July 30, 2020, Defendants served eight responsive expert reports. The parties thereafter commenced expert deposition discovery, during which sixteen expert depositions were conducted between October 2020 and December 2020, all via Zoom.

13. Following expert depositions, Defendants filed a joint opposition to Plaintiffs' Motion for Class Certification on January 14, 2021. Defendants also filed a joint Motion to Exclude Plaintiffs' Expert Testimony on the same date. Finally, Defendants 3M and DuPont filed a separate opposition to class certification raising additional, distinct arguments. Plaintiffs filed replies in support of their Motion for Class Certification and an opposition to Defendants' motion to exclude expert testimony on February 18, 2021. Defendants filed a reply in support of their Motion to Exclude Plaintiffs' Expert Testimony on March 11, 2021.

14. On April 12, 2021, the Parties engaged in a full-day mediation at arms-length before Professor Eric Green of Resolutions, LLC. The Parties participated in two additional full-day mediation sessions on April 30, 2021 and May 5, 2021. At the end of the third day of mediation on May 5, 2021, Plaintiffs and the Settling Defendants reached an agreement in principle. They then negotiated the detailed written Settlement Agreement and exhibits that are now before the Court.

15. The Settlement resolves claims alleged by Plaintiffs against the Settling Defendants. This Settlement does not affect the claims alleged by Plaintiffs against the non-settling

Defendant, DuPont, and Plaintiffs are not resolving or releasing any claims against DuPont by entering into the Settlement Agreement.

16. The Settlement provides, among other things, that as consideration for the release from Settlement Class Members, the Settling Defendants will pay \$65,250,000 in cash into a Settlement Fund (the Total Settlement Payment). Of this amount, \$20,700,000 will be allocated to members of the Property Settlement Classes; \$7,761,683 will be allocated to members of the Nuisance Settlement Class; and \$22,800,000 will be allocated to fund a ten-year medical monitoring program to benefit members of the Medical Monitoring Class.

17. The Settlement also provides for Notice to be mailed directly to property owners in the Village of Hoosick Falls and Town of Hoosick, as well as an extensive Notice Program consisting of outreach via local media, national press release, and millions of social media impressions.

PRELIMINARY APPROVAL

18. Federal Rule of Civil Procedure 23(e) requires court approval of class action settlements. In general, the approval process involves three stages: (1) notice of the settlement to the class after “preliminary approval” by the Court; (2) an opportunity for class members to opt out of, or object to, the proposed settlement; and (3) a subsequent hearing at which the Court grants “final approval” upon finding that the settlement is “fair, reasonable, and adequate,” after which judgment is entered, class members receive the benefits of the settlement, and the settling defendants obtain a release from liability. Fed. R. Civ. P. 23(e)(1)-(2), (4)-(5).

19. In deciding whether to grant “preliminary approval” of a proposed settlement, the Court evaluates two issues: (1) whether “the court will likely be able to” grant final approval to the settlement as a “fair, reasonable, and adequate” compromise, such that it makes sense to give

notice to the proposed class members; and (2) whether “the court will likely be able to” certify the classes for purposes of entering judgment on the settlement. Fed. R. Civ. P. 23(e)(1)(B).

I. The Court will “likely be able to” grant final approval to the Settlement as “fair, reasonable, and adequate.”

20. This Circuit has recognized a “strong judicial policy in favor of settlements, particularly in the class action context.” *McReynolds v. Richards-Cantave*, 588 F.3d 790, 803 (2d Cir. 2009). “The compromise of complex litigation is encouraged by the courts and favored by public policy.” *Story v. SEFCU*, No. 1:18-CV-764 (MAD/DJS), 2021 WL 736962, at *7 (N.D.N.Y. Feb. 25, 2021) (quoting *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 117 (2d Cir. 2005) (internal quotation omitted)). A “presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm’s-length negotiations between experienced, capable counsel after meaningful discovery.” *Wal-Mart Stores*, 396 F.3d at 116 (quoting *Manual for Complex Litigation (Third)* § 30.42 (1995)).

21. Under Federal Rule of Civil Procedure 23(e)(2), as amended in December 2018, in considering whether a proposed settlement is “fair, reasonable, and adequate,” the Court considers whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm’s length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

(iii) the terms of any proposed award of attorneys' fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

22. Under this standard, the Court finds that it will "likely be able to" grant final approval to the Settlement as "fair, reasonable, and adequate," such that the Settlement, its terms and conditions, including releases of the Released Parties, warrants preliminary approval and dissemination of notice to the Settlement Classes so that Settlement Class Members may express any objections to the Settlement or decide whether to opt out of the Settlement or participate in it. The Settlement appears at this preliminary approval stage to be procedurally fair, reasonable, and adequate in that the Plaintiffs and Class Counsel have adequately represented the Settlement Classes in litigating the merits of the dispute and in obtaining a Settlement of significant value through arm's-length negotiations between and among sophisticated counsel and under the auspices of a sophisticated mediator. Fed. R. Civ. P. 23(e)(2)(A)-(B).

