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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VEDA WOODARD, TERESA RIZZO-MARINO, and DIANE MORRISON, on behalf of themselves, all others similarly situated, and the general public,

Plaintiffs,

vs.

LEE LABRADA; LABRADA BODYBUILDING NUTRITION, INC.; LABRADA NUTRITIONAL SYSTEMS, INC.; DR. MEHMET C. OZ, M.D.; ENTERTAINMENT MEDIA VENTURES, INC. d/b/a OZ MEDIA; ZOCO PRODUCTIONS, LLC; HARPO PRODUCTIONS, INC; SONY PICTURES TELEVISION, INC; NATUREX, INC.; and INTERHEALTH NUTRACEUTICALS, INC.,

Defendants.

CASE NO. 5:16-cv-00189-JGB-SP

CLASS ACTION

PLAINTIFF’S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: July 11, 2022

Time: 9:00 a.m.

Ctrm: 1

Judge: Hon. Jesus G. Bernal

TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT, on July 11, 2022 at 9:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom 1 of the United States District Court for the Central District of California, Eastern Division, 3470 Twelfth Street Riverside, California 92501, before the Honorable Jesus G. Bernal, presiding, Plaintiff Veda Woodard (“Plaintiff”) will, and hereby does, move the Court for an Order for preliminary approval of a class action settlement with Defendant Labrada Bodybuilding Nutrition, Inc. (“Labrada”).

This motion is based on this Notice of Motion, the concurrently-filed Memorandum of Points and Authorities, the concurrently-filed Declaration of Ronald A. Marron and Exhibit 1 attached thereto, the concurrently-filed Proposed Order Granting Plaintiff’s Motion for Preliminary Approval, all prior pleading and proceedings in this matter, and all other evidence and written and oral argument that will be submitted in support of the Motion.

DATED: June 1, 2022

/s/ Ronald A. Marron
RONALD A. MARRON

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LEE LABRADA; LABRADA
BODYBUILDING NUTRITION, INC.;
LABRADA NUTRITIONAL
SYSTEMS, INC.; DR. MEHMET C.
OZ, M.D.; ENTERTAINMENT
MEDIA VENTURES, INC. d/b/a OZ
MEDIA; ZOCO PRODUCTIONS,
LLC; HARPO PRODUCTIONS, INC;
SONY PICTURES TELEVISION, INC;
NATUREX, INC.; and
INTERHEALTH
NUTRACEUTICALS, INC.,

Defendants.

CASE NO. 5:16-cv-00189-JGB-SP
CLASS ACTION

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: July 11, 2022

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**REDACTED VERSION OF
DOCUMENT PROPOSED TO
BE FILED UNDER SEAL**

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1 **I. INTRODUCTION**

2 After hard-fought litigation with extensive discovery and motion practice,
3 Plaintiff Veda Woodard (“Plaintiff”), on behalf of the certified classes, and
4 Defendant Labrada Bodybuilding Nutrition, Inc. (“Labrada”), have reached a
5 proposed class action settlement. The Settlement Agreement establishes both
6 monetary and injunctive relief and requires Labrada to pay \$625,000 into a
7 settlement fund.¹ In addition, the Settlement Agreement requires Labrada to cease
8 selling the disputed Products in this action by August 1, 2022.

9 Therefore, this motion seeks the entry of an order providing for, among other
10 things: (1.) preliminary Approval of the Settlement; (2.) approval of the Settlement
11 and Notice Administrator; (3.) approval of the Notice program; (4.) Approval of the
12 Claims process; and (5.) the scheduling of a Final Approval Hearing to consider
13 Final Approval of the Settlement.

14 The proposed settlement is exceedingly fair, and well within the range of
15 preliminary approval for several reasons. First, it provides relief for the Class
16 Members where their recovery, if any, would otherwise be uncertain, especially
17 given Labrada’s ability and willingness to continue its vigorous defense of the case.
18 Second, the Settlement was reached only after first engaging in substantial
19 discovery, motion practice, and extensive arm’s-length negotiations, including a
20 full-day mediation before a neutral mediator. Third, the Settlement was not
21 conditioned on any amount of attorneys’ fees for Class Counsel or an Incentive
22 Award for the Plaintiff, which speaks to the fundamental fairness of the process.

23 For all of these reasons, and as further described below, Plaintiff respectfully
24 requests that the Court preliminarily approve the Settlement.

25 _____
26 ¹ A copy of the Settlement Agreement (“Agreement”) is attached to the concurrently-
27 filed Declaration of Ronald A. Marron in Support of Plaintiff’s Motion for
28 Preliminary Approval (“Marron Decl.”) as Exhibit 1. Capitalized terms in this
motion have the same meaning as the capitalized terms in the Agreement.

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 On February 2, 2016, Plaintiff Veda Woodard (“Plaintiff”) filed a putative
3 class action complaint alleging violations of consumer protections laws against
4 Naturex, Inc. (“Naturex”), Lee Labrada, Labrada Bodybuilding Nutrition, Inc.,
5 Labrada Nutritional Systems, Inc., (“Labrada Defendants”); InterHealth
6 Nutraceuticals Inc., (“InterHealth”), Zoco Productions, LLC, Harpo Productions,
7 Inc., and Dr. Mehmet C. Oz, M.D. (the “Media Defendants”). (ECF No. 1). The
8 complaint alleged claims arising from the Defendants’ alleged misrepresentations
9 surrounding the effectiveness of the weight-loss supplement products that are
10 manufactured by Labrada, including the Labrada Green Coffee Bean Extract Product
11 and the Labrada Garcinia Cambogia Product.

12 On April 4, 2016, the Media Defendants filed a motion to dismiss, (ECF No.
13 45), which Plaintiff Woodard opposed on April 18, 2016. (ECF No. 61). On May
14 12, 2016, the Court granted in part and denied in part the Media Defendants’ motion
15 to dismiss. (ECF No. 85). Then on June 2, 2016, Plaintiff Veda Woodard, along with
16 former plaintiffs Teresa Rizzo-Marino and Diane Morrison, filed the operative First
17 Amended Complaint (“FAC”). (ECF No. 88). On July 21, 2016, Labrada filed a
18 Motion to Dismiss Plaintiffs’ FAC pursuant to Federal Rule of Civil Procedure
19 12(b)(6) (ECF No. 105) and on July 31, 2017, the Court issued an Order Denying
20 Labrada’s Motion to Dismiss the FAC. (ECF No. 190). On August 14, 2017, Labrada
21 filed an Answer to the FAC. (ECF No. 201).

22 Plaintiff and Labrada have engaged in substantial discovery. All Parties to this
23 litigation have collectively produced approximately 30,000 pages of documents and
24 have exchanged approximately 20 sets of formal written discovery. *See* Marron
25 Decl., ¶ 5. In addition, the Defendants have deposed each of the Class
26 Representatives and Class Counsel has deposed Labrada’s Fed. R. Civ. P. 30(b)(6)
27 designee, Kyle Workman. *See* Marron Decl., ¶ 5. Class Counsel have also taken the
28 deposition of Lee Labrada, the C.E.O. of Labrada Bodybuilding Nutrition, Inc. *See*

1 Marron Decl., ¶ 5. In addition to deposing the representatives of Labrada, Class
2 Counsel have also taken several depositions of the representatives of the former
3 defendants in this action relating to, among other topics, their relationship with
4 Labrada. Marron Decl. ¶ 5. Plaintiff and Labrada have also exchanged expert reports
5 and have deposed each other’s experts. Marron Decl. ¶ 5.

6 On March 2, 2020, Plaintiff filed a Motion for Class Certification (ECF No.
7 351) and Labrada filed a Motion for Summary Judgment. (ECF No. 352). On August
8 31, 2021, the Court issued an order granting in part and denying in part Plaintiff’s
9 Motion for Class Certification and granting in part and denying in part Labrada’s
10 Motion for Summary Judgment. (ECF No. 444). The August 31, 2021 Order
11 dismissed the claims of former plaintiffs Diane Morrison and Teresa Rizzo-Marino
12 leaving Plaintiff Veda Woodard as the sole remaining named Plaintiff and class
13 representative. The August 31, 2021 Order also dismissed Plaintiff’s claims against
14 defendants Interhealth Nutraceuticals, Inc., Lee Labrada, and Labrada Nutritional
15 Systems, Inc. leaving defendant Labrada Bodybuilding Nutrition, Inc. as the sole
16 remaining defendant in this action.² The Court certified the following classes: (1.)
17 “All persons in California who purchased the Labrada Green Coffee Bean Extract
18 Product for personal and household use and not for resale from February 2, 2012
19 until the date class notice is disseminated” and (2.) “All persons in California who
20 purchased the Labrada Garcinia Cambogia Product for personal and household use
21 and not for resale from February 2, 2012 until the date notice is disseminated.” (ECF
22 No. 444 at 57).

23 On January 27, 2022, Plaintiff and Labrada attended a full-day mediation
24 session before the Honorable Judge Leo S. Papas (Ret.). Marron Decl. ¶ 7. Judge
25 Papas is a highly experienced and well-regarded mediator who served as a

26 _____
27 ² The Media Defendants were previously dismissed pursuant to a stipulation of the
28 Parties (ECF No. 418) and defendant Naturex, Inc. was previously dismissed
pursuant to a class action settlement agreement that was granted final approval by
this Court. (ECF No. 321).

1 Magistrate Judge for the U.S. District Court, Southern District of California from
2 1991 to 2009, including a tenure as the Presiding Judge from 2002 to 2007. Marron
3 Decl. ¶ 7. Plaintiff and Labrada submitted mediation statements and supporting
4 documents in connection with the mediation. Marron Decl. ¶ 7. Judge Papas’
5 guidance with the negotiations between Class Counsel and Labrada resulted in a
6 general framework for the settlement of this action. Marron Decl. ¶ 8. During the
7 ensuing months, Class Counsel and Labrada negotiated the remaining terms of the
8 settlement and reached an agreement in principle, which is now finalized as reflected
9 in the Settlement Agreement. Marron Decl. ¶ 8.

10 **III. SUMMARY OF THE PROPOSED SETTLEMENT**

11 The following is a summary of the material terms of the proposed Settlement.

12 **A. The Settlement Classes**

13 Consistent with the Court’s August 31, 2021 Order regarding class
14 certification (ECF No. 444 at 57), the settlement classes are defined as follows:

15 **Green Coffee Bean Extract Class**

16 All persons in California who purchased the Labrada Green Coffee Bean
17 Extract product for personal and household use and not for resale from
18 February 2, 2012, until the date class notice is disseminated.

19 **Garcinia Cambogia Class**

20 All persons in California who purchased the Labrada Garcinia Cambogia
21 product for personal and household use and not for resale from February 2,
22 2012, until the date notice is disseminated.³

23 Agreement § 2.1(II).
24
25

26 ³ Excluded from the Settlement Classes are Labrada’s current and former officers
27 and directors, members of the immediate families of Labrada’s officers and
28 directors, Labrada’s legal representatives, heirs, successors, and assigns, any entity
in which Labrada has or had a controlling interest during the Class Period, and the
judicial officers to whom this lawsuit is assigned. Agreement § 2.1(II).

1 **B. Settlement Consideration**

2 **1. Monetary Relief**

3 The Settlement Agreement provides that Labrada will pay \$625,000 into a
4 settlement fund. Agreement § 2.1(HH). This fund will be used for, among other
5 things, to pay authorized claims to the Settlement Class Members, to pay the costs
6 of settlement administration and notice to the Class Members, to pay Class
7 Counsel’s fees and expenses, and to pay an incentive award to Plaintiff Woodard.
8 Agreement § 5.1(3)(b).

9 Class members who submit a claim with a proof of purchase for one or more
10 Class Products will receive \$5.00 in cash from the Settlement Fund for each purchase
11 reflected on the proof(s) of purchase for up to ten products purchased during the
12 class period. Agreement § 5.1(1)(a). Class members who submit a claim without a
13 proof of purchase will receive \$5.00 in cash from the Settlement Fund for each
14 product purchased during the class period for up to four products. Agreement §
15 5.1(1)(b). In no event shall any class member receive a cash payment of more than
16 \$50.00 total from the Settlement Fund. Agreement § 5.1(1)(c). If the amount of valid
17 claims timely submitted by class members exceeds the amount allocated for cash
18 payments to class members from the Settlement Fund, cash payments to
19 participating class members who submit timely and valid claims will be reduced pro
20 rata until the funds allocated for class member cash payments remaining in the
21 Settlement Fund are exhausted. Agreement § 5.1(1)(d). To the extent that the
22 payments allocated or made from the Settlement Fund are less than \$625,000, 50%
23 of the difference, if any, shall revert to Labrada and the remaining 50% of the
24 difference shall be transmitted to Smile Train or in the alternative, Consumers
25 Union, as a *cy pres* beneficiary. Agreement § 5.1(3)(c).

26 **2. Injunctive Relief**

27 Labrada agrees to the following injunctive relief: Labrada shall cease selling
28 the Products by August 1, 2022. Agreement § 5.1(2)(a).

1 **C. The Notice Program and Settlement Administration**

2 Pending this Court’s approval, Classaura, LLC will serve as the Notice and
3 Settlement Administrator, and will be responsible for administrating the Notice
4 Program and for paying valid claims to Settlement Class Members. The Notice
5 Program consists of five different components: (1) a Settlement Website, (2) direct
6 email notice to class members who purchased Class Products from the Labrada
7 website, (3) Online Notice, (4) Print Publication Notice in compliance with the
8 California Civil Code § 1781(d), and (5) a Press Release via PR Newswire.
9 Agreement at Ex. E [Declaration of Gajan Retnasaba (“Retnasaba Decl.”), ¶¶ 6-19].
10 The forms of the proposed Notices, agreed upon by Class Counsel and Labrada,
11 subject to this Court’s approval and/or modification, are attached to the Settlement
12 Agreement as Exhibits B & C. The Notice Administrator will establish a settlement
13 website and toll free number that will remain accessible through the Claim Deadline.
14 Agreement at Ex. E [Retnasaba Decl., ¶¶ 16-19]).

15 The Notice program is designed to provide the Settlement Class with
16 important information regarding the Settlement and their rights thereunder,
17 including a description of the material terms of the Settlement; a date by which
18 Settlement Class members may exclude themselves from or “opt-out” of the
19 Settlement Class; a date by which Settlement Class Members may object to the
20 Settlement, Class Counsel’s fee application and/or the request for a Service Award;
21 the date of the Final Approval Hearing; information regarding the Settlement
22 Website where Settlement Class members may access the Agreement, and other
23 important documents.

24 **D. Claims Process**

25 The Claims process here is intentionally straightforward, easy to understand
26 for Settlement Class members, and designed so that they can make a claim to their
27 portion of the Settlement Fund without complication. Settlement Class members will
28 make a claim by submitting a valid and timely Claim Form to the Settlement

1 Administrator. Agreement § 5.1(4)-(6). A copy of the Claim Form is attached to the
2 Settlement Agreement as Exhibit A.⁴ Claim Forms may be sent in by hard copy or
3 submitted electronically on the Settlement Website. Agreement § 5.1(5)(a). Once a
4 Settlement Class member submits a Claim Form and it is reviewed and approved by
5 the Settlement Administrator, the Settlement Class Member will automatically
6 receive a cash payment as discussed above. Agreement § 5.1(4)(b).

7 **E. Opt-Out and Objection Procedures**

8 Settlement Class members who do not wish to participate in the Settlement
9 may opt-out of the Settlement by sending a written request to the Settlement
10 Administrator at the address designated in the Notice or through the settlement
11 website. Agreement § 3.3(a). Settlement Class members who timely opt-out of the
12 Settlement will preserve their rights to individually pursue any claims they may have
13 against Labrada, subject to any defenses that Labrada may have against those claims.
14 *Id.* The Settlement Agreement details the requirements to properly opt-out of the
15 Settlement Class. *Id.* A Settlement Class member must opt-out of the Settlement
16 Class by the Objection/Exclusion Deadline. Agreement § 3.3(a).

17 Settlement Class Members who wish to file an objection to the Settlement
18 likewise must do so no later than the Objection/Exclusion Deadline. Agreement §
19 3.4. For an objection to be considered by the Court, it must be in writing and
20 accompanied by any documentary or other evidence and any factual or legal
21 arguments that the objecting Class Member intends to rely upon in making the
22 objection. Agreement § 3.4(a)-(b). All objections must also (1) clearly identify the
23 case name and number, (2) be filed with the court and mailed to the Settlement
24 Administrator and to counsel for the settling parties, and (3) be postmarked on or
25 before the Objection/Exclusion Deadline. Agreement § 3.4(b).

26 _____
27 ⁴ The Claim Form requires basic information from Settlement Class members,
28 including: (1) name; (2) current address; (3) email address; (4) identification and
date of the Class Products purchased; (5) location of where the Class Products were
purchased from; and (6) a current contact telephone number. Agreement at Ex. A.

1 **F. Release of Claims**

2 As of the Effective Date of the Settlement, each Settlement Class Member
3 shall be deemed to have, and by operation of the Final Judgment shall have, fully,
4 finally, and forever released, relinquished, and discharged all Class Released Claims
5 against the Released Parties. Agreement § 6.1. The Class Released Claims are
6 defined in Section 2.1(DD) of the Settlement Agreement and include “all actions,
7 claims, demands, rights, suits, and causes of action of whatever kind or nature
8 whatsoever, including without limitation any and all damages, restitution, loss,
9 statutory relief, bad faith claims, costs, expenses, penalties, attorneys’ fees, expert
10 fees, and interest, whether known or unknown, suspected or unsuspected, assigned
11 or unassigned, asserted or unasserted, whether as individual claims or claims
12 asserted on a class basis or on behalf of the general public, in law or equity, arising
13 out of or relating to any claim or allegation made in the Litigation, including, without
14 limitation, any and all claims or allegations relating to the advertising, marketing,
15 labeling or sale of the Products.” Agreement § 2.1(DD). The Released Parties are
16 defined in Section 2.1(EE) of the Settlement Agreement.