23. Likewise, the Settlement appears at this preliminary approval stage to be substantively fair, reasonable, and adequate in that the relief provided is substantial particularly when taking into account the costs, risks, and delays of trial. Fed. R. Civ. P. 23(e)(2)(C). The proposed method of distributing monetary relief to the Property Settlement Class Members and Nuisance Settlement Class Members is relatively streamlined, requiring only submission of a simple Claim Form, a declaration attesting to residency, and few, if any, supporting documents, as specified in the Settlement. *Id.* Similarly, after submission of the Claim Form, blood test results demonstrating the presence of PFOA in a Claimant's blood serum above the designated level, and

a declaration attesting to exposure, the Medical Monitoring Settlement Class Members will have access to ten years of consultations and testing from multiple physicians in close proximity to Hoosick Falls; former residents who have moved from the area, and who are Medical Monitoring Settlement Class Members, will also have access to the program. *Id.* Attorneys' fees will be paid only after Final Approval and only by approval of the Court, which will consider any request for fees in conjunction with final approval. *Id.* The Parties have represented that there are two agreements to be identified under Fed. R. Civ. P. 23(e)(3). *Id.*

24. Finally, the proposal treats members of each Settlement Class equitably relative to one another. Property Settlement Class Members will receive a proportion of the Property Payment Allocation based on the full market value of their property (as determined by the Town of Hoosick Tax Assessor in 2015 in the Final Assessment Roll) relative to all other properties owned by the Property Settlement Class Members. The Nuisance Payment Allocation will be divided evenly among all Nuisance Settlement Class Members who demonstrate eligibility. Finally, all Medical Monitoring Settlement Class Members will have equal access to the consultations and, as appropriate, testing benefits provided by the Medical Monitoring Program. Fed. R. Civ. P. 23(e)(2)(D).

II. The Court will “likely be able to” certify the Settlement Classes for purposes of entering judgment on the Settlement.

25. In considering whether the Court will “likely be able to” certify the Settlement Classes for purposes of entering judgment on the Settlement, the Court must determine whether the Settlement Classes likely meet the requirements for class certification under Federal Rule of Civil Procedure 23(a) (numerosity, commonality, typicality, and adequacy) and any one of the subsections of Federal Rule of Civil Procedure 23(b), here subsection 23(b)(3).

26. The Court finds, for settlement purposes only, that the Settlement Classes satisfy the requirements of Fed. R. Civ. P. 23(a)(1)-(4) and 23(b)(3) and that it will likely be able to certify each of the proposed Settlement Classes, which are defined as:

Municipal Water Property Settlement Class

All Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, and who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015; provided, however, that the Municipal Water Property Settlement Class shall not include Excluded Persons.

Private Well Water Property Settlement Class

All Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a private well in which PFOA was detected, and who owned that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; provided, however, that the Private Well Water Property Settlement Class shall not include Excluded Persons.

Nuisance Settlement Class

All Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who either (i) owned and occupied that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; or (ii) rented and occupied the property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; provided, however, that the Nuisance Settlement Class shall not include Excluded Persons.

Medical Monitoring Settlement Class

All individuals who, for a period of at least six months between 1996 and 2016, have (a) ingested water at their residence(s) supplied by the Village Municipal Water System or from a private well in the Village of Hoosick Falls or the Town of Hoosick in which PFOA has been detected, and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child's birth and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L; provided, however, that the Medical Monitoring Settlement Class shall not include Excluded Persons.

27. Additionally, the Court finds, for purposes of settlement only, that the Settlement Classes are ascertainable because each is defined by objective criteria, *In re Petrobas Secs. Litig.*,

862 F.3d 250, 257 (2d Cir. 2017), and that it will likely be able to appoint Plaintiffs' Counsel as Class Counsel under Federal Rule of Civil Procedure 23(g).

28. The Settlement Classes, if certified in connection with Final Approval, shall be for settlement purposes only and without prejudice to the Parties in the event the Settlement is not finally approved by this Court or otherwise does not take effect.

29. Accordingly, the Court preliminarily certifies, for purposes of settlement only, each of the respective Settlement Classes identified above.