17 **G. Class Counsel’s Fees and Expenses and Plaintiff’s Service Award**

18 The Settlement Agreement provides that Class Counsel shall make an
19 application for attorneys’ fees and expenses not to exceed 30% of the Settlement
20 Fund or \$187,500, whichever is less. Agreement § 7.1. Because attorneys’ fees and
21 expenses are together capped at 30% of the Settlement Fund (or \$187,500), Class
22 Counsel expects that their request for attorneys’ fees will be less than 25% of the
23 Settlement Fund considering the significant out-of-pocket costs that have been
24 incurred in connection with prosecuting this action. Marron Decl., ¶ 9; *In re*
25 *Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) (“courts
26 typically calculate 25% of the fund as the ‘benchmark’ for a reasonable fee award,
27 providing adequate explanation in the record of any ‘special circumstances’
28 justifying a departure). If the Court grants Plaintiffs’ Motion for Preliminary

1 Approval, then Class Counsel will fully address the reasonableness of their requested
2 fee award in their Motion for Attorneys’ Fees, Costs, and Incentive Awards.

3 The Settlement Agreement also provides that Class Counsel may ask for the
4 award of an Incentive Award from the Settlement Fund to Plaintiff Woodard in the
5 amount of \$5,000. Agreement § 7.3. This \$5,000 incentive award is presumptively
6 reasonable. *See Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 266 (N.D.
7 Cal. 2015) (“a \$5,000 payment is presumptively reasonable”); *Wren v. RGIS*
8 *Inventory Specialists*, No. C-06-05778 JCS, 2011 WL 1230826, at *36 (N.D. Cal.
9 Apr. 1, 2011) (“there is ample case law finding \$5,000 to be a reasonable amount
10 for an incentive payment.”).

11 **IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL**

12 Public policy “strong[ly] . . . favors settlements, particularly where complex
13 class action litigation is concerned.” *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d
14 539, 556 (9th Cir. 2019) (en banc) The “2018 amendment to Rule 23(e) establishes
15 core factors district courts must consider when evaluating a request to approve a
16 proposed settlement.” *Zamora Jordan v. Nationstar Mortg., LLC*, 2019 WL
17 1966112, at *2 (E.D. Wash. May 2, 2019). In evaluating the 23(e) factors, it “is the
18 settlement taken as a whole, rather than the individual component parts, that must
19 be examined for overall fairness.” *Carlin v. DairyAmerica, Inc.*, 380 F. Supp. 3d
20 998, 1009 (E.D. Cal. 2019) (citation omitted).

21 Factors that the Ninth Circuit considers include (1) the strength of plaintiffs’
22 case; (2) the risk, expense, complexity, and likely duration of further litigation; (3)
23 the risk of maintaining class action status throughout the trial; (4) the amount offered
24 in settlement; (5) the extent of discovery completed and the stage of the proceedings;
25 and (6) the experience and views of counsel. *Hanlon v. Chrysler Corp.*, 150 F.3d
26 1011, 1026 (9th Cir. 1998); *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575
27 (9th Cir. 2004).

1 **V. THE PROPOSED SETTLEMENT WARRANTS PRELIMINARY**
2 **APPROVAL**

3 **A. Plaintiff and Class Counsel Have Adequately Represented the**
4 **Class**

5 Rule 23(e)(2)(A) requires the Court to consider whether “the class
6 representatives and class counsel have adequately represented the class.” Fed. R.
7 Civ. P. 23(e)(2)(A). This analysis is “redundant of the requirements of Rule 23(a)(4)
8 and Rule 23(g), respectively.” 4 NEWBERG ON CLASS ACTIONS § 13:48 (5th ed.). A
9 determination of adequacy of representation requires that “two questions be
10 addressed: (a) do the named plaintiffs and their counsel have any conflicts of interest
11 with other class members and (b) will the named plaintiffs and their counsel
12 prosecute the action vigorously on behalf of the class?” *In re Mego Fin. Corp. Sec.*
13 *Litig.*, 213 F.3d 454, 462 (9th Cir. 2000), *as amended* (June 19, 2000) (citing *Hanlon*,
14 150 F.3d at 1020)).

15 This Court previously determined that Plaintiff Woodard is an adequate
16 representative of the certified classes. (ECF No. 444 at 45-46). Plaintiff Woodard
17 has no conflicts of interest with other class members and has prosecuted this action
18 diligently on behalf of the Classes. This has included sitting for a tough deposition,
19 consulting with counsel on other discovery issues, submitting declarations, and
20 staying up to date on the case over six years. (ECF No. 351-45 [Declaration of Veda
21 Woodard in Support of Plaintiffs’ Motion for Class Certification]).

22 Class Counsel have also vigorously represented the certified classes and have
23 no conflicts of interest. The Settlement was negotiated by counsel experienced in
24 consumer class action litigation. (ECF No. 351-2 [Declaration of Ronald A. Marron
25 in Support of Motion for Class Certification at ¶¶ 41-60] & ECF No. 351-44
26 [Declaration of Timothy D. Cohelan in Support of Motion for Class Certification]).
27 Through the discovery process, Class Counsel obtained sufficient information and
28 documents to evaluate the strengths and weaknesses of the case. *See* 4 NEWBERG ON

1 CLASS ACTIONS § 13:49 (5th ed.) (“if extensive discovery has been done, a court
2 may assume that the parties have a good understanding of the strengths and
3 weaknesses of their respective cases and hence that the settlement’s value is based
4 upon such adequate information.”). Based on such discovery and their experience,
5 Class Counsel believe that the Settlement provides exceptional results for the class
6 while sparing the class from the uncertainties of even more protracted litigation.
7 Marron Decl., ¶ 10. *See, e.g., In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036,
8 1043 (N.D. Cal. 2007) (“The recommendations of plaintiffs’ counsel should be given
9 a presumption of reasonableness.”); *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948,
10 967 (9th Cir. 2009) (“Parties represented by competent counsel are better positioned
11 than courts to produce a settlement that fairly reflects each party’s expected outcome
12 in litigation.”).

13 **B. The Settlement was Negotiated at Arm’s Length**

14 Rule 23(e)(2)(B) requires the Court to consider whether “the proposal was
15 negotiated at arm’s length.” Fed. R. Civ. P. 23(e)(2)(B). Here, the settlement was
16 negotiated at arm’s length under the supervision of Judge Papas after hard-fought
17 litigation and discovery. Marron Decl., ¶ 10. Further, the Parties did not settle until
18 after they had briefed class certification and summary judgment motions. Marron
19 Decl., ¶ 10. Settlement discussions also did not begin until after the Parties had
20 engaged in substantial discovery, including multiple rounds of written discovery,
21 depositions, and the exchange of expert reports. Marron Decl., ¶ 10. *See Nat’l Rural*
22 *Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004) (“A
23 settlement following sufficient discovery and genuine arms-length negotiation is
24 presumed fair.”).

25 **C. The Relief Provided to the Class Is Adequate**

26 Rule 23(e)(2)(C) requires that the Court consider whether “the relief provided
27 for the class is adequate, taking into account: (i) the costs, risks, and delay of trial
28 and appeal; (ii) the effectiveness of any proposed method of distributing relief to the

1 class, including the method of processing class-member claims; (iii) the terms of any
2 proposed award of attorney's fees, including timing of payment; and (iv) any
3 agreement required to be identified under Rule 23(e)(3).” Fed. R. Civ. P.
4 23(e)(2)(C).

5 “Before the Rule arrives at the articulation of sub-factors, its general directive
6 asks whether the class's relief is adequate.” 4 NEWBERG ON CLASS ACTIONS § 13:51
7 (5th ed.). “In evaluating the value of the class members' claims, the court need not
8 decide the merits of the case nor substitute its judgment of what the case might be
9 worth for that of class counsel; however, ‘the court must at least satisfy itself that
10 the class settlement is within the ‘ballpark’ of reasonableness.’” *Id.* (citation
11 omitted).

12 During discovery, Plaintiff obtained sales information for the Labrada
13 Products. This sales information was produced by Labrada and from non-party the
14 Vitamin Shoppe. This sales information was provided to Plaintiffs’ damages expert,
15 Charlene L. Podlipna, CPA, who prepared an expert report on damages that was
16 submitted in connection with Plaintiff’s Motion for Class Certification. (ECF No.
17 445-13 [Podlipna Expert Report]). Ms. Podlipna’s class wide damages calculation
18 is based on the full refund model, which multiplies the total units sold by an average
19 retail price. *See Lambert v. Nutraceutical Corp.*, 870 F.3d 1170, 1183 (9th Cir.
20 2017), *rev'd on other grounds*, 139 S. Ct. 710, 203 L. Ed. 2d 43 (2019) (“The full
21 refund model measures damages by presuming a full refund for each customer, on
22 the basis that the product has no or only a *de minimis* value.”). Ms. Podlipna
23 concluded that damages to the California Classes total [REDACTED]. (ECF No. 445-
24 13 [Podlipna Expert Report at ¶ 19]).⁵ Accordingly, the \$625,000 settlement fund
25 accounts for approximately [REDACTED] of total damages that would be available at trial.
26

27 ⁵ This amount was determined by multiplying the number of Labrada Products sold
28 in California by the average retail price of the Products in California. (ECF No. 445-
13 [Podlipna Expert Report at ¶ 21]).

1 This amount is well within the range of reasonableness. *See, e.g., Stovall-Gusman v.*
2 *W.W. Granger, Inc.*, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (granting
3 final approval of a net settlement amount representing 7.3% of the plaintiffs’
4 potential recovery at trial); *Balderas v. Massage Envy Franchising, LLC*, 2014 WL
5 3610945, at *5 (N.D. Cal. July 21, 2014) (granting preliminary approval of a net
6 settlement amount representing 5% of the projected maximum recovery at trial); *Ma*
7 *v. Covidien Holding, Inc.*, 2014 WL 360196, at *5 (C.D. Cal. Jan. 31, 2014) (finding
8 a settlement worth 9.1% of the total value of the action “within the range of
9 reasonableness”); *Downey Surgical Clinic, Inc. v. Optuminsight, Inc.*, 2016 WL
10 5938722 at *5 (C.D. Cal. May 16, 2016) (granting final approval where recovery
11 was as low as 3.21% of potential recovery at trial). Accordingly, the Court should
12 find that the amount offered in the settlement is reasonable.

13 **1. The Costs, Risks, and Delay of Trial and Appeal Support Final**
14 **Approval**

15 The costs, risks, and delay of trial and appeal further support final approval.
16 Proceeding in this litigation in the absence of settlement poses various risks such as
17 losing at trial or on appeal. Such considerations have been found to weigh heavily
18 in favor of settlement. *See Curtis-Bauer v. Morgan Stanley & Co., Inc.*, 2008 WL
19 4667090, at *4 (N.D. Cal. Oct. 22, 2008) (“Settlement avoids the complexity, delay,
20 risk and expense of continuing with the litigation and will produce a prompt, certain,
21 and substantial recovery for the Plaintiff class.”).

22 **2. The Proposed Method of Distribution Is Effective**

23 “[T]he goal of any distribution method is to get as much of the available
24 damages remedy to class members as possible and in as simple and expedient a
25 manner as possible.” 4 NEWBERG ON CLASS ACTIONS § 13:53 (5th ed.). Here, the
26 claims process is straightforward and allows Settlement Class members to make a
27 claim by submitting a valid and timely Claim Form to the Settlement Administrator
28 without complication. *See In re Toyota Motor Corp. Unintended Acceleration Mktg.*,

1 *Sales Practices, & Prod. Liab. Litig.*, 2013 WL 3224585, at *18 (C.D. Cal. June 17,
2 2013) (“The requirement that class members download a claim form or request in
3 writing a claim form, complete the form, and mail it back to the settlement
4 administrator is not onerous.”).

5 Further, if valid claims exceed the amount of the settlement fund, cash
6 payments to participating class members who submit timely and valid claims will be
7 reduced pro rata until the funds allocated for class member cash payments remaining
8 in the Settlement Fund are exhausted. Agreement § 5.1(1)(d). To the extent that the
9 payments allocated or made from the Settlement Fund are less than \$625,000, 50%
10 of the difference, if any, shall revert to Labrada and the remaining 50% of the
11 difference shall be transmitted to Smile Train or in the alternative, Consumers
12 Union, as a cy pres beneficiary. Agreement § 5.1(1)(c). Class Counsel does not
13 expect that any reversion to Labrada or a cy pres beneficiary will actually occur
14 given the estimated number of claims that are expected to be received. Agreement
15 at Ex. E [Retnasaba Decl., ¶ 25]). However, a small reversion back to Labrada in
16 the amount of 50% of the remaining settlement fund is reasonable. *See Vanwagoner*
17 *v. Siemens Indus., Inc.*, 2014 WL 7273642, at *7 (E.D. Cal. Dec. 17, 2014) (“The
18 court finds that based on the number of participating members and based on
19 defendant's unwillingness to settle otherwise, the reversionary provision is fair.”)
20 (citing *Ching v. Siemens Indus., Inc.*, 2014 WL 2926210, at *5 (N.D.Cal. June 27,
21 2014) (approving a settlement agreement with a 50 percent reversionary provision).
22 Payment of the remaining 50% of residual funds to Smile Train or in the alternative,
23 Consumers Union, as a cy pres beneficiary is also reasonable. Accordingly, the
24 Court should find the proposed distribution method to be effective.

25 **3. *The Proposed Attorneys’ Fee Award Is Fair and Reasonable***

26 As discussed above, the Settlement Agreement provides that Class Counsel
27 shall make an application for attorneys’ fees and expenses not to exceed 30% of the
28 Settlement Fund or \$187,500, whichever is less. Agreement § 7.1. Because

1 attorneys' fees and expenses are together capped at 30% of the Settlement Fund (or
2 \$187,500), Class Counsel expects that their request for attorneys' fees will be less
3 than 25% of the Settlement Fund considering the significant out-of-pocket costs that
4 have been incurred in connection with prosecuting this action. Marron Decl., ¶ 9.
5 Moreover, the proposed attorneys' fee award will result in a negative multiplier of
6 Class Counsel's total lodestar given the significant amount of time that was devoted
7 to this action. As the Ninth Circuit and Supreme Court have noted, "the lodestar
8 method yields a fee that is presumptively [reasonable]." *In re Hyundai & Kia Fuel*
9 *Econ. Litig.*, 926 F.3d 539, 571 (9th Cir. 2019) (quoting *Perdue v. Kenny A. ex rel.*
10 *Winn*, 559 U.S. 542, 552 (2010)). Because the total requested fee award will be less
11 than Class Counsel's lodestar, the Court should find that the requested attorneys'
12 fees are fair and reasonable.

13 **4. No Side Agreements Were Made in Connection with the Proposed**
14 **Settlement**

15 Rule 23(e)(3) requires that the Parties "must file a statement identifying any
16 agreement made in connection with the [settlement] proposal." Fed. R. Civ. P.
17 23(e)(3). No agreements were made in connection with the settlement aside from the
18 Settlement Agreement itself. Marron Decl., ¶ 11.

19 **D. The Proposed Settlement Treats Class Members Equitably**

20 Rule 23(e)(2)(D) requires the Court to consider whether the Settlement
21 Agreement "treats class members equitably relative to each other." Fed. R. Civ. P.
22 23(e)(2)(D). "A distribution of relief that favors some class members at the expense
23 of others may be a red flag that class counsel have sold out some of the class
24 members at the expense of others, or for their own benefit." 4 NEWBERG ON CLASS
25 ACTIONS § 13:56 (5th ed.). Here, the settlement treats each class member equitably.
26 As discussed above, each class member can make a claim for \$5 in cash from the
27 settlement fund for up to ten products purchased with proof(s) of purchase or up to
28 four products purchased without proof of purchase. Agreement § 5.1(1)(a)-(b).

1 Allowing class members with proof(s) of purchase to claim payment for additional
2 products is reasonable. *See Kaupelis v. Harbor Freight Tools*, 2021 WL 4816833,
3 at *11 (C.D. Cal. Aug. 11, 2021) (noting that class members without proof of
4 purchase “will have difficulty proving that they did in fact purchase the Class
5 Products” and therefore “would have weaker claims...[t]heir lesser relief is therefore
6 justified and equitable.”) (alterations in original). Because each class member is
7 treated equitably, the Court should approve the settlement as fair, reasonable, and
8 adequate.

9 **VI. ADDITIONAL FACTORS SUPPORTING APPROVAL OF**
10 **SETTLEMENT**

11 In addition to the factors set forth in Rule 23(e), courts may consider
12 additional factors in contemplating preliminary approval, such as the “strength of
13 the plaintiff’s case,” “the complexity and likely duration of further litigation,” “the
14 extent of discovery completed and the stage of the proceedings,” and “the experience
15 and views of counsel” *Haralson v. U.S. Aviation Servs. Corp.*, 383 F. Supp. 3d 959,
16 967 (N.D. Cal. 2019). *See also Linney v. Cellular Alaska P’ship*, 151 F.3d 1234,
17 1242 (9th Cir. 1998) (same).

18 **A. The Strength of Plaintiff’s Case**

19 While Plaintiff maintains that her claims are valid and that she would prevail
20 at trial, she acknowledges that he would face challenges. As this Court previously
21 recognized, whether the Products in question are actually ineffective “would like[ly]
22 devolve into an expensive and uncertain ‘battle of experts.’” *Woodard v. Labrada*,
23 2019 WL 4509301, at *10 (C.D. Cal. Apr. 23, 2019). Even if Plaintiff won at trial,
24 Labrada could still appeal which would lead to further protracted proceedings. In
25 contrast, the settlement will provide immediate relief to the Class Members.

26 **B. The Extent of Discovery Completed and the State of Proceedings**

27 This factor strongly weighs in favor of settlement approval. The Parties have
28 engaged in substantial discovery and motion practice. As this Court has recognized,

1 Class Counsel “have both devoted significant time to identify and conduct discovery
2 of Plaintiffs’ claims, as indicated by the voluminous evidence submitted with the
3 [Motions for Summary Judgment] and [Motion for Class Certification].” (ECF No.
4 444 at 46). The parties have now received a ruling on the summary judgment motions
5 and the class certification motion, which provides further insights to the strengths
6 and weaknesses of Plaintiff’s claims. Because this case has been heavily litigated,
7 the Court should find that the extent of discovery and state of proceedings support
8 preliminary approval.

9 **C. The Complexity and Duration of Further Litigation**

10 The likely duration of further litigation weighs in favor of settlement approval.
11 This action was filed in February of 2016— more than six years ago— and was the
12 work of substantial pre-filing investigation. The action has been hard fought and
13 Plaintiff is mindful proceeding with the action may result in further delay in an action
14 which has already been pending for six years.

15 **D. The Experience and Views of Counsel**

16 The Class is represented by the Law Offices of Ronald A. Marron and the law
17 firm of Cohelan, Khoury, and Singer. They are experienced in consumer fraud
18 litigation involving food and drugs, including FDA regulated supplements. The
19 Court previously found them to be adequate when it appointed them Class Counsel.
20 In Class Counsel’s view, the Settlement provides a substantial benefit to the Class.
21 Marron Decl., ¶ 10.

22 **VII. THE PROPOSED FORM AND METHOD OF CLASS NOTICE IS**
23 **ADEQUATE AND SATISFIES THE REQUIREMENTS OF RULE 23**

24 Class notice must be “‘reasonably calculated, under all the circumstances, to
25 apprise interested parties of the pendency of the action and afford them an
26 opportunity to present their objections.’” *Caudle v. Sprint/United Mgmt. Co.*, 2019
27 U.S. Dist. LEXIS 216056, at *12 (N.D. Cal. Dec. 16, 2019) (quoting *Muliane v.*
28 *Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)); *see also* Fed. R. Civ.

1 P. 23(e)(1). Class notice also must satisfy Rule 23(c)(2)(B), which provides that the
2 notice must clearly and concisely state the following in plain, easily understood
3 language:

4 (i) the nature of the action; (ii) the definition of the class certified; (iii)
5 the class claims, issues, or defenses; (iv) that a class member may enter
6 an appearance through an attorney if the member so desires; (v) that the
7 court will exclude from the class any member who requests exclusion;
8 (vi) the time and manner for requesting exclusion; and (vii) the binding
9 effect of a class judgment on members under Rule 23(c)(3).

9 The proposed class notice, modeled on others that have been approved by
10 California federal courts, does each of these. Direct notice will be provided to class
11 members who purchased the Products from the Labrada.com website. Agreement at
12 Ex. E [Retnasaba Decl., ¶¶ 6-10]. Because the products are sold at retail, a complete
13 list of class members does not exist to notify directly by name. Therefore, the Parties
14 agreed and propose that notice will be disseminated through Facebook targeted at
15 the demographics most likely to purchase the Products. *Id.* ¶¶ 11-12. Additionally,
16 a California targeted press release will be disseminated through PR Newswire. *Id.* ¶
17 13. Class Notice will also be published in a newspaper of general circulation over
18 four consecutive weeks in Riverside County, where Plaintiff resides, as required by
19 Section 1781 of the Consumer Legal Remedies Act. *Id.* ¶ 15.

20 The Proposed Notice Plan shall further include a class notice website, which
21 will include (1) links to the Class Notice, (2) the Settlement Agreement, (3) this
22 Motion for Preliminary Approval, (4) if and when issued, the Court’s Order granting
23 preliminary approval, (5) the fee motion, and (6) instructions on opting out and filing
24 of objections. Retnasaba Decl., ¶ 16. The Class Notice is written in plain language
25 and contain the information required by Rule 23(c)(2)(B), as well as a user-friendly
26 “Frequently Asked Questions” format. Agreement at Exs. B & C. Both Class
27 Counsel and Classaura, LLC, an experienced class action settlement administrator,
28

1 will be available to further explain the settlement to class members. Accordingly,
2 the Notice and Notice Plan should, respectfully, be approved.

3 **VIII. PROPOSED SCHEDULE OF EVENTS**

4 In connection with preliminary approval of the Settlement Agreement,
5 Plaintiff proposes a schedule described in the table below based on the timeline
6 agreed upon in the Settlement Agreement and the date that the Court sets for the
7 Fairness hearing as set forth below.

Event	Date
Deadline for publishing Notice	45 days after entry of Preliminary Approval Order.
Filing of papers in support of Final Approval and Class Counsel's Application for Attorneys' Fees and Expenses	45 days prior to final approval hearing
Objection and Exclusion Deadline	30 days prior to final approval hearing
Filing of response to objections	10 days prior to final approval hearing
Final Approval Hearing	150 days after notice to the class members
Deadline for submitting claim forms	120 days after notice to the class members

21 **IX. CONCLUSION**

22 For the foregoing reasons, Plaintiff respectfully requests that the Court grant
23 preliminary approval, approve the proposed notice plan, and enter the Proposed
24 Preliminary Approval Order.
25
26
27
28

1 DATED: June 1, 2022

Respectfully submitted,

2
3 /s/ Ronald A. Marron

4 RONALD A. MARRON

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VEDA WOODARD, TERESA RIZZO-MARINO, and DIANE MORRISON,
on behalf of themselves, all others
similarly situated, and the general
public,

Plaintiffs,

vs.

LEE LABRADA; LABRADA
BODYBUILDING NUTRITION, INC.;
LABRADA NUTRITIONAL
SYSTEMS, INC.; DR. MEHMET C.
OZ, M.D.; ENTERTAINMENT
MEDIA VENTURES, INC. d/b/a OZ
MEDIA; ZOCO PRODUCTIONS,
LLC; HARPO PRODUCTIONS, INC;
SONY PICTURES TELEVISION, INC;
NATUREX, INC.; and
INTERHEALTH
NUTRACEUTICALS, INC.,

Defendants.

CASE NO. 5:16-cv-00189-JGB-SP

CLASS ACTION

DECLARATION OF RONALD A. MARRON IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: July 11, 2022

Time: 9:00 a.m.

Ctrm: 1

Judge: Hon. Jesus G. Bernal

1 I, Ronald A. Marron, declare as follows:

2 1. I am a member in good standing of the State Bar of California and of
3 the United States District Courts for the Central District of California. I submit this
4 Declaration in Support of Plaintiff Veda Woodard’s Motion for Preliminary
5 Approval of Class Action Settlement. I make this Declaration based on my personal
6 knowledge and if called to testify, I could and would competently testify to the
7 matters contained herein.

8 2. Attached hereto as **Exhibit 1** is a true and correct copy of the class
9 action Settlement Agreement between Plaintiff Veda Woodard (“Plaintiff”) and
10 Defendant Labrada Bodybuilding Nutrition, Inc. (“Labrada”). Attached to the
11 Settlement Agreement are the following five exhibits: Exhibit A – a proposed Class
12 Action Settlement Claim Form; Exhibit B – a proposed Class Action Long Form
13 Notice; Exhibit C – a proposed Class Action Short Form Notice; Exhibit D – a
14 Proposed Order Granting Joint Motion for Preliminary Approval; and Exhibit E – a
15 proposed Class Action Notice Plan.

16 3. On February 2, 2016, Plaintiff Veda Woodard filed a putative class
17 action complaint alleging violations of consumer protections laws against Naturex,
18 Inc. (“Naturex”), Lee Labrada, Labrada Bodybuilding Nutrition, Inc., Labrada
19 Nutritional Systems, Inc., (“Labrada Defendants”); InterHealth Nutraceuticals Inc.,
20 (“InterHealth”), Zoco Productions, LLC, Harpo Productions, Inc., and Dr. Mehmet
21 C. Oz, M.D. (the “Media Defendants”). (ECF No. 1). The complaint alleged claims
22 arising from the Defendants’ alleged misrepresentations surrounding the
23 effectiveness of the weight-loss supplement products that are manufactured by
24 Labrada, including the Labrada Green Coffee Bean Extract Product and the Labrada
25 Garcinia Cambogia Product.

26 4. On April 4, 2016, the Media Defendants filed a motion to dismiss, (ECF
27 No. 45), which Plaintiff Woodard opposed on April 18, 2016. (ECF No. 61). On
28 May 12, 2016, the Court granted in part and denied in part the Media Defendants’

1 motion to dismiss. (ECF No. 85). Then on June 2, 2016, Plaintiff Veda Woodard,
2 along with former plaintiffs Teresa Rizzo-Marino and Diane Morrison, filed the
3 operative First Amended Complaint (“FAC”). (ECF No. 88). On July 21, 2016,
4 Labrada filed a Motion to Dismiss Plaintiffs’ FAC pursuant to Federal Rule of Civil
5 Procedure 12(b)(6) (ECF No. 105) and on July 31, 2017, the Court issued an Order
6 Denying Labrada’s Motion to Dismiss the FAC. (ECF No. 190). On August 14,
7 2017, Labrada filed an Answer to the FAC. (ECF No. 201).

8 5. Plaintiff and Labrada have engaged in substantial discovery. All Parties
9 to this litigation have collectively produced approximately 30,000 pages of
10 documents and have exchanged approximately 20 sets of formal written discovery.
11 In addition, the Defendants have deposed each of the Class Representatives and
12 Class Counsel has deposed Labrada’s Fed. R. Civ. P. 30(b)(6) designee, Kyle
13 Workman. Class Counsel have also taken the deposition of Lee Labrada, the C.E.O.
14 of Labrada Bodybuilding Nutrition, Inc. In addition to deposing the representatives
15 of Labrada, Class Counsel have also taken several depositions of the representatives
16 of the former defendants in this action relating to, among other topics, their
17 relationship with Labrada. Plaintiff and Labrada have also exchanged expert reports
18 and have deposed each other’s experts.

19 6. On March 2, 2020, Plaintiff filed a Motion for Class Certification (ECF
20 No. 351) and Labrada filed a Motion for Summary Judgment. (ECF No. 352). On
21 August 31, 2021, the Court issued an order granting in part and denying in part
22 Plaintiff’s Motion for Class Certification and granting in part and denying in part
23 Labrada’s Motion for Summary Judgment. (ECF No. 444). The August 31, 2021
24 Order dismissed the claims of former plaintiffs Diane Morrison and Teresa Rizzo-
25 Marino leaving Plaintiff Veda Woodard as the sole remaining named Plaintiff and
26 class representative. The August 31, 2021 Order also dismissed Plaintiff’s claims
27 against defendants Interhealth Nutraceuticals, Inc., Lee Labrada, and Labrada
28 Nutritional Systems, Inc. leaving defendant Labrada Bodybuilding Nutrition, Inc. as

1 the sole remaining defendant in this action. The Court certified the following
2 classes: (1.) “All persons in California who purchased the Labrada Green Coffee
3 Bean Extract Product for personal and household use and not for resale from
4 February 2, 2012 until the date class notice is disseminated” and (2.) “All persons in
5 California who purchased the Labrada Garcinia Cambogia Product for personal and
6 household use and not for resale from February 2, 2012 until the date notice is
7 disseminated.” (ECF No. 444 at 57).

8 7. On January 27, 2022, Plaintiff and Labrada attended a full-day
9 mediation session before the Honorable Judge Leo S. Papas (Ret.). Judge Papas is a
10 highly experienced and well-regarded mediator who served as a Magistrate Judge
11 for the U.S. District Court, Southern District of California from 1991 to 2009,
12 including a tenure as the Presiding Judge from 2002 to 2007.
13 <https://www.judicategwest.com/adr/leo-papas>.

14 8. Judge Papas’ guidance with the negotiations between Class Counsel
15 and Labrada resulted in a general framework for the settlement of this action. During
16 the ensuing months, Class Counsel and Labrada negotiated the remaining terms of
17 the settlement and reached an agreement in principle, which is now finalized as
18 reflected in the Settlement Agreement.

19 9. The Settlement Agreement provides that Class Counsel shall make an
20 application for attorneys’ fees and expenses not to exceed 30% of the Settlement
21 Fund or \$187,500, whichever is less. Because attorneys’ fees and expenses are
22 together capped at 30% of the Settlement Fund (or \$187,500), Class Counsel expects
23 that their request for attorneys’ fees will be less than 25% of the Settlement Fund
24 considering the significant out-of-pocket costs that have been incurred in connection
25 with prosecuting this action.

26 10. Class Counsel believe that the Settlement provides exceptional results
27 for the class while sparing the class from the uncertainties of even more protracted
28 litigation. The settlement was negotiated at arm’s length under the supervision of

1 Judge Papas after hard-fought litigation and discovery. Further, the Parties did not
2 settle until after they had briefed class certification and summary judgment motions.
3 Settlement discussions also did not begin until after the Parties had engaged in
4 substantial discovery, including multiple rounds of written discovery, depositions,
5 and the exchange of expert reports. In Class Counsel’s view, the Settlement provides
6 a substantial benefit to the Class.

7 11. Rule 23(e)(3) requires that the Parties “must file a statement identifying
8 any agreement made in connection with the [settlement] proposal.” Fed. R. Civ. P.
9 23(e)(3). No agreements were made in connection with the settlement aside from the
10 Settlement Agreement itself.

11
12 I declare under penalty of perjury of the laws of the United States that the
13 foregoing is true and correct.

14
15 Executed on this 1st day of June, 2022 in San Diego, California.

16
17 /s/ Ronald A. Marron
18 RONALD A. MARRON
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EXHIBIT 1

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VEDA WOODARD, TERESA RIZZO-
MARINO, and DIANE MORRISON,
on behalf of themselves, all others
similarly situated, and the general
public,

Plaintiffs,

vs.

LEE LABRADA; LABRADA
BODYBUILDING NUTRITION, INC.;
LABRADA NUTRITIONAL
SYSTEMS, INC.; DR. MEHMET C.
OZ, M.D.; ENTERTAINMENT
MEDIA VENTURES, INC. d/b/a OZ
MEDIA; ZOCO PRODUCTIONS,
LLC; HARPO PRODUCTIONS, INC;
SONY PICTURES TELEVISION, INC;
NATUREX, INC.; and
INTERHEALTH
NUTRACEUTICALS, INC.,

Defendants.

CASE NO. 5:16-cv-00189-JGB-SP

CLASS ACTION

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT**

1 This Joint Stipulation of Settlement (“Agreement”, “Settlement Agreement”,
2 or “Stipulation”) is made and entered into by and between Plaintiff Veda Woodard
3 on behalf of herself and the Settlement Class Members defined below (hereafter
4 collectively referred to as “Plaintiff” or the “Class”), and Defendant Labrada
5 Bodybuilding Nutrition, Inc. (“Labrada,” and together with Plaintiff, the “Settling
6 Parties”) and resolves in full the class action lawsuit (the “Action”) as to Labrada.
7 Subject to Court approval pursuant to the applicable Federal Rules of Civil
8 Procedure, and as provided herein, the Settling Parties hereby stipulate and agree
9 that, in consideration for the promises and covenants set forth in this Settlement
10 Agreement and upon the entry by the Court of a Final Judgment and Order
11 Approving Settlement and the occurrence of the Effective Date, the Action shall be
12 settled and compromised upon the terms and conditions contained herein with
13 respect to Labrada.

14 RECITALS

15 I. PROCEDURAL BACKGROUND

16 1.1 WHEREAS, on February 2, 2016, Plaintiff Veda Woodard filed a class
17 action complaint in the United States District Court for the Central District of
18 California, Case No. 5:16-cv-00189-JGB-SP against Defendants Lee Labrada,
19 Labrada Bodybuilding Nutrition, Inc., Labrada Nutritional Systems, Inc., Dr.
20 Mehmet C. Oz, M.D., Entertainment Media Ventures, Inc., Zoco Productions, LLC,
21 Harpo Productions, Inc., Sony Pictures Television, Inc., Naturex, Inc. and
22 Interhealth Nutraceuticals, Inc. alleging causes of action for (1.) fraud and deceit;
23 (2.) Negligent Misrepresentation; (3.) Quasi-Contract/ Unjust Enrichment; (4.)
24 Violations of California’s Unfair Competition Law, Cal. Bus. & Prof. Code §§
25 17200, *et seq.*; (5.) Violations of California’s Consumers Legal Remedies Act, Cal.
26 Civ. Code §§ 1750 *et seq.*; (6.) Violations of California’s False Advertising Law,
27 Cal. Bus. & Prof. Code §§ 17500 *et seq.*; (7.) Breach of Express Warranty, Cal.
28 Comm. Code § 2313; and, (8.) Breach of Implied Warranty of Merchantability, Cal.

1 Comm. Code § 2314.

2 1.2 WHEREAS, on April 18, 2016, Labrada filed a Motion to Dismiss
3 Plaintiff Woodard’s class action complaint (ECF No. 51) pursuant to Federal Rule
4 of Civil Procedure 12(b)(6)

5 1.3 WHEREAS, on May 12, 2016, the Court entered an Order Granting in
6 Part and Denying in Part a Motion to Dismiss Plaintiff Woodard’s Complaint that
7 was filed by Defendants Dr. Mehmet C. Oz, M.D., Entertainment Media Ventures,
8 Inc., Zoco Productions, LLC, Harpo Productions, Inc., Sony Pictures Television,
9 Inc. (collectively, the “Media Defendants”) and granted Plaintiff leave to file a First
10 Amended Complaint. (ECF No. 85).