30. The Court, for settlement purposes only, appoints the following Plaintiffs as interim Class Representatives for the Settlement Classes:

Municipal Water Property Settlement Class: Pamela Forrest, Kathleen Main-Lingener, Jennifer Plouffe, Silvia Potter, and Daniel Schuttig;

Private Well Property Settlement Class: Michele Baker, Charles Carr, and Angela Corbett;

Nuisance Settlement Class: Michele Baker, Charles Carr, and Angela Corbett; and

Medical Monitoring Settlement Class: Charles Carr, Angela Corbett, Michael Hickey, individually and as parent and natural guardian of O.H., infant, Kathleen Main-Lingener, Kristin Miller, as parent and natural guardian of K.M., infant, and Silvia Potter, individually and as parent and natural guardian of C.P., infant.

31. The Court appoints, for settlement purposes only, Stephen G. Schwarz and Hadley L. Matarazzo of Faraci Lange LLP, James J. Bilsborrow of Seeger Weiss LLP, and Robin L. Greenwald of Weitz & Luxenberg, P.C., as Interim Settlement Class Counsel under Federal Rule of Civil Procedure 23(g)(3). Interim Settlement Class Counsel are authorized to act on behalf of the Settlement Classes with respect to all acts required by, or which may be given pursuant to, the

Settlement or such other acts that are reasonably necessary to consummate the proposed Settlement set forth in the Settlement Agreement.

32. Having found that (1) “the court will likely be able to” grant final approval to the settlement as a “fair, reasonable, and adequate” compromise, so that it makes sense to give notice to the proposed class members; and (2) “the court will likely be able to” certify the Settlement Classes for purposes of entering judgment on the Settlement, the Court hereby **GRANTS** preliminary approval to the Settlement.

NOTICE TO THE SETTLEMENT CLASSES

33. Upon granting preliminary approval under Federal Rule of Civil Procedure 23(e)(1), the Court “must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.” Fed. R. Civ. P. 23(c)(2)(B).

34. The notice must clearly and concisely state in plain, easily understood language:
- (i) the nature of the action;
 - (ii) the definition of the class certified;
 - (iii) the class claims, issues, or defenses;
 - (iv) that a class member may enter an appearance through an attorney if the member so desires;
 - (v) that the court will exclude from the class any member who requests exclusion;
 - (vi) the time and manner for requesting exclusion; and
 - (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

Fed. R. Civ. P. 23(c)(2)(B).

35. “There are no rigid rules to determine whether a settlement notice to the class satisfies constitutional or Rule 23(e) requirements; the settlement notice must fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings.” *Wal-Mart Stores*, 396 F.3d at 114 (quotation omitted).

36. The Court finds that the Notice Program, including the Class Notice, the Notice Form attached to the Settlement, and the particulars of the Notice Program described in the Declaration of Carla A. Peak in Support of Settlement Notice Program, satisfy these requirements and Due Process and constitute “the best notice that is practicable under the circumstances.” The Court appoints KCC as General Administrator and directs that the Notice Program be implemented as set forth in the Settlement.

37. All fees, costs, and expenses incurred in implementing the Notice Program shall be paid solely from the Preliminary Settlement Fund as set forth in the Settlement.

SETTLEMENT OF CLAIMS OF INFANT, INCOMPETENT AND DECEASED CLASS MEMBERS

38. Each of the Plaintiffs who filed this Action as parent and natural guardian of a Minor will apply to the Court individually or jointly for approval of the Settlement on behalf of the Minor class representatives and all absent Minor Settlement Class Members. This Preliminary Approval Order provides authority pursuant to Local Rule 17.1 and N.Y. C.P.L.R. § 1201 for parents and guardians of all named Minor Plaintiffs and absent Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent. An Order from this Court finally approving the Settlement shall effectuate a settlement under Local Rule 17.1 and N.Y.

C.P.L.R. § 1207 for all named Minor Plaintiffs, absent Minor Settlement Class Members, and absent incompetent Settlement Class Members.

39. The legal representatives of deceased absent Settlement Class Members shall have authority to sign Claims Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of a deceased absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal representative shall attest to their authority to act for the deceased absent Settlement Class Member.

PROCEDURES FOR REQUESTING EXCLUSION FROM OR OBJECTING TO THE SETTLEMENT

40. A Settlement Class Member may request exclusion from the Settlement at any time prior to the Opt Out Deadline, provided an opt-out notice is sent to the General Administrator in accordance with the procedures set forth in the Settlement Agreement. Any Settlement Class Member who elects to opt out of the Settlement shall not be entitled to receive any benefits conferred by the Settlement. Any Settlement Class Member who does not timely and validly request to opt out shall be bound by the terms of the Settlement, including the Release. If a Residential Property that is encompassed by one of the Property Settlement Classes has more than one legal owner and one of those owners excludes himself or herself from the relevant Settlement Class, then all owners of that Residential Property shall be deemed to have opted out of the Settlement, and no owner of the Residential Property shall be entitled to a payment under the Settlement.