11 1.4 WHEREAS, on June 2, 2016, Plaintiffs Veda Woodard, Teresa Rizzo-
12 Marino, and Diane Morrison filed a First Amended Complaint against Defendants
13 Lee Labrada, Labrada Bodybuilding Nutrition, Inc., Labrada Nutritional Systems,
14 Inc., Dr. Mehmet C. Oz, M.D., Entertainment Media Ventures, Inc., Zoco
15 Productions, LLC, Harpo Productions, Inc., Sony Pictures Television, Inc., Naturex,
16 Inc. and Interhealth Nutraceuticals, Inc. alleging causes of action for (1.) fraud,
17 deceit, and suppression of facts; (2.) [omitted]; (3.) Negligent Misrepresentation; (4.)
18 Violations of California’s Unfair Competition Law, Cal. Bus. & Prof. Code §§
19 17200, et seq.; (5.) Violations of California’s Consumers Legal Remedies Act, Cal.
20 Civ. Code §§ 1750 et seq.; (6.) Violations of California’s False Advertising Law,
21 Cal. Bus. & Prof. Code §§ 17500 et seq.; (7. [misidentified as Count 4]) Breach of
22 Express Warranty, Cal. Comm. Code § 2313; (8. [misidentified as Count 5]) Breach
23 of Implied Warranty of Merchantability, Cal. Comm. Code § 2314; (9.
24 [misidentified as Count 6]) Breach of Express Warranty, N.Y. U.C.C. § 2-313; (10.
25 [misidentified as Count 8]) Breach of Implied Warranty of Merchantability, N.Y.
26 U.C.C. § 2-314; (11. [misidentified as Count 9]) Breach of Express Warranties to
27 Intended Third Party Beneficiaries; (12. [misidentified as Count 10]) Violations of
28 the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, et seq.; (13. [misidentified

1 as Count 11]) Violations of New York’s Unfair Trade Practices Law, N.Y. Gen. Bus.
2 Law § 349; and (14. [misidentified as Count 12]) Violations of New York’s False
3 Advertising Law, N.Y. Gen. Bus. Law § 350.

4 1.5 WHEREAS, on July 21, 2016, Labrada filed a Motion to Dismiss
5 Plaintiffs’ First Amended Complaint pursuant to Federal Rule of Civil Procedure
6 12(b)(6) (ECF No. 105).

7 1.6 WHEREAS, on July 31, 2017, the Court issued an Order Denying
8 Labrada’s Motion to Dismiss the First Amended Complaint (ECF No. 190).

9 1.7 WHEREAS, on August 14, 2017, Labrada filed an Answer to the First
10 Amended Complaint (ECF No. 201).

11 1.8 WHEREAS, on March 2, 2020, Plaintiffs filed a Motion for Class
12 Certification (ECF No. 351).

13 1.9 WHEREAS, on March 2, 2020, Labrada filed a Motion for Summary
14 Judgment (ECF No. 352).

15 1.10 WHEREAS, on August 31, 2021, the Court issued an order granting in
16 part and denying in part Plaintiffs’ Motion for Class Certification and granting in
17 part and denying in part Labrada Motion for Summary Judgment (ECF No. 444).
18 The August 31, 2021 Order dismissed the claims of Plaintiffs Diane Morrison and
19 Teresa Rizzo-Marino leaving Plaintiff Veda Woodard as the sole remaining named
20 Plaintiff. The August 31, 2021 Order also dismissed Plaintiffs claims against all
21 defendants except for remaining Defendant Labrada Bodybuilding Nutrition, Inc.
22 The Court certified the following classes: (1.) “All persons in California who
23 purchased the Labrada Green Coffee Bean Extract Product for personal and
24 household use and not for resale from February 2, 2012 until the date class notice is
25 disseminated” and (2.) “All persons in California who purchased the Labrada
26 Garcinia Cambogia Product for personal and household use and not for resale from
27 February 2, 2012 until the date notice is disseminated.”
28

1 1.11 WHEREAS, on January 27, 2022, Plaintiff and Labrada attended a full-
2 day mediation session before the Honorable Judge Leo S. Papas (Ret.). Class
3 Counsel and Labrada reached an agreement in principle, which is now finalized as
4 reflected in this Settlement Agreement, which Plaintiff and Class Counsel believe
5 provides benefits to the Settlement Class, is fair, reasonable and adequate, and is in
6 the best interests of Plaintiffs and the Settlement Class Members.

7 1.12 WHEREAS, this Settlement Agreement was reached after extensive
8 review of the underlying facts and after extensive arm's-length negotiations between
9 Class Counsel and counsel for Labrada.

10 1.13 WHEREAS, based upon the discovery and investigation to date and
11 evaluation of the facts and law relating to the matters alleged in the pleadings,
12 Plaintiff and Class Counsel have agreed to settle, subject to court approval, the
13 claims asserted in the Action against Labrada pursuant to the provisions of this
14 Settlement Agreement. In so doing, Plaintiff and Class Counsel have considered the
15 terms of this Stipulation, the numerous risks of continued litigation and other factors,
16 including but not limited to the following: (a.) The expense and length of time
17 necessary to prosecute this Action through trial; (b.) The uncertain outcome at trial
18 and the possibility of an appeal by either side following the trial; (c.) The fact that
19 Labrada could prevail at trial; and (d.) The benefits being made available to Plaintiff
20 and the Settlement Class Members under the terms of this Agreement.

21 1.14 WHEREAS, weighing the above factors, as well as all other risks and
22 uncertainties of continued litigation and all factors bearing on the merits of
23 settlement, Plaintiff and Class Counsel are satisfied that the terms and conditions of
24 this settlement are fair, reasonable, adequate, and in the best interests of Plaintiff and
25 the Settlement Class Members.

26 1.15 **NOW, THEREFORE**, without any admission or concession
27 whatsoever on the part of Plaintiff of the lack of merit of this Action, or any
28 admission or concession of liability or wrongdoing or the lack of merit of any

1 defense whatsoever by Labrada, it is hereby stipulated and agreed by the
2 undersigned, on behalf of Plaintiff, the Settlement Class, and Labrada that the Action
3 and all claims of the Settlement Class be settled, compromised, and dismissed on the
4 merits and with prejudice, subject to Court approval as required by Federal Rule of
5 Civil Procedure 23, on the terms and conditions set forth herein and upon the
6 Effective Date (as defined below).

7 **II. TERMS AND CONDITIONS OF SETTLEMENT**

8 **Definitions**

9 2.1 As used in this Settlement Agreement and the annexed exhibits hereto,
10 the following terms and phrases have the following meanings, unless a section or
11 subsection of this Settlement Agreement or its exhibits provides otherwise. Unless
12 otherwise indicated, defined terms include the plural as well as the singular. Other
13 capitalized terms used in this Settlement Agreement but not defined above shall have
14 the meaning ascribed to them in this Settlement Agreement and the exhibits attached
15 hereto.

16 A. “Action” means the civil action filed in the United States District Court
17 for the Central District of California, styled *Veda Woodard et al., v. Lee Labrada, et*
18 *al.*, Case No. 5:16-cv-00189-JGB-SP.

19 B. “Authorized Claimant” means any Claimant who has timely and
20 completely submitted a Proof of Claim Form that has been reviewed and validated
21 by the Claims Administrator.

22 C. “Claim” means a request for relief pursuant to section 5.1 submitted on
23 a Proof of Claim Form by a Class Member to the Claims Administrator.

24 D. “Claims Deadline” means the date set by the Court in the Preliminary
25 Approval Order by which Settlement Class Members must submit a claim to obtain
26 the Class Benefits described in Section III of this Settlement Agreement.

27 E. “Claim Form” or “Proof of Claim Form” means the documents to be
28 submitted by Claimants seeking payment pursuant to this Settlement Agreement that

1 will be available online at the Settlement Website, substantially in the form attached
2 hereto as Exhibit A.

3 F. “Claimant” means any Class Member who seeks a Settlement Payment
4 who submits a Claim Form pursuant to this Settlement Agreement.

5 G. “Claims Administration Expenses” means the fees and expenses
6 incurred by the Claims Administrator in completing the claims administration
7 process set forth in this Agreement.

8 H. “Claims Administrator” or “Settlement Administrator” means
9 Classaura LLC (“Classaura”), which will provide the Class Notice and administer
10 the claims process. Plaintiff shall select a successor in the event one becomes
11 necessary, subject to approval by Labrada, which approval shall not be unreasonably
12 withheld.

13 I. “Class Counsel” means, subject to Court approval to represent the
14 Settlement Class, the Law Offices of Ronald A. Marron, APLC and the law firm of
15 Cohelan, Khoury, and Singer and any attorneys at those firms assisting in the
16 representation of the Class in this Action.

17 J. “Class Period” or “Settlement Class Period” shall mean and refer to the
18 time period beginning on February 2, 2012 and ending on the date the Notice is made
19 to the Settlement Class Members pursuant to Section 4.4 herein.

20 K. “Class Representative” means named Plaintiff Veda Woodard.

21 L. “Class Representative Enhancement” or “Incentive Award” means any
22 award sought by application to and approved by the Court that is payable to the Class
23 Representative from the Settlement Fund for Plaintiff Woodard’s role as the class
24 representative and for the responsibility and work attendant to that role.

25 M. “Court” means the United States District Court for the Central District
26 of California.

27 N. “Defendant” or “Labrada” means Defendant Labrada Bodybuilding
28 Nutrition, Inc.

1 O. “Defense Counsel” means the law firm of Foley & Lardner LLP and
2 any attorneys at that firm assisting in the representation of Labrada in the Action.

3 P. “Escrow Account” means the escrow account managed by the Escrow
4 Agent, which shall be the sole escrow account for compensation of Class Members
5 under the Settlement Agreement.

6 Q. “Escrow Agent” means the agreed-upon entity to address and hold for
7 distribution the funds identified in this Settlement Agreement. The Parties agree that
8 Classaura shall serve as the Escrow Agent and will place the Settlement Funds in an
9 interest-bearing account, subject to approval by the Court.

10 R. “Fee and Expense Award” means the amount of any attorneys’ fees and
11 reimbursement of litigation expenses awarded to Class Counsel under their Fee
12 Application based on their work prosecuting the Action and creating the benefits of
13 this Settlement Agreement.

14 S. “Final Judgment” means the “Final Judgment and Order of Dismissal”
15 to be entered by the Court, which, among other things, fully and finally approves the
16 Settlement and dismisses Labrada from the litigation with prejudice, and retains
17 continuing jurisdiction over the interpretation, implementation, and enforcement of
18 the settlement.

19 T. “Notice” or “Class Notice” means the Court approved “Notice of
20 Proposed Class Action Settlement” attached hereto as Exhibits “B” and “C”.

21 U. “Notice Date” or “Notice Deadline” means the date Notice is made to
22 the Settlement Class Members pursuant to Section 4.4 herein.

23 V. “Objection” is a written communication that a Settlement Class
24 Member may file with the Court in order to object to this Agreement as provided for
25 in Section 3.4 of this Settlement Agreement.

26 W. “Objection/Exclusion Deadline” is the date by which an Objection or
27 Request for Exclusion by a Settlement Class Member must be postmarked, as
28 ordered by the Court in its Preliminary Approval Order referred to in Section 3.2 of

1 this Agreement.

2 X. “Party” or “Settling Parties” means Plaintiff Veda Woodard and
3 Defendant Labrada Bodybuilding Nutrition, Inc.

4 Y. “Plaintiff” means the class representative, Veda Woodard, on behalf of
5 herself and each of the Settlement Class Members.

6 Z. “Person” means any individual, corporation or any other entity of any
7 nature whatsoever.

8 AA. “Preliminary Approval Date” means the date of entry of the Court’s
9 order granting preliminary approval of the Settlement Agreement.

10 BB. “Preliminary Approval Order” means the Court’s order to be entered
11 by the Court, substantially in the form of Exhibit D, preliminarily approving the
12 Settlement Agreement, certifying the Settlement Class, setting the due date of the
13 Final Approval Hearing, the Objection/Exclusion Deadline, and Notice Date, and
14 approving the Settlement Notice Plan and Claim Form.

15 CC. “Products,” “Class Products,” or “Labrada Products” means the
16 Labrada Green Coffee Bean Extract product and the Labrada Garcinia Cambogia
17 product.

18 DD. “Released Claims” or “Class Released Claims” means all actions,
19 claims, demands, rights, suits, and causes of action of whatever kind or nature
20 whatsoever, including without limitation any and all damages, restitution, loss,
21 statutory relief, bad faith claims, costs, expenses, penalties, attorneys’ fees, expert
22 fees, and interest, whether known or unknown, suspected or unsuspected, assigned
23 or unassigned, asserted or unasserted, whether as individual claims or claims
24 asserted on a class basis or on behalf of the general public, in law or equity, arising
25 out of or relating to any claim or allegation made in the Litigation, including, without
26 limitation, any and all claims or allegations relating to the advertising, marketing,
27 labeling or sale of the Products.

28 EE. “Released Parties” means Defendants Labrada Bodybuilding Nutrition,

1 Inc. and Lee Labrada, and any and all of their respective past, present, and future
2 heirs, executors, administrators, predecessors, successors, assigns, parent
3 companies, subsidiaries, divisions, joint venturers, entities in which Labrada had a
4 controlling interest, holding companies, employees, agents, consultants, marketing
5 partners, resellers, lead generators, telemarketers, independent contractors, insurers,
6 reinsurers, directors, officers, partners, principals, attorneys, accountants, financial
7 advisors, investors, investment bankers, underwriters, shareholders, auditors, legal
8 representatives, successors in interest, affiliates, trusts, and corporations; and each
9 and all of the past, present, and future officers, directors, principals, representatives,
10 employees, agents, shareholders, attorneys, stockholders, successors, executors,
11 claim service managers, subrogees, and assigns of any of the foregoing entities.

12 FF. “Request for Exclusion” means the written communication that must
13 be sent to the Settlement Administrator and postmarked on or before the
14 Objection/Exclusion Deadline by a Settlement Class Member who wishes to be
15 excluded from the Settlement Class.

16 GG. “Settlement Agreement,” “Agreement,” or “Settlement” means this
17 Joint Stipulation of Settlement, including all Exhibits thereto (which are
18 incorporated herein by reference), duly executed by Plaintiff, Class Counsel,
19 Labrada, and Counsel for Labrada.

20 HH. “Settlement Amount” means the amount of \$625,000 that Labrada will
21 cause to be deposited into the Settlement Fund (as defined below). Under no
22 circumstances shall Labrada be responsible for paying more than \$625,000 under
23 this Settlement.

24 II. “Settlement Classes” or “Settlement Class Member(s)” or “Member(s)
25 of the Settlement Class” or “Class Members” means the following two certified
26 classes:

27 **Green Coffee Bean Extract Class**

28 All persons in California who purchased the Labrada Green Coffee Bean

1 Extract product for personal and household use and not for resale from
2 February 2, 2012, until the date class notice is disseminated.

3
4 **Garcinia Cambogia Class**

5 All persons in California who purchased the Labrada Garcinia Cambogia
6 product for personal and household use and not for resale from February 2,
7 2012, until the date notice is disseminated.

8
9 Excluded from the Settlement Classes are Labrada’s current and former
10 officers and directors, members of the immediate families of Labrada’s officers and
11 directors, Labrada’s legal representatives, heirs, successors, and assigns, any entity
12 in which Labrada has or had a controlling interest during the Class Period, and the
13 judicial officers to whom this lawsuit is assigned.

14
15 JJ. “Settlement Fund” means the Escrow Account into which Labrada shall
16 deposit the Settlement Amount, and from which the Claims Administrator shall pay
17 expenses associated with Settlement as approved by the Court including without
18 limitation, Class Notice, Settlement administration, Claims, the Settlement Payment,
19 the Class Representative Enhancement or Incentive awards, and Class Counsel’s
20 legal expenses and attorneys’ fees, as described in Section 5.1(3).

21 KK. “Settlement Hearing” or “Fairness Hearing” means the hearing(s), to be
22 held after notice has been provided to the Settlement Class in accordance with this
23 Settlement Agreement (1) to determine whether to grant final approval to (a) the
24 certification of the Settlement Class, (b) the designation of Class Representatives as
25 the representatives of the Settlement Class, (c) the designation of Class Counsel as
26 counsel for the Settlement Class, and (d) the Settlement Agreement; (2) to consider
27 whether to enter the Final Approval Order; and (3) to rule on Class Counsel’s Fee
28 and Expense Award application. The Parties shall ask the Court to schedule a date

1 for the Settlement Hearing 150 days after the date of the Class Notice.

2 LL. "Settlement Notice and Other Administrative Costs" means all fees,
3 costs and expenses actually incurred by the Settlement Administrator in the creation
4 and dissemination of Class Notice, establishment of the Settlement Website, and the
5 processing, handling, reviewing, and paying of claims made by Claimants.

6 MM. "Settlement Payment" means the amount to be paid to Authorized
7 Claimants as described in Section V.

8 NN. "Settlement Website" means the website to be created and maintained
9 by the Claims Administrator to provide the Settlement Class with information
10 relating to the Settlement, including relevant documents and electronic and printable
11 forms relating thereto, including the Claim Form which can be submitted online
12 through an Internet-based form or printed and mailed.

13 2.2. Other capitalized terms used in this Stipulation but not defined above
14 shall have the meaning ascribed to them in this Stipulation and the exhibits attached
15 hereto.

16 **III. APPROVAL PROCEDURES AND RELATED PROVISIONS**

17 **Dismissal of Labrada**

18 3.1. Plaintiff shall request dismissal of Labrada and Lee Labrada with
19 prejudice from the Action, and will request such dismissal in her motion for final
20 approval and at the hearing seeking final approval of this Settlement Agreement.

21 **Motion for Preliminary Approval**

22 3.2. Upon the execution of this Settlement Agreement, Plaintiff shall
23 prepare and file a motion seeking Preliminary Approval of this Settlement, including
24 all Exhibits, and shall move the Court for entry of an order, which by its terms shall:

- 25 a) Determine preliminarily that this Settlement Agreement falls within the range
26 of reasonableness meriting possible final approval and dissemination of Class
27 Notice to the Settlement Class;

- 1 b) Schedule the Final Approval Hearing to: (i) determine finally whether the
2 Settlement Class satisfies the applicable requirements of Rule 23 and should
3 be certified for settlement purposes; (ii) review objections, if any, regarding
4 the Settlement Agreement; (iii) consider the fairness, reasonableness and
5 adequacy of the Settlement Agreement; (iv) consider Class Counsel's
6 application for an award of Attorneys' Fees and Expenses; (v) determine the
7 validity of Requests for Exclusion and exclude from the Settlement Class
8 those persons who validly and timely opt out; and (vi) consider whether the
9 Court shall issue the Final Judgment and Order Approving Settlement and
10 dismissing the Actions with prejudice;
- 11 c) Set a briefing schedule for the Final Approval Hearing;
- 12 d) Approve the proposed Class Notices and Notice Program;
- 13 e) Approve the designation of Classaura as the Settlement Administrator;
- 14 f) Direct the Settlement Administrator to cause the Class Notices to be
15 disseminated in the manner set forth in the Notice Program on or before the
16 Notice Dates;
- 17 g) Determine that the Class Notices and the Notice Program: (i) meet the
18 requirements of Rule 23(c)(3) and due process; (ii) are the best practicable
19 notice under the circumstances; (iii) are reasonably calculated, under the
20 circumstances, to apprise Settlement Class Members of the pendency of the
21 Action, their right to object to the proposed Settlement, opt out of the
22 Settlement Class, or participate within the timeframe provided herein; and (iv)
23 are reasonable and constitute due, adequate and sufficient notice to all those
24 entitled to receive notice;
- 25 h) Require each Settlement Class Member who wishes to opt out of the
26 Settlement Class to submit a timely written Request for Exclusion, on or
27 before the Objection/Exclusion Deadline, to the Claims Administrator, to
28

1 Class Counsel, and to Defendants' Counsel, as specified in Section 3.3 of this
2 Settlement Agreement;

3 i) Rule that any Settlement Class Member who does not submit a timely written
4 Request for Exclusion will be bound by all proceedings, orders and judgments
5 in the Action;

6 j) Require any Settlement Class Member who wishes to object to the fairness,
7 reasonableness or adequacy of the Settlement Agreement, to the award of
8 Attorneys' Fees and Expenses, or to the Incentive Awards, to submit to the
9 Settlement

10 k) Administrator and deliver to Class Counsel and Defendant's Counsel, by the
11 Objection/Exclusion Deadline, a statement of his or her Objection, as well as
12 the specific reason for each objection, including any legal support the
13 Settlement Class Member wishes to bring to the Court's attention and any
14 evidence the Settlement Class Member wishes to introduce in support of his
15 or her Objection; and

16 l) Establish the following:

17 i. The date and time of the Final Approval Hearing;

18 ii. The Notice Dates: The Parties propose that the Class Settlement
19 Notice Date be within forty-five (45) days after the entry of the Preliminary
20 Approval Order and that the Settlement Fund distribution be no more than sixty (60)
21 days after the Effective Date of the Settlement;

22 iii. The Objection/Exclusion Deadline: The Parties propose that the
23 Objection/Exclusion Deadline be the date that is thirty (30) days prior to the Final
24 Approval Hearing;

25 iv. Claims Deadlines: The Parties propose that the Claims Deadline
26 for submission of Claims be one-hundred and twenty (120) days after the date of
27 Class Notice.

28 3.3 **Requests for Exclusion**

1 a. Any Settlement Class Member who does not wish to participate in this
2 Settlement Agreement must submit a Request for Exclusion to the Claims
3 Administrator stating an intention to be “excluded” from this Settlement. The request
4 for exclusion must contain the Settlement Class Member’s name, current address,
5 and telephone number. The Request for Exclusion must be either (i) personally
6 signed by the Settlement Class Member, dated and mailed to the Claims
7 Administrator and postmarked on or before the Objection/Exclusion Deadline, or
8 (ii) electronically signed by the Settlement Class Member, and submitted to the
9 Claims Administrator through the Settlement Website on or before the
10 Objection/Exclusion Deadline. So-called “mass” or “class” opt-outs shall not be
11 allowed. The date of the postmark on the return mailing envelope or the date of
12 online submission through the Settlement Website shall be the exclusive means used
13 to determine whether a Request for Exclusion has been timely submitted. Any
14 Settlement Class Member whose request to be excluded from the Settlement Class
15 is approved by the Court will not be bound by this Settlement Agreement and will
16 or have no right to object, appeal, or comment thereon.

17 b. Any Settlement Class Member who does not timely submit a Request
18 for Exclusion as provided in the preceding paragraph shall be bound by all
19 subsequent proceedings, orders, and the Final Judgment, even if he or she has
20 pending, or subsequently initiates litigation, arbitration, or any other proceeding
21 against Labrada relating to the Class Released Claims.

22 3.4 **Objections to the Settlement**

23 a. Any Settlement Class Member, on his or her own, or through an
24 attorney hired at his or her own expense, may object to the terms of the Settlement
25 or Class Counsel’s application for an Award of Attorneys’ Fees and Expenses, or
26 the Incentive Awards. Any Objection must be in writing and include the contents
27 described in Paragraph (b) below, and must be filed with the Court and sent to
28 counsel for the Parties as set forth below via U.S. Mail and e-mail, on or before the

1 Objection/Exclusion Deadline or as the Court otherwise directs. Any Objections not
2 raised properly and timely will be waived. Objections must be sent to each of the
3 following persons:

4
5 Ronald A. Marron
LAW OFFICES OF RONALD A. MARRON
6 651 Arroyo Drive
7 San Diego, CA 92103
8 Telephone: (619) 696-9006
9 Email: ron@consumersadvocates.com

10 James G. Munisteri
FOLEY & LARDNER LLP
11 1000 Louisiana Street, Suite 2000
12 Houston, TX 77002
13 Telephone: 713.276.5752
14 Email: jmunisteri@foley.com

15 b. To be effective, any Objection must be in writing and must be
16 accompanied by any documentary or other evidence and any factual or legal
17 arguments that the objecting Class Member intends to rely upon in making the
18 objection. All objections must (1) clearly identify the case name and number, (2) be
19 mailed to the Settlement Administrator and to the addresses listed in the paragraph
20 above, and (3) be postmarked on or before the Objection/Exclusion Deadline.

21 c. Any Settlement Class Member who fails to file and serve timely
22 written Objection containing all of the information listed above in the previous
23 paragraphs shall not be permitted to object to the Settlement and shall be foreclosed
24 from seeking any review of the Settlement Agreement or the terms of the Settlement
25 Agreement by any means, including but not limited to an appeal.

26 d. If, as of the deadline for class members to opt-out or otherwise exclude
27 themselves from the Settlement, more than 400 class members have opted-out of the
28 Settlement, Labrada shall have, in its sole and absolute discretion, the option to
terminate this Settlement within 10 calendar days after the opt-out deadline.

1 **Cooperation**

2 3.5 The Settling Parties and their counsel agree to cooperate fully with one
3 another and to use their best efforts to effectuate the Settlement, including without
4 limitation, in seeking Preliminary Approval and Final Approval of the Settlement
5 Agreement and the settlement embodied herein, carrying out the terms of this
6 Settlement Agreement, and promptly agreeing upon and executing all such other
7 documentation as may be reasonably required to obtain final approval by the Court
8 of the Settlement Agreement. The Parties shall cooperate in good faith and undertake
9 all reasonable actions and steps in order to accomplish the events described in this
10 Settlement Agreement.

11
12 **IV. CLASS NOTICE OF SETTLEMENT**

13 **General Terms**

14 4.1. The Class Notice Shall:

- 15 a. inform Settlement Class Members that, if they do not exclude themselves
16 from the Class, they may be eligible to receive the relief under the proposed
17 settlement;
- 18 b. contain a short, plain statement of the background of the Action, the Class
19 certification and the proposed settlement;
- 20 c. describe the proposed settlement relief outlined in this Agreement;
- 21 d. state that any relief to Settlement Class Members is contingent on the
22 Court's final approval of the proposed settlement; and
- 23 e. state that Plaintiffs' counsel will seek an award of attorneys' fees and
24 expenses from the Settlement Funds.

25 4.2. Following Preliminary Approval, all activity in the Action with respect
26 to Labrada shall be stayed except to the extent necessary to effectuate this Agreement
27 unless and until this Settlement Agreement is terminated pursuant to its terms and
28 conditions.

1 4.3. Notice to State and Federal Officials. In compliance with the attorney
2 general notification provision of the Class Action Fairness Act of 2005 (“CAFA”),
3 28 U.S.C. §1715, within ten (10) days after the motion for Preliminary Approval is
4 filed, the Claims Administrator shall cause notice of this proposed Settlement
5 Agreement to be served on the Attorney General of the United States, and the
6 attorneys general of each state or territory in which a Settlement Class Member
7 resides. The Claims Administrator shall file with the Court a certification stating the
8 date(s) on which the CAFA notices were sent. The Claims Administrator will
9 provide Class Counsel with any substantive responses received in response to any
10 CAFA notice served by it.

11
12 4.4. Notice to the Settlement Class Members. Within 45 days after the entry
13 of the Preliminary Approval Order, or on the date established by the Court in the
14 Preliminary Approval Order, the Claims Administrator shall cause the Settlement
15 Notice to be made as follows and as set forth below:

16 a. Print Publication Notice. On or before the Notice Deadline, the Claims
17 Administrator will cause Notice, in the form approved by the Court, to be published
18 based on its Notice Plan with publication strategy, which is attached hereto as
19 Exhibit E.

20 b. Settlement Website. On or before the Notice Deadline, the Settlement
21 Administrator shall establish the Settlement Website, from which Settlement Class
22 Members may download or print the Class Notice, a complete copy of this
23 Agreement and the Preliminary Approval Order and submit a Claim Form. The
24 Settlement Website shall include the deadlines for filing Claims, Requests for
25 Exclusion from the Settlement Class, Objections, and the Final Approval Date and
26 other information pertaining to the Settlement, a voice-recorded IVR with FAQs and
27 an interactive function that permits Settlement Class Members to download a Claim
28 Form online or to file a Claim Form via the website or by mail and postmarked by

1 the Claims Deadline. The Claims Administrator shall establish the Settlement
2 Website using a website name to be mutually agreed upon by the Parties. The
3 website shall be operative no later than the Notice Date and shall be accessible for a
4 period of not fewer than sixty days (60) days following the Effective Date.

5 c. Toll-Free Interactive Voice Response (“IVR”). On or before the Notice
6 Deadline, the Settlement Administrator shall establish a Toll-Free IVR phone
7 number with script recordings of information about this Settlement, including
8 information about the Claim Form, utilizing the relevant portions of the language
9 contained in the Notice and Claim Form. The phone number shall remain open and
10 accessible through the Claim Deadline. The Settlement Administrator shall make
11 reasonable provision for Class Counsel to be promptly advised of recorded messages
12 left on the phone number by potential Settlement Class Members concerning the
13 Action or this Settlement Agreement, so that Class Counsel may timely and
14 accurately respond to such inquiries; provided however, the Settlement
15 Administrator shall review the recorded messages before providing them to Class
16 Counsel, and if one or more of the messages requests a blank Claim Form or other
17 similar administrative assistance only, then the Settlement Administrator shall
18 handle such administrative request(s), but the Settlement Administrator shall
19 provide all other messages to Class Counsel for any further response to the
20 Settlement Class Member.

21 4.5 Retention of Class Action Settlement Administrator. Subject to Court
22 Approval, Classaura shall be retained as the Class Action Settlement Administrator
23 to help implement the terms of the proposed Settlement Agreement.

24 4.6 Responsibilities of Settlement Administrator. The Settlement
25 Administrator will help implement the terms of this Agreement and the Preliminary
26 Approval Order. The Settlement Administrator shall be responsible for
27 administrative tasks, including, without limitation, (a) arranging, as set forth in this
28 Section and in the Preliminary Approval Order, for distribution of Class Notice (in

1 the form approved by the Court) and Claims Forms (in the form approved by the
2 Court) to Settlement Class Members, (b) answering inquiries from Settlement Class
3 Members or forwarding such written inquiries to Class Counsel or their designee,
4 (c) receiving and maintaining on behalf of the Court and the Parties any Settlement
5 Class Member correspondence regarding Requests for Exclusion from the
6 Settlement Agreement, (d) posting notices on the Settlement Website, Claim Forms,
7 and other related documents, (e) receiving and processing claims and distributing
8 Settlement Payments, and (f) answering inquiries and providing information
9 reasonably requested by Labrada and (g) otherwise assisting with implementation
10 and administration of the Settlement Agreement terms.

11 4.7 General Claims Administration and Review of Claims. The Claims
12 Administrator shall be responsible for reviewing and administering all Claims to
13 determine their validity. The Claims Administrator shall reject any Claim that does
14 not comply in any material respect with the instructions on the Claim Form or the
15 terms of this Agreement, or is submitted after the Claim Period Close Date.

16 4.8 Claims Process. The Claims Administrator shall retain copies of all
17 Claims submitted and all documentation of claims approved or denied and all
18 Settlement Payments made. The Claims Administrator agrees to be subject to the
19 direction and authority of the Court with respect to the administration of the
20 Settlement and the payment of refunds for accepted claims pursuant to the terms of
21 this Agreement. Upon determining that a Claim submitted pursuant to this
22 Agreement is valid and the amount of Settlement Payment, the Claims Administrator
23 shall notify Labrada and Class Counsel of that determination. Labrada shall have 30
24 days following this notice to challenge the claim. Labrada shall be permitted to
25 submit to the Claims Administrator, with a copy to Class Counsel, any information
26 demonstrating that the submitted Claim is not valid. The Claims Administrator may
27 then contact the Settlement Class Member who submitted the Claim to request any
28

1 further information. The Claims Administrator shall then make a final determination
2 that is not challengeable by any Party.

3 4.9 The Settlement Administrator shall abide by the following performance
4 standards:

5 i. the Class Action Settlement Administrator shall accurately and
6 neutrally describe, and shall train and instruct its employees and agents to accurately
7 and objectively describe, the provisions of this Settlement Agreement in
8 communications with Settlement Class Members;

9 ii. the Class Action Settlement Administrator shall provide prompt,
10 accurate, and objective responses to inquiries from Class Counsel, Labrada, or
11 Labrada's Counsel.

12 4.10. Disputes. All disputes relating to the Settlement Administrator's ability
13 and need to perform its duties shall be referred to the Court, if necessary, which will
14 have continuing jurisdiction over the terms and conditions of this Agreement, until
15 all payments and obligations contemplated by the Settlement Agreement have been
16 fully carried out.

17 4.11. Declaration of Compliance. Within five (5) calendar days of the Claims
18 Deadline, the Settlement Administrator shall provide the Parties with a declaration
19 attesting to completion of the notice process set forth in this section.

20 **V. SETTLEMENT CONSIDERATION**

21 5.1. The Settlement includes monetary relief and injunctive relief as set
22 forth below.

23 **1. Monetary Relief**

24 a. With Proof of Purchase: For class members who do not opt out of or
25 otherwise exclude themselves from the Settlement and submit a timely and valid
26 claim with proof(s) of purchase, Labrada will pay \$5.00 in cash from the Settlement
27 Fund for each purchase reflected on the proof(s) of purchase for up to ten products
28

1 purchased during the class period, except to the extent limited by Paragraph 5.1(1)(d)
2 below.

3 b. Without Proof of Purchase: For class members who submit a timely and
4 valid claim without a proof of purchase, then Labrada will pay \$5.00 in cash from
5 the Settlement Fund for each product purchased during the class period for up to
6 four products, except to the extent limited by Paragraph 5.1(1)(d).

7 c. In no event shall any class member receive a cash payment of more than
8 \$50.00 total from the Settlement Fund.

9 d. If the amount of valid claims timely submitted by class members
10 exceeds the amount allocated for cash payments to class members from the
11 Settlement Fund, cash payments to participating class members who submit timely
12 and valid claims will be reduced pro rata until the funds allocated for class member
13 cash payments remaining in the Settlement Fund are exhausted.

14 e. Claimants may seek reimbursement by submitting a Claim Form either
15 by mail or electronically. The actual amount paid to individual Claimants will
16 depend upon the number of valid claims made. Adequate and customary procedures
17 and standards will be used by the Class Action Settlement Administrator to prevent
18 the payment of fraudulent claims and to pay only legitimate claims.

19 **2. Injunctive Relief**

20 a. Labrada agrees to the following injunctive relief: Labrada shall cease
21 selling the Products by August 1, 2022.

22 **3. Settlement Fund**

23 a. Labrada shall cause to deposit \$100,000.00 of the Settlement Amount
24 into the Settlement Fund no later than thirty (30) days following the entry of the
25 Preliminary Approval Order. Labrada shall cause to deposit the remainder of the
26 Settlement Amount into the Settlement Fund no later than thirty (30) days following
27 the Effective Date.
28

1 b. The Settlement Fund shall be applied to pay in full and in order: (i) any
2 necessary taxes and tax expenses; (ii) all costs associated with the Class Action
3 Settlement Administration, including costs of providing notice to the Class Members
4 and processing claims and all costs relating to providing the necessary notices in
5 accordance with the Class Action Fairness Act of 2005, 28 U.S.C. section 1715; (iii)
6 any Fee and Expense Award made by the Court to Class Counsel under Section VII
7 of this Agreement; (iv) any class representative Incentive Award made by the Court
8 to the Class Representatives under Section VII of this Agreement; and (v) payments
9 to Authorized Claimants and any others as allowed by this Agreement and to be
10 approved by the Court. The Settlement Fund represents the limit and extent of the
11 Labrada’s (and any Release Parties’) monetary obligations under this Settlement
12 Agreement.