41. Objections to the Settlement, to the application of attorneys' fees and costs, and/or to the Service Award must be served on the Parties in accordance with the Settlement. Interim Settlement Class Counsel and/or the Settling Defendants may conduct limited discovery on any objector or objector's counsel consistent with the Federal Rules of Civil Procedure.

42. Except for Settlement Class Members who have timely asserted an objection to the Settlement, all Settlement Class Members shall be deemed to have waived all objections and opposition to the fairness, reasonableness, and adequacy of the Settlement.

MOTIONS FOR FINAL APPROVAL, FEES, EXPENSES, AND SERVICE AWARDS

43. Plaintiffs shall file their Motion for Final Approval of the Settlement, appointment as Settlement Class Counsel as well as Class Counsel's application for attorneys' fees and costs, for a Service Award to the Plaintiffs, and for all Settlement Administration Costs, no later than 150 days after this Order is entered. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and expenses, for the Service Award for the Plaintiffs, and for all Settlement Administration Costs.

FINAL APPROVAL HEARING

44. The Court will hold a Final Approval Hearing on February 02, 2022, at 11:00 a.m./p.m., at the James T. Foley U.S. Courthouse, 445 Broadway, Albany, New York 12207-2926, or by videoconference or teleconference if determined by separate order, to assist the Court in determining whether to grant Final Approval to the Settlement, enter the Final Approval Order and Judgment, and grant any motions for fees, expenses and the Service Award.

OTHER PROVISIONS

45. Plaintiffs' Interim Settlement Class Counsel and counsel for the Settling Defendants are authorized to take, without further approval of the Court, all necessary and appropriate steps to implement the Settlement according to its terms, including implementing the Notice Program.

46. Pending determination whether the Settlement Agreement should be granted Final Approval, further proceedings against the Settling Defendants are stayed in this Action, other than proceedings necessary to carry out or enforce the terms of the Settlement. Nothing in this Order shall stay further proceedings in this Action against any non-settling Defendant.¹ For purposes of the continued prosecution of this case against any non-settling Defendant, the Order of the Hon. Daniel J. Stewart dated July 27, 2016, appointing Weitz & Luxenberg, P.C. and Faraci Lange, LLP as Co-Lead Interim Class Counsel (Dkt. 1) shall remain in effect until this Court rules on Plaintiffs' pending motion for class certification regarding any non-settling Defendant, with the exception that James J. Bilsborrow of Seeger Weiss, LLP shall now be appointed as a third Co-Lead Interim Class Counsel pursuant to Fed. R. Civ. P. 23(g)(3).

47. The Settling Defendants shall serve the appropriate government officials with the notice required by 28 U.S.C. § 1715, within the time provided by statute.

48. Without further orders of the Court, the Parties may agree to make non-material modifications to the Settlement Agreement (including the exhibits thereto) in implementing the Settlement that are not inconsistent with this Preliminary Approval Order, including making minor changes to the Settlement Agreement, to the form or content of the Notice Form, or to any other exhibits that the Parties jointly agree in writing are reasonable or necessary.

49. The Court shall retain jurisdiction over the Settlement Agreement and shall consider all further matters arising out of or connected with the Settlement.

¹ The Settlement with the Settling Defendants is not and does not constitute a settlement with any non-settling Defendant (*e.g.*, named Defendants who are not the Settling Defendants) and the Settlement is not dispositive of any Plaintiff's claim against any non-settling Defendant.

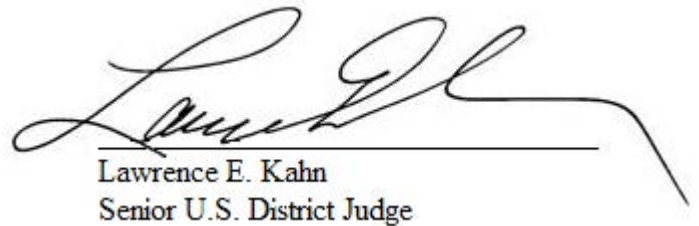
SCHEDULE OF DEADLINES

50. The Court sets the following deadlines:

Event	Date
Deadline for the Settling Defendants to pay \$10,000,000 in cash into the Escrow Account	No later than 20 days from the date of this Order
Deadline for General Administrator to commence Notice Program	No later than 30 days from the date of this Order
Commencement of the Enrollment Period	30 days from the date of this Order
Opt Out Deadline	105 days from the date of the Notice Date
Objection Deadline	105 days from the date of the Notice Date
Deadline for filing a Motion for Final Approval and any petition for an award of attorneys' fees, costs, and Service Awards	No later than 150 days from the date of this Order
Final Approval Hearing	<u>02/02/2022 at 11:00 AM</u> (approximately 180 days from the date of this Order)

SO ORDERED.

Date: July 27, 2021



Lawrence E. Kahn
Senior U.S. District Judge