13 c. To the extent that the payments allocated or made from the Settlement
14 Fund pursuant to Section V, 5.1(3)(b) above are less than \$625,000, 50% of the
15 difference, if any, shall revert to Labrada and the remaining 50% of the difference
16 shall be transmitted to Smile Train or, in the alternative, Consumers Union, as a cy
17 pres beneficiary.

18 **4. Delivery of Payments to Settlement Class Members**

19 a. The Class Action Administrator shall send correspondence to any
20 applicable Settlement Class Member explaining the rejection of any Claim no later
21 than fifteen (15) days after the Effective Date. Settlement Class Members’ time to
22 appeal any such rejection shall expire forty-five (45) days after the Effective Date.

23 b. The Class Action Settlement Administrator will send payment directly
24 to the eligible Settlement Class Member within sixty (60) calendar days after the
25 Effective Date. The Settlement Administrator will process direct credit or payment
26 via physical check, PayPal, Venmo, Amazon, or electronic Automated Clearing
27 House (“ACH”) transactions.

1 **5. Claim Form Availability**

2 a. The Claim Form may be completed and submitted online at the
3 Settlement Website. The Claim Form may also be requested by calling the toll-free
4 number provided by the Class Action Settlement Administrator or by writing to the
5 Class Action Settlement Administrator.

6 **6. Eligibility for Monetary Relief**

7 a. To be eligible for Monetary Relief under Section 5.1(1) of this
8 Agreement, the Settlement Class Member must timely submit a signed and
9 completed Claim Form containing his or her name, mailing address and email
10 address.

11 b. To be eligible, Claim Forms must be postmarked or submitted online
12 no later than 120 days after the date of Class Notice.

13 **VI. RELEASES**

14 6.1. As of the Effective Date, and except as to such rights or claims created
15 by the Settlement Agreement, each Settlement Class Member shall be deemed to
16 have, and by operation of the Final Judgment shall have, fully, finally, and forever
17 released, relinquished, and discharged all Class Released Claims against the
18 Released Parties.

19 6.2. Notwithstanding the above, the Court shall retain continuing
20 jurisdiction over the Parties and the Settlement Agreement with respect to the future
21 performance of the terms of the Settlement Agreement, and to assure that all
22 payments and other actions required of any of the Parties by the Settlement are
23 properly made or taken. All Parties hereto submit to the jurisdiction of the Court for
24 purposes of implementing and enforcing the terms embodied in this Settlement
25 Agreement.

1 **VII. CLASS COUNSEL’S ATTORNEYS’ FEES, COSTS, EXPENSES,**
2 **AND CLASS REPRESENTATIVE INCENTIVE AWARD**

3 7.1. The award of Attorneys’ Fees and Expenses shall be made from the
4 Settlement Fund. Class Counsel shall make, and Labrada agrees not to oppose, an
5 application for an award of Attorneys’ Fees and Expenses in the Action not to exceed
6 30% of the Settlement Fund or \$187,500, whichever is less. Class Counsel, in their
7 sole discretion, shall be responsible for allocating and distributing the Attorneys’
8 Fees and Expenses award to Class Counsel. Subject to the terms and conditions of
9 this Stipulation and any order of the Court, the Fee and Expense Award awarded by
10 the Court to Class Counsel shall be paid out of the Settlement Fund within sixty (60)
11 days after the date of the Court’s Order granting final approval and passage of the
12 Effective Date.

13 7.2. Class Counsel shall have the sole and absolute discretion to allocate and
14 distribute the Court’s Fee and Expense Award among Plaintiffs’ Counsel and any
15 other attorneys for Plaintiff.

16 7.3. Class Counsel may ask the Court for the award of an Incentive Award
17 from the Settlement Fund to the Class Representative in the amount of \$5,000.00
18 Any Incentive Award approved by the Court shall be paid from the Settlement Fund
19 within ten (10) days after the Effective Date.

20 **VIII. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**
21 **CANCELLATION, OR TERMINATION**

22 8.1. The Effective Date of this Settlement Agreement shall be three
23 business days after which all of the following events and conditions have been met
24 or have occurred:

- 25 a) The Court grants Final Approval of the Settlement consistent with the
26 Parties’ terms herein;
- 27 b) The time for any Objection or appeal to any aspect of the Settlement
28 has expired;

1 c) The Court has entered the Final Judgment;

2 d) Unless the Parties otherwise agree in writing to waive all or any portion
3 of the following provision, there has occurred: (i) in the event there is a properly and
4 timely filed Objection to entry of the Final Judgment, the expiration (without the
5 filing or noticing of an appeal) of the time to appeal from the Final Judgment; (ii)
6 the final dismissal of all appeals from the Final Judgment; (iii) affirmance on appeal
7 of the Final Judgment in substantial form; (iv) if a ruling or decision is entered by
8 an appellate court with respect to affirmance of the Final Judgment, the time to
9 petition for rehearing or re-argument, petitions for rehearing en banc and petitions
10 for certiorari or any other form of review with respect to such ruling or decision has
11 expired; or (v) if a petition for rehearing or re-argument, petitions for rehearing en
12 banc and petitions for certiorari or any other form of review with respect to the Final
13 Judgment is filed, the petition has been denied or dismissed or, if granted, has
14 resulted in affirmance of the Final Judgment in substantial form.

15 8.2. If all of the conditions specified in Section VIII of this Settlement
16 Agreement are not met, then this Settlement Agreement shall be canceled and
17 terminated unless Class Counsel and Labrada mutually agree in writing to proceed
18 with this Settlement Agreement.

19 8.3. In the event that this Settlement Agreement is not approved by the
20 Court or the Settlement set forth in herein is terminated or fails to become effective
21 in accordance with its terms, the Parties shall be restored to their respective
22 presettlement positions in the Action, including with regard to any agreements
23 concerning tolling and similar agreements, and this entire Settlement Agreement
24 shall become null and void. The entire Settlement Amount (less any notice and
25 administration expenses actually expended) shall be promptly returned to Labrada.

26 **IX. MISCELLANEOUS PROVISIONS**

27 9.1. The Parties hereto and their undersigned counsel agree to undertake
28 their best efforts and mutually cooperate to promptly effectuate this Settlement

1 Agreement and the terms of the Settlement set forth herein, including taking all steps
2 and efforts contemplated by this Settlement Agreement and any other steps and
3 efforts which may become necessary by order of the Court or otherwise.

4 9.2. The undersigned counsel represent that they are fully authorized to
5 execute and enter into the terms and conditions of this Settlement Agreement on
6 behalf of their respective clients.

7 9.3. This Settlement Agreement contains the entire agreement among the
8 Parties hereto and supersedes any prior agreements or understandings between them.
9 All terms of this Settlement Agreement are contractual and not mere recitals and
10 shall be construed as if drafted by all Parties. The presumption found in California
11 Civil Code section 1654 (and equivalent, comparable or analogous provisions of the
12 laws of the United States of America or any state or territory thereof, or of the
13 common law or civil law) that uncertainties in a contract are interpreted against the
14 party causing an uncertainty to exist hereby is waived by all Parties.

15 9.4. The terms of this Settlement Agreement are and shall be binding upon
16 each of the Parties, their agents, attorneys, employees, successors and assigns, and
17 upon all other Persons claiming any interest in the subject matter through any of the
18 Parties, including any Settlement Class Member.

19 9.5. Whenever this Settlement Agreement requires or contemplates that one
20 Party shall or may give notice to the other, notice shall be provided by email, or next
21 day (excluding Sunday) express delivery service as follows:

22 If to Plaintiff, then to:

23
24 Ronald A. Marron
LAW OFFICES OF RONALD A. MARRON
25 651 Arroyo Drive
26 San Diego, CA 92103
27 Telephone: (619) 696-9006
28 Email: ron@consumersadvocates.com

1 If to Labrada, then to:

2
3 James G. Munisteri
4 **FOLEY & LARDNER LLP**
5 1000 Louisiana Street, Suite 2000
6 Houston, TX 77002
7 Telephone: 713.276.5752
8 Email: jmunisteri@foley.com

9 9.6. The time periods and dates described in this Settlement Agreement with
10 respect to the giving of notices and hearings are subject to approval and change by
11 the Court or by the written agreement of Class Counsel and Labrada’s Counsel,
12 without notice to Settlement Class Members. The Parties reserve the right, by
13 agreement and subject to the Court’s approval, to grant any reasonable extension of
14 time that might be needed to carry out any of the provisions of this Settlement
15 Agreement.

16 9.7. All time periods set forth herein shall be computed in calendar days
17 unless otherwise expressly provided. In computing any period of time prescribed or
18 allowed by this Settlement Agreement or by order of the Court, the day of the act,
19 event or default from which the designated period of time begins to run shall not be
20 included. The last day of the period so computed shall be included, unless it is a
21 Saturday, a Sunday or a legal holiday, or, when the act to be done is the filing of a
22 paper in Court, a day in which weather or other conditions have made the Office of
23 the Clerk or the Court inaccessible, in which event the period shall run until the end
24 of the next day as not one of the aforementioned days. As used in this subsection,
25 “legal holiday” includes New Year’s Day, Martin Luther King, Jr.’s Birthday,
26 Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus
27 Day, Veterans’ Day, Thanksgiving Day, Christmas Day and any other day appointed
28 as a holiday by the President or the Congress of the United States.

1 9.8. The Parties, their successors and assigns, and their attorneys undertake
2 to implement the terms of this Settlement Agreement in good faith and to use good
3 faith in resolving any disputes that may arise in the implementation of the terms of
4 this Stipulation.

5 9.9. This Settlement Agreement may be amended or modified only by a
6 written instrument signed by Class Counsel and any of Labrada's Counsel.
7 Amendments and modifications may be made without additional notice to the
8 Settlement Class Members unless such notice is required by the Court.

9 9.10. Neither this Settlement Agreement nor any act performed or document
10 executed pursuant to or in furtherance of this Settlement Agreement: (i) is or may be
11 deemed to be or may be used as an admission of, or evidence of, the validity of any
12 Class Released Claim, or of any wrongdoing or liability of Labrada, or of the
13 propriety of Class Counsel maintaining the Litigation as a class action; or (ii) is or
14 may be deemed to be or may be used as an admission of, or evidence of, any fault
15 or omission of Labrada in any civil, criminal, or administrative proceeding in any
16 court, administrative agency, or other tribunal, except that Labrada may file this
17 Stipulation or the Judgment in any action that may be brought against any Released
18 Person in order to support a defense or counterclaim based on principles of res
19 judicata, collateral estoppel, release, good faith settlement, judgment bar, or
20 reduction or any other theory of claim preclusion or issue preclusion or similar
21 defense or counterclaim.

22 9.11. The Court shall retain jurisdiction with respect to the implementation
23 and enforcement of the terms of this Settlement Agreement, and all Parties hereto
24 submit to the jurisdiction of the Court for purposes of implementing and enforcing
25 the settlement embodied in this Settlement Agreement.

26 9.12. This Settlement Agreement shall be deemed to have been executed
27 upon the last date of execution by the undersigned.

1 9.13. This Settlement Agreement may be executed in counterparts, each of
2 which shall constitute an original.

3 **IN WITNESS THEREOF**, the Parties hereto have caused this Settlement
4 Agreement to be executed by their duly authorized representatives.

5
6 **UNDERSTOOD AND AGREED:**

7
8 Dated: 6/1/2022

**LAW OFFICES OF RONALD A.
MARRON**

9
10 By: Ronald A. Marron

11 Ronald A. Marron
12 651 Arroyo Drive
13 San Diego, California 92103
14 Telephone: (619) 696-9006
15 Facsimile: (619) 564-6665
16 Email: *ron@consumersadvocates.com*
17 ***Counsel for Plaintiff and the Class***

18
19
20 Dated: _____

COHELAN, KHOURY, AND SINGER

21
22 By: _____

23 Isam C. Khoury
24 605 C St #200
25 San Diego, California 92101
26 Telephone: (619) 239-8148
27 Facsimile: (619) 595-3000
28 Email: *Ikhoury@ckslaw.com*
Counsel for Plaintiff and the Class

1 9.13. This Settlement Agreement may be executed in counterparts, each of
2 which shall constitute an original.

3 **IN WITNESS THEREOF**, the Parties hereto have caused this Settlement
4 Agreement to be executed by their duly authorized representatives.

5
6 **UNDERSTOOD AND AGREED:**

7
8 Dated: _____

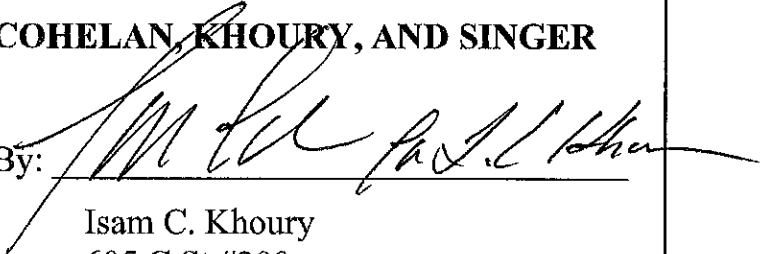
**LAW OFFICES OF RONALD A.
MARRON**

9
10 By: _____

11 Ronald A. Marron
12 651 Arroyo Drive
13 San Diego, California 92103
14 Telephone: (619) 696-9006
15 Facsimile: (619) 564-6665
16 Email: *ron@consumersadvocates.com*
Counsel for Plaintiff and the Class

17
18
19
20 Dated: 6/1/2022

COHELAN, KHOURY, AND SINGER

21
22 By:  _____

23 Isam C. Khoury
24 605 C St #200
25 San Diego, California 92101
26 Telephone: (619) 239-8148
27 Facsimile: (619) 595-3000
28 Email: *ikhoury@ckslaw.com*
Counsel for Plaintiff and the Class

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Dated: 6/1/2022

FOLEY & LARDNER LLP

By: /s/ James G. Munisteri

Jay Munisteri
1000 Louisiana Street, Suite 2000
Houston, TX 77002
Telephone: 713.276.5752
Email: jmunisteri@foley.com
***Counsel for Defendant Labrada
Bodybuilding Nutrition, Inc.***

Dated: _____

By: _____

Representative of Labrada
Bodybuilding Nutrition, Inc.

Dated: _____

By: _____

Veda Woodard
Plaintiff

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Dated: _____

FOLEY & LARDNER LLP

By: _____

Jay Munisteri
1000 Louisiana Street, Suite 2000
Houston, TX 77002
Telephone: 713.276.5752
Email: jmunisteri@foley.com
*Counsel for Defendant Labrada
Bodybuilding Nutrition, Inc.*

Dated: 6/1/22

By:  _____

Representative of Labrada
Bodybuilding Nutrition, Inc.

Dated: _____

By: _____

Veda Woodard
Plaintiff

1 Dated: _____

FOLEY & LARDNER LLP

2
3 By: _____

4 Jay Munisteri
5 1000 Louisiana Street, Suite 2000
6 Houston, TX 77002
7 Telephone: 713.276.5752
8 Email: jmunisteri@foley.com
9 ***Counsel for Defendant Labrada***
10 ***Bodybuilding Nutrition, Inc.***

11
12
13 Dated: _____

14 By: _____

15 Representative of Labrada
16 Bodybuilding Nutrition, Inc.

17
18
19 Dated: May 31, 2022

20 By:  _____
21 Veda Woodard (May 31, 2022 13:54 PDT)

22 Veda Woodard
23 Plaintiff

EXHIBIT A

WOODARD, et al. v. LABRADA, et al.
United States District Court, Central District of California
5:16 CV 000189-JGB-SP

**CLASS ACTION SETTLEMENT
CLAIM FORM**

CLAIM FORM INSTRUCTIONS

In order for you to qualify to receive a cash payment related to *Woodard, et al. v. Labrada, et al.*, Case No. 5:16-cv-00189-JGB-SP, United States District Court, Central District of California, as described in the notice of settlement, you must file a Claim Form, as described below to process your claim.

REQUIREMENT FOR FILING A CLAIM FORM

1. Please review the Notice of Class Action Settlement (the Notice). A copy of the Notice is also available at www.██████████.com.
2. Accurately complete all required portions of this Claim Form.
3. Sign the claim form.
4. By signing and submitting this Claim Form, you are hereby certifying under penalty of perjury that you purchased the Labrada Green Coffee Bean Extract product and/or the Labrada Garcinia Cambogia product (the “Products”) in California, for personal or household use and not for resale, during the time period between February 2, 2012, until [Date Notice is Disseminated].
5. In order for you to receive a cash payment, you must complete and submit a completed Claim Form online at www.██████████.com or mail the completed and signed Claim Form by U.S. Mail, postmarked no later than ██████████ 2022:
To:
Labrada Products Class Action Settlement
c/o Classaura Class Action Administration
1718 Peachtree St #1080, Atlanta, Georgia
6. Your failure to complete and submit the Claim Form postmarked by ██████████, 2022 will prevent you from receiving any cash payment in this Settlement.

Your Name:

Your Mailing Address (with zip code):

Your Phone Number:

Your Email Address:

WOODARD, et al. v. LABRADA, et al.
United States District Court, Central District of California
5:16 CV 000189-JGB-SP

**CLASS ACTION SETTLEMENT
CLAIM FORM**

Did you purchase the Labrada Green Coffee Bean Extract Product and/or the Labrada Garcinia Cambogia product (the “Products”) in California, for personal and household use and not for resale, during the time period between February 2, 2012, until [date of class notice]?

_____ YES

_____ NO

Date of Purchase. For each Product you claim you purchased, give the date of the purchase. If you do not have a receipt for your purchase, give the approximate date:

Date(s):

Copy of Your Proof of Purchase. If you have a proof of purchase for the Products, enclose a copy of your proof of purchase with this form.

Location of Purchase. For each Product you purchased, identify the address of the store where the purchase was made. (Example: Vitamin Shoppe, 5575 Balboa Ave., San Diego, California).

I hereby certify under penalty of perjury under the laws of California and the United States that the foregoing is true and correct.

Signature: _____

Date: _____

EXHIBIT B

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Woodard v. Labrada, et al., Case No. 5:16-cv-000189-JGB-SP

THE MATTERS DISCUSSED HEREIN MAY AFFECT SUBSTANTIAL LEGAL RIGHTS THAT YOU MAY HAVE

READ THIS NOTICE CAREFULLY

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

YOU ARE NOT BEING SUED. THIS IS NOT A LAWSUIT AGAINST YOU.

IF YOU PURCHASED

the Labrada Green Coffee Bean Extract product and/or the Labrada Garcinia Cambogia product in California, for personal or household use and not for resale, during the time period between February 2, 2012 until **[Date Notice is Disseminated]**,

YOU MAY BE ENTITLED TO A CASH PAYMENT

This settlement resolves a class action lawsuit (the “Action”) against Labrada Bodybuilding Nutrition, Inc. (“Labrada” or “Defendant”) for legal claims associated with the marketing and sale of the Labrada Green Coffee Bean Extract product and the Labrada Garcinia Cambogia product (the “Products”).

It is alleged in the lawsuit that Labrada may have materially misrepresented and misleadingly marketed the Products, which may give rise to certain legal claims under California’s consumer protection laws. Labrada denies the allegations and any wrongdoing. Labrada and Plaintiff have reached a class action settlement that would provide monetary recovery as detailed below in exchange for your waiver and release of legal claims. By participating in the Settlement, you would be waiving and releasing legal claims if you purchased the either or both of the Products in California.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM POSTMARKED BY [DATE]	This is the only way to receive a cash payment from the settlement.
EXCLUDE YOURSELF FROM THE CLASS BY [DATE]	If you opt out of the settlement, you will not be eligible to receive any of the settlement benefits, but you will keep your right to sue on your own regarding any claims that are part of the settlement.
OBJECT OR COMMENT BY [DATE]	You may write to the Court about why you do, or do not, like the settlement. You must remain in the class to comment either in support of or in opposition to the settlement.
APPEAR IN THE LAWSUIT OR ATTEND A HEARING ON [DATE]	You may ask to speak in Court about the fairness of the settlement. You may enter your appearance in Court either <i>pro se</i> without an attorney or through an attorney at your own expense if you so desire.
DO NOTHING	If you do nothing, you will receive no payment and give up your right to sue Labrada on your own regarding any claims that are part of the settlement.

- These rights and options, **and the deadlines associated with them**, are further explained in this notice.
- The Court is in charge of this case and still has to decide whether to approve the settlement. The settlement benefits will be made available to participating class members if the Court approves the settlement and after any appeals are resolved.
- If you have any questions, then please read on and visit www.██████████.com.

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BASIC INFORMATION

1. Why did I get this Notice?

If you purchased the Labrada Green Coffee Bean Extract product and/or the Labrada Garcinia Cambogia product in California, for personal or household use and not for resale, during the time period between February 2, 2012 until [the date notice is disseminated in this action], as described on page 1 of this Notice, you have a right to know about a proposed settlement in this class action lawsuit and your options. You also may have received this Notice because you requested more information after reading the Summary Notice.

The Court ordered that you be given this Notice because you have a right to know about a proposed settlement of this class action lawsuit and your options regarding the proposed settlement, before the Court decides whether to give its final approval of the settlement. If the Court approves it, and after objections and appeals are resolved, an administrator approved by the Court will oversee the distribution of the settlement benefits that the settlement provides. You will be informed of the progress of the settlement.

This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The Court overseeing the case is the United States District Court for the Central District of California, and the case is entitled *Woodard et al. v. Labrada, et al.*, Case Number 5:16-cv-000189-JGB-SP. The person who sued is called the Plaintiff, and the company she sued who is a party to the settlement, Labrada Bodybuilding Nutrition, Inc., is called the Defendant.

2. What is this Lawsuit About?

This lawsuit alleges violations of California's consumer protection laws and claims that Labrada misrepresented the efficacy of the Labrada Green Coffee Bean Extract product and the Labrada Garcinia Cambogia product.

Labrada denies that it did anything wrong, and the Court has not made any ruling on the merits of the allegations of the lawsuit. Labrada, however, in order to settle this lawsuit and avoid the expense of further litigation of the claims alleged by the Plaintiff, has chosen to provide consumers who participate in this settlement with cash payments.

3. What Is a Class Action and Who Is Involved?

In a class action, one or more people, called a Class Representative (in this case Veda Woodard) represent the interests of other people who have common claims that are more important than the issues that affect only some individuals. All of these people are a Class or Class Members. One court resolves the case for everyone in the Class – except for those people who choose to exclude themselves from the Class by opting out.

4. Why Is There a Proposed Settlement?

The Court has not decided in favor of either side in the case. Labrada denies all allegations of wrongdoing or liability against it and contends that its conduct was lawful. Labrada is settling to simply to avoid the expense, inconvenience, and inherent risk of litigation, as well as the related disruption of its business operations. Similarly, the Class Representative and her attorneys assert that the proposed settlement is in the best interests of the Class because it provides an appropriate recovery now while avoiding the risk, expense, and delay of pursuing the case through trial and any appeals without getting any recovery. There would be no guarantee of success for either side if the case were pursued through trial and any appeals.

WHO IS COVERED BY THE PROPOSED SETTLEMENT

To see if you are entitled to a claim of the settlement benefits offered through this proposed settlement, you first have to determine if you are a Class Member.

5. How Do I Know If I Am Part of the Proposed Settlement?

You are a Class Member if you purchased, in California, the Labrada Green Coffee Bean Extract product and/or the Labrada Garcinia Cambogia product, for personal or household use and not for resale, during the time period between February 2, 2012 until **[Date Notice is Disseminated]**.

Excluded from the Settlement Class are Labrada's current and former officers and directors, members of the immediate families of Labrada's officers and directors, Labrada's legal representatives, heirs, successors, and assigns, any entity in which Labrada has or had a controlling interest during the Class Period, and the judicial officers to whom this lawsuit is assigned.

If you are still not sure whether you are included in the Settlement Class, you can go to www.██████████.com, or you can call **1-800-xxx-xxxx**, and ask for free help.

THE PROPOSED SETTLEMENT BENEFITS

6. What Does the Proposed Settlement Provide?

Settlement Fund

Labrada will cause to be paid the amount of Six Hundred and Twenty-Five Thousand Dollars into a Settlement Fund.

The Settlement Fund shall be applied to pay in full and in order: (i) any necessary taxes and tax expenses; (ii) all costs associated with the Class Action Settlement Administration, including costs of providing notice to the Class Members and processing claims and all costs relating to providing the necessary notices in accordance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715; (iii) any Fee and Expense Award made by the Court to Class Counsel; (iv) any class representative Incentive Award made by the Court to the Class Representative; and (v) payments to authorized

Claimants and any others as allowed under the Settlement Agreement and to be approved by the Court.

To the extent that the payments from the Settlement Fund listed above are less than \$625,000, 50% of the difference, if any, shall revert to Labrada and the remaining 50% of the difference shall be transmitted to Smile Train or, in the alternative Consumers Union, as a cy pres beneficiary.

Cash Payments to Class Members who Submit a Valid Claim Form

For Class Members with Proof(s) of Purchase: For class members who do not opt out of or otherwise exclude themselves from the Settlement and submit a timely and valid claim with proof(s) of purchase, Labrada will pay \$5.00 in cash from the Settlement Fund for each purchase reflected on the proof(s) of purchase for up to ten Products purchased during the class period.

For Class Members Without Proofs of Purchase: For class members who submit a timely and valid claim without a proof of purchase, then Labrada will pay \$5.00 in cash from the Settlement Fund for each product purchased during the class period for up to four products.

In no event shall any class member receive a cash payment of more than \$50.00 total from the Settlement Fund.

If the amount of valid claims timely submitted by class members exceeds the amount allocated for cash payments to class members from the Settlement Fund, cash payments to participating class members who submit timely and valid claims will be reduced pro rata until the funds allocated for class member cash payments remaining in the Settlement Fund are exhausted

In addition, Labrada has agreed to cease selling the Products by August 1, 2022.

Subject to Court approval, an incentive award not to exceed \$5,000.00 shall be paid to Plaintiff Veda Woodard.

HOW YOU GET A PAYMENT- SUBMITTING A CLAIM FORM

7. How Can I Obtain a Portion of This Settlement?

Class Members who wish to receive a portion of this Settlement must fully complete and submit a Claim Form, along with any supporting documentation, by the specified deadline.

You can obtain a Claim Form on the Internet at www.██████████.com

Read the instructions carefully, fully complete the form, and submit it online at www.██████████.com on or before [██████████], 2022.

Alternatively, you may submit your Claim Form by mailing it to the following address:

Labrada Products Class Action Settlement

c/o Classaura Class Action Administration

[P.O. Box Address]

It must be postmarked no later than [REDACTED], 2022.

TO BE VALID, ALL CLAIMS MUST BE POSTMARKED OR SUBMITTED ONLINE BY NO LATER THAN [DATE].

8. How Can I Obtain a Claim Form?

You can obtain the Claim Form in one of three ways:

- i. Online: You can download the Claim Form at [www.\[REDACTED\].com](http://www.[REDACTED].com). You can also submit a Claim Form online through the same website.
- ii. By Phone: Call toll-free, 1-888-xxx-xxxx to arrange for a Claim Form to be sent to you by either U.S. mail or e-mail.
- iii. By U.S. Mail: You may write to Labrada Products Settlement, c/o Classaura Class Action Administration, [P.O. Box Address]. Be sure to include your name and mailing address.

YOUR RIGHTS AND CHOICES - EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT

If you do not want to participate in the settlement, but you want to keep the right to sue Labrada, on your own, about the subject matter of this lawsuit, then you must take affirmative steps to get out of the settlement. This is called excluding yourself – or is sometimes referred to as “opting out” of the Class.

9. How Do I Exclude Myself From the Settlement?

To exclude yourself from the settlement, which is sometimes called “opting-out” of the Class, you must send a letter by mail or submit a form through the Settlement Website saying that you want to be excluded from this lawsuit. To exclude yourself from the Class, you must either: (i) send a written request for exclusion that is received no later than [REDACTED], 2022, to: Labrada Products Settlement, c/o Classaura Class Action Administration, [P.O. Box Address], or (ii) submit a request for exclusion online through the Settlement Website no later than [REDACTED], 2022.

Your request for exclusion must contain: (1) the name of this lawsuit, “*Woodard et al. v. Labrada, et al.*”, Case Number: 16-cv-00189-JGB-SP; (2) your full name, current address, and telephone number; (3) a clear statement of intention to exclude yourself such as “I wish to be excluded from the Class”; and (4) your signature. You may also get an Exclusion Request Form at [www.\[REDACTED\].com](http://www.[REDACTED].com).

You cannot exclude yourself by telephone or by e-mail. If you ask to be excluded, you will not get any settlement benefits, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Labrada in the future.

10. If I Don't Exclude Myself, Can I Sue Labrada for the Same Things Later?

No. If you do not properly and/or timely submit a request for exclusion, you waive your right to opt out and will be deemed to be a member of the Class. Unless you timely exclude yourself, you give up the right to sue Labrada for the claims that this settlement resolves, and you will be bound by the terms of this settlement. If you have a pending lawsuit against Labrada, other than this class action, speak to your lawyer in that lawsuit immediately. You must exclude yourself from *this* Class to continue your own lawsuit. Remember, any exclusion request must be signed, mailed, and postmarked or submitted online by no later than [REDACTED], [REDACTED] 2022.

11. If I Exclude Myself, Can I Get the Settlement Benefits from this Settlement?

No. If you exclude yourself, do not send in a claim form to ask for any of the offered settlement benefits.

YOUR RIGHTS AND CHOICES - OBJECTING TO THE PROPOSED SETTLEMENT

You can tell the Court that you object to the settlement or any particular part of it.

12. How Do I Tell the Court That I Object to the Proposed Settlement?

If you are a Class Member, you may object to the settlement if you do not like any particular part of it. In doing so, you must give reasons why you think the Court should not approve the settlement, and the Court will consider your views.

To be effective, your Objection must be in writing and must be accompanied by any documentary or other evidence and any factual or legal arguments that you intend to rely upon in making the objection.

In addition, your objection must:

- (1.) Clearly identify the case name and number: *Woodard v. Labrada, et al.*, Case No. 5:16-cv-000189-JGB-SP.
- (2.) Be mailed to the settlement administrator at the following address: Labrada Products Settlement, c/o Classaura Class Action Administration, [P.O. Box Address].
- (3.) Be postmarked on or before [objection deadline].

If you choose to object through a lawyer, you must pay for the lawyer yourself.

Your objection must be signed, and mailed to the Court, along with any supporting documents, so that it is received no later than [REDACTED], 2022 by the Court at:

Clerk of Court
U.S. District Court
Central District of California- Eastern Division
3470 Twelfth Street
Riverside, CA 92501-3801

A copy of your objection ***must*** also be signed, mailed, along with any supporting documents to the Settlement Administrator and to each of the following two addresses, so ***that is received by them no later than*** [REDACTED], 2022:

Counsel for Plaintiffs and the Class

Ronald A. Marron
LAW OFFICES OF RONALD A. MARRON
651 Arroyo Drive
San Diego, CA 92103
Telephone: (619) 696-9006
Email: ron@consumersadvocates.com

Counsel for Labrada

James G. Munisteri
FOLEY & LARDNER LLP
1000 Louisiana Street, Suite 2000
Houston, TX 77002
Telephone: 713.276.5752
Email: jmunisteri@foley.com

13. What's the Difference Between Objecting and Excluding?

Objecting is explaining to the Court you do not like something about the settlement. You can object only if you stay in the Class.

Excluding yourself from the settlement is telling the Court that you do not want to be part of the Class or the settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

YOUR RIGHTS AND CHOICES - APPEARING IN THE LAWSUIT

14. Can I Appear or Speak in this Lawsuit and Proposed Settlement?

As long as you do not exclude yourself, you can (*but do not have to*) participate and speak for yourself in this lawsuit and Proposed Settlement. This is called making an appearance. You can also have your own lawyer appear in court and speak for you, but you must pay for the lawyer yourself.

15. How Can I Appear in this Lawsuit?

If you want yourself or your own lawyer (*instead of Class Counsel*) to participate or speak for you in this lawsuit, you must give the Court a paper that is titled a "Notice of Appearance." The Notice

of Appearance must contain the title of the lawsuit, a statement that you wish to appear at the Fairness Hearing, and the signature of you or your lawyer.

Your Notice of Appearance can also state that you or your lawyer would like to speak at the Court's Fairness Hearing on the Proposed Settlement. If you submit an objection (*see question 12 above*) and would like to speak about the objection at the Court's Fairness Hearing, both your Notice of Appearance and your objection should include that information.

Your Notice of Appearance ***must be*** signed, mailed and postmarked by [REDACTED], 2022, to the Court at:

Clerk of Court
U.S. District Court
Central District of California- Eastern Division
3470 Twelfth Street
Riverside, CA 92501-3801

Copies of your Notice of Appearance ***must also be*** mailed to the same two addresses appearing on page 11 of this Notice, in question 12.

IF YOU DO NOTHING

16. What Happens If I Do Nothing At All?

If you do nothing, you will get no settlement benefits from this settlement. But, unless you timely excluded yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Labrada about the subject matter of this lawsuit, ever again.

THE LAWYERS REPRESENTING YOU

17. Do I Have a Lawyer in this Case?

The Court has appointed Ronald A. Marron, APLC and Cohelan, Khoury, and Singer as legal counsel for the Class. Together, the law firms are called Class Counsel. You will not be charged for these lawyers.

18. How Will The Lawyers Be Paid?

When they ask the Court to approve the settlement, Class Counsel will also make a motion to the Court to approve an award attorneys' fees and a reimbursement of expenses to Class Counsel, in a total amount of up to 30% of the \$625,000 Settlement Fund or \$187,500, whichever is less. No matter what the Court decides with regard to the requested attorneys' fees, Class members will never have to pay anything toward the fees or expenses of Class Counsel. Class Counsel will seek final approval of the settlement on behalf of all Class Members. You may hire your own lawyer to represent you in this case if you wish, but it will be at your own expense. Class Counsel may also request that an amount be paid the Class Representative who helped the lawyers on behalf of the

whole Class (known as an “incentive award”). The amount of this incentive award will not exceed \$5,000.

THE COURT’S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you do not have to attend or speak.

19. When and Where Will the Court Decide Whether to Approve the Settlement?

The United States District Court for the Central District of California- Eastern Division (the “Court”) will hold a hearing (the “Fairness Hearing”) at the Federal Courthouse located at the U.S. District Court for the Central District of California, 3470 Twelfth Street Riverside, CA 92501-38018 on [REDACTED], 2022 to decide whether the settlement is fair, reasonable, and adequate, as well as to determine the amount of attorneys’ fees and costs and incentive fee awards. If there are objections, the Court will consider them at that Fairness Hearing. The Court may also discuss Class Counsel’s request for an award of attorneys’ fees and reimbursement of costs. After the Fairness Hearing, the Court will decide whether to approve the settlement and whether to grant Class Counsel’s request for attorneys’ fees and expenses. We do not know how long it will take the Court to make these decisions.

20. Do I Have to Come to the Hearing?

No. Class Counsel is working on your behalf and will answer any questions the Court may have, but you are welcome to attend the hearing at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

FINAL SETTLEMENT APPROVAL

21. What Is The Effect of Final Settlement Approval?

If the Court grants final approval of the settlement, each settlement class member shall be deemed to have, and by operation of the Final Judgment shall, fully, finally, and forever released, relinquished, and discharged all Class Released Claims (as defined in the settlement agreement) against the released parties (as defined in the settlement agreement).

If the Court does not approve the settlement, the case will proceed as if no settlement had been attempted.

If the settlement is not approved and litigation resumes, there can be no assurance that the Class will recover more than is provided for under the settlement, or anything at all. In other words, there is no guarantee of success if litigation proceeds.

GETTING MORE INFORMATION

22. Are There More Details About the Settlement?

This Notice is only intended to provide a summary of the proposed settlement. You may obtain the complete text of the settlement: at www.████████.com; by writing to the Claims Administrator (at the address listed above); or, from the court file, which is available for your inspection during regular business hours at the Office of the Clerk of the United States District Court for the Central District of California, U.S. District Court for the Central District of California, 3470 Twelfth Street Riverside, CA 92501-3801, under the Civil Action Number 5:16-cv-00189-JGB-SP.

By visiting the website located at www.████████.com, you will find the Plaintiffs' First Amended Complaint, Labrada's Answer and Affirmative Defenses, a Claim Form, and an Exclusion Request Form.

You may also contact the Settlement Administrator by email at Contact@████████.com, or by writing to Labrada Products Settlement, c/o Classaura Class Action Administration, [P.O. Box Address].

PLEASE DO NOT CALL OR DIRECT ANY INQUIRIES TO THE COURT.

This Notice is given with the approval and at the direction of the Court.

EXHIBIT C

LEGAL NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

IF YOU PURCHASED

the Labrada Green Coffee Bean Extract product and/or the Labrada Garcinia Cambogia product in California, for personal or household use and not for resale, during the time period between February 2, 2012 until [Date Notice is Disseminated],

YOU MAY BE ENTITLED TO A CASH PAYMENT

Woodard et al. v. Labrada, et al., Case No. 5:16-cv-000189-JGB-SP (C.D. Cal.)

This Notice is to inform you of a proposed class action settlement that could affect your legal rights.

What Is This Notice About?

A proposed Settlement has been reached in a class action lawsuit pending in the United States District Court for the Central District of California between Veda Woodard, on the one hand as the Plaintiff, and Labrada Bodybuilding Nutrition, Inc. (“Labrada”) as a Defendant.

It is alleged in the lawsuit that Labrada violated California’s consumer protection laws by misleadingly marketing the Labrada Green Coffee Bean Extract product and the Labrada Garcinia Cambogia product. Labrada denies the allegations and any wrongdoing. The settling parties have reached a class action settlement.

Am I a Member of the Class?

You are a Class Member if you purchased, in California, the Labrada Green Coffee Bean Extract product and/or the Labrada Garcinia Cambogia product, for personal or household use and not for resale, during the time period between February 2, 2012 until [Date Notice is Disseminated]

Excluded from the Settlement Class are Labrada’s current and former officers and directors, members of the immediate families of Labrada’s officers and directors, Labrada’s legal representatives, heirs, successors, and assigns, any entity in which Labrada has or had a controlling interest

during the Class Period, and the judicial officers to whom this lawsuit is assigned.

What Benefits Could I Receive?

Labrada will cause to be paid the amount of Six Hundred and Twenty-Five Thousand Dollars into a settlement fund.

For class members who do not opt out of or otherwise exclude themselves from the Settlement and submit a timely and valid claim with proof(s) of purchase, Labrada will pay \$5.00 in cash from the Settlement Fund for each purchase reflected on the proof(s) of purchase for up to ten Products purchased during the class period.

For class members who submit a timely and valid claim without a proof of purchase, then Labrada will pay \$5.00 in cash from the Settlement Fund for each product purchased during the class period for up to four products.

In no event shall any class member receive a cash payment of more than \$50.00 total from the Settlement Fund.

What Are My Rights?

You have a choice of whether to stay in the Class and participate in the Settlement or not, and you must decide this now. If you stay in the Class, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue, or continue to sue

Labrada as part of any other lawsuit involving the same claims that are in this lawsuit. This is true even if you do nothing by not submitting a claim.

1. You can accept the Settlement

If you wish to receive the benefits under the Settlement, you MUST submit a Claim Form by no later than [DATE]. You can obtain and/or submit a Claim Form: (1) on the Internet at

www._____.com; or (2) by calling the Claims Administrator at 1-xxx-xxx-xxxx or (3) by mailing a written request for a Claim Form including your name and mailing address by regular mail to: Labrada Products Class Action Settlement, c/o Classaura Class Action Administration, [P.O. Box Address].

If you fail to timely submit a Claim Form and do not timely exclude yourself from the Settlement, then you will be bound by the Settlement but will not receive any benefits of the Settlement.

2. You can object to the Settlement

If you believe the Settlement is unsatisfactory, you may file a written objection with the Clerk of the Court for the United States District Court for the Central District of California- Eastern Division and send copies of the written objection to the following Counsel representing the Class and Defendant:

Counsel for Plaintiffs and the Class

Ronald A. Marron
LAW OFFICES OF RONALD A. MARRON
651 Arroyo Drive
San Diego, CA 92103
Telephone: (619) 696-9006
Email: ron@consumersadvocates.com

Counsel for Labrada

James G. Munisteri
FOLEY & LARDNER LLP
1000 Louisiana Street, Suite 2000
Houston, TX 77002
Telephone: 713.276.5752
Email: jmunisteri@foley.com

If you choose to object to the Settlement, then your written objection must be received by no later than [REDACTED], 2022.

3. You can “opt out” of the Settlement

If you do not object to the Settlement but, nevertheless, simply do not want to participate in this Settlement, you must provide written notice indicating your desire to exclude yourself from the Settlement. Such notice must include your name, address, and telephone number. You must deliver the request for exclusion from Settlement to the Settlement Administrator at Labrada Products Class Action Settlement, c/o Classaura Class Action Administration, [P.O. Box Address], or submit a valid exclusion form online through the Settlement Website. The request must be postmarked or submitted online no later than [Date]. Please be advised that if you request exclusion from or “opt out” from the Settlement, you will not receive any benefits under the Settlement, and will be responsible for any attorneys’ fees and costs you incur if you choose to pursue your own lawsuit.

The Fairness Hearing

On [REDACTED], 2022, at [REDACTED] a.m., the Court will hold a hearing in the United States District Court for the Central District of California- Eastern Division to determine: (1) whether the proposed Settlement is fair, reasonable and adequate and should receive final approval; and (2) whether the Class Counsel’s application for an award of

attorneys' fees and expenses should be granted. Objections to the proposed Settlement by Class Members will be considered by the Court at such hearing, but only if such objections are timely filed in writing with the Court and sent to Plaintiffs' and Labrada's counsel by no later than [REDACTED], 2022, as explained above.

Class Members who support the proposed Settlement do not need to appear at the hearing or take any other action to indicate their approval.

How Can I Get More Information?

If you have questions or would like a more detailed notice or other documents about this lawsuit and your rights, visit [www.\[REDACTED\].com](http://www.[REDACTED].com). You may also contact the Settlement Administrator by emailing [Contact@\[REDACTED\].com](mailto:Contact@[REDACTED].com), or by writing to: Labrada Products Class Action Settlement, c/o Classaura Class Action Administration, [P.O. Box Address], or by calling 1-xxx-xxx-xxxx. Please do not contact the Court or Clerk for information.

By order of the United States District Court for the Central District of California.

EXHIBIT D

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VEDA WOODARD, TERESA RIZZO-
MARINO, and DIANE MORRISON,
on behalf of themselves, all others
similarly situated, and the general
public,

Plaintiffs,

vs.

LEE LABRADA; LABRADA
BODYBUILDING NUTRITION, INC.;
LABRADA NUTRITIONAL
SYSTEMS, INC.; DR. MEHMET C.
OZ, M.D.; ENTERTAINMENT
MEDIA VENTURES, INC. d/b/a OZ
MEDIA; ZOCO PRODUCTIONS,
LLC; HARPO PRODUCTIONS, INC;
SONY PICTURES TELEVISION, INC;
NATUREX, INC.; and
INTERHEALTH
NUTRACEUTICALS, INC.,

Defendants.

CASE NO. 5:16-cv-00189-JGB-SP

CLASS ACTION

**[PROPOSED] ORDER
GRANTING MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

1 This matter having been submitted to the Court by Plaintiff Veda Woodard,
2 on her own behalf and on behalf of the Class defined below (hereafter referred to as
3 “Plaintiff” or “Class Representative”) and Law Offices of Ronald A. Marron, APLC
4 and Cohelan, Khoury, and Singer (together, “Class Counsel”) on behalf of the
5 Plaintiff and by Defendant Labrada Bodybuilding Nutrition, Inc. (“Labrada” or
6 “Defendant”) through its Counsel, by way of Plaintiff’s motion for preliminary
7 approval of the proposed settlement in the above captioned action;

8 WHEREAS, the Court having reviewed and considered the Plaintiff’s motion
9 for preliminary approval and supporting materials filed by Class Counsel; and

10 WHEREAS, this Court has fully considered the record and the requirements
11 of law; and good cause appearing;

12 **IT IS THIS ____ DAY OF _____, 2022**

13 **ORDERED** that the settlement (including all terms of the Settlement
14 Agreement and exhibits thereto) is hereby **PRELIMINARILY APPROVED**. The
15 Court further finds and orders as follows:

16 1. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 and
17 venue is proper in this district.

18 2. The Court has personal jurisdiction over the Class Representative,
19 Settlement Class Members, and the Defendant.

20 3. The settlement is the product of arm’s length bargaining conducted by
21 experienced legal counsel after extensive discovery and with the assistance of an
22 impartial mediator. The Settlement Agreement is not the result of collusion.

23 4. The proceedings that occurred before the parties reached the Settlement
24 Agreement gave counsel and the parties an opportunity to adequately assess the
25 strengths and weaknesses of their respective positions in this case, and, thus, to
26 structure the settlement in a way that adequately accounts for those strengths and
27 weaknesses.

1 5. The settlement falls within the range of reason and has no obvious
2 deficiencies.

3 6. Because the settlement meets the standards for preliminary approval,
4 the Court preliminarily approves all terms of the settlement, including the Settlement
5 Agreement and all of its exhibits.

6 7. The Court has reviewed the content of the notice plan and the Claim
7 Form and finds that they satisfy the requirements of Federal Rule of Civil Procedure
8 23(c)(2), Federal Rule of Civil Procedure 23(e)(1), and due process. Accordingly,
9 the Court approves the Notice and the Claim Form.

10 8. The Court further approves the methods for giving notice of the
11 settlement to the members of the Settlement Class, as reflected in the Settlement
12 Agreement and proposed in the motion for preliminary approval. In addition to the
13 Class Notice, the Court has also reviewed the notice procedures and finds that the
14 members of the Settlement Class will, thereby, receive the best notice practicable
15 under the circumstances. The Court also approves payment of the costs of notice as
16 provided in the settlement. The Court finds that the notice procedures, carried out
17 with reasonable diligence, will constitute the best notice practicable under the
18 circumstances and will satisfy the requirements of Federal Rule of Civil Procedure
19 23(c)(2), Federal Rule of Civil Procedure 23(e)(1), and due process.

20 9. The Court further approves the appointment of Classaura LLC, or an
21 equivalent class action administrator identified by the parties to administer and
22 oversee, among other things, the processing, handling, reviewing, and approving of
23 claims made by Claimants; communicating with Claimants; and distributing
24 payments to qualified Claimants.

25 10. The Court directs that pursuant to Federal Rule of Civil Procedure
26 23(e)(2) a hearing will be held on [REDACTED], 2022, to consider final approval
27 of the settlement (the “Final Approval Hearing” or “Fairness Hearing”) including,
28 but not limited to, the following issues: (a) whether the Settlement Class should be

1 finally certified for settlement purposes only; (b) the fairness, reasonableness, and
2 adequacy of the settlement; (c) Class Counsel’s application for an award of
3 attorneys’ fees and costs; and (d) approval of an award of service payments to the
4 Class Representative. The Final Approval Hearing may be adjourned by the Court
5 and the Court may address the matters set out above, including final approval of the
6 Settlement, without further notice to the Settlement Class other than notice that may
7 be posted at the Court and on the Settlement Website.

8 11. Any member of the Settlement Class wishing to object (an “Objector”)
9 to the proposed settlement and/or be heard at the Fairness Hearing shall comply with
10 the following procedures:

11 a. To object, a member of the Settlement Class, individually or
12 through counsel, must file a written objection with the Court, with a copy delivered
13 to Class Counsel and the Defendant’s Counsel at the addresses set forth below:

14 Ronald A. Marron
15 **LAW OFFICES OF RONALD A. MARRON**
16 651 Arroyo Drive
17 San Diego, CA 92103
18 Telephone: (619) 696-9006
19 Email: ron@consumersadvocates.com

20 Jay Munisteri
21 **FOLEY & LARDNER LLP**
22 1000 Louisiana Street, Suite 2000
23 Houston, TX 77002
24 Telephone: 713.276.5752
25 Email: jmunisteri@foley.com

26 b. A written objection filed with the Court regarding or related to
27 the settlement shall contain a reference to this litigation, *Veda Woodard et al. v. Lee*
28 *Labrada, et al.*, Case No. 5:16-cv-00189-JGB-Sp and must be accompanied by any

1 documentary or other evidence and any factual or legal arguments that the objecting
2 Class Member intends to rely upon in making the objection.

3 c. Any member of the Settlement Class who files and serves a
4 timely written objection in accordance with this Order may also appear at the
5 Fairness Hearing, to the extent permitted by the Court, either in person or through
6 an attorney hired at the Settlement Class member’s expense, to object to the fairness,
7 reasonableness or adequacy of the proposed settlement.

8 12. Members of the Settlement Class who elect not to participate in the
9 settlement (i.e., “opt-out”) must submit a written request for exclusion that is
10 postmarked no later than [REDACTED], 2022.

11 13. Any member of the Settlement Class who fails to timely submit a
12 Request for Exclusion shall be bound by all subsequent proceedings, orders, and the
13 Final Judgment, even if he or she has a pending lawsuit, arbitration, or any other
14 proceeding against Labrada, or subsequently initiates litigation, arbitration, or any
15 other proceeding against Labrada relating to the Class Released Claims.

16 14. In order to participate in the settlement and receive a cash payment from
17 the Settlement Fund, members of the Settlement Class must properly complete a
18 Claim Form (online or in paper format) and submit it to the Claims Administrator.
19 To be effective, any such Claim Form must be postmarked no later than
20 [REDACTED], 2022 and must otherwise comply with the procedures and
21 instructions set forth in the Claim Form.

22 15. The deadlines for key events are as follows:

EVENT	DEADLINE
Deadline for publishing Notice	
Filing of papers in support of Final Approval and Class Counsel’s Application for Attorneys’ Fees and Expenses	

1	For filing an objection with the Court,	
2	or submitting a Request for Exclusion	
3	to the Settlement Administrator	
4	Filing of response to objections	
5	Final Approval Hearing	
6	Deadline for submitting claims forms	

7
8 **IT IS SO ORDERED.**

9
10
11 DATED: _____, 2022

12 HON. JESUS G. BERNAL
13 United States District Judge

EXHIBIT E

1 **LAW OFFICES OF**
2 **RONALD A. MARRON, APLC**
3 RONALD A. MARRON (SBN 175650)
4 *ron@consumersadvocates.com*
5 MICHAEL T. HOUCHIN (SBN 305541)
6 *mike@consumersadvocates.com*
7 651 Arroyo Drive
8 San Diego, CA 92103
9 Telephone: (619) 696-9006
10 Facsimile: (619) 564-6665

11 *Attorneys for Plaintiffs and the Proposed Classes*

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 VEDA WOODARD, TERESA
15 RIZZOMARINO, and DIANE
16 MORRISON on behalf of themselves, all
17 others similarly situated, and the general
18 public,

19 Plaintiffs,

20 v.

21 LEE LABRADA; LABRADA
22 BODYBUILDING NUTRITION, INC.;
23 LABRADA NUTRITIONAL
24 SYSTEMS, INC.; DR. MEHMET C.
25 OZ, M.D.; ENTERTAINMENT
26 MEDIA VENTURES, INC. d/b/a OZ
27 MEDIA; ZOCO PRODUCTIONS,
28 LLC; HARPO PRODUCTIONS, INC;
SONY PICTURES TELEVISION, INC;
NATUREX, INC.; and INTERHEALTH
NUTRACEUTICALS, INC.;

Defendants.

Case No.: 5:16-cv-00189-JGB-SP

CLASS ACTION

**DECLARATION OF
GAJAN RETNASABA**

1 I, Gajan Retnasaba, declare:

2 1. I am a Partner at Classaura LLC, a class action administration firm. I have
3 been the project lead, developing and implementing court-approved notice and
4 distribution plans for over 20 class actions including *Mason v. Heel*, No. 12-cv-3056-
5 GPC-KSC (S.D. Cal.), *In re Qunol Liquid Labeling Litig.*, No. 8:11-cv-0017 (C.D. Cal.),
6 *Arthur v. United Industries*, No. 2:17-cv-06983-CAS-SK (C.D. Cal.), *Potzner v. Tommie*
7 *Copper*, No. 1:15-cv-06055-AT (S.D.N.Y), *Mollicone v. Universal Handicraft*, No. 17-
8 21468-CIV-RNS (S.D Fla), and *In re Quaker Oats Labeling Litig.*, No. 5:10-cv-00502
9 (N.D. Cal.). I also founded the popular class action advocacy website
10 ClassActionRebates.com. My prior experience includes being a litigation associate at
11 Jones Day and a senior associate at McKinsey & Company. I hold a J.D. from Harvard
12 Law School and a Bachelor of Engineering from the University of New South Wales. I
13 am over the age of 18 and am not a party to this action.

14 2. I have been asked by counsel for the Plaintiff in this action to prepare a plan
15 for class notice and distribution, should preliminary approval be granted for the proposed
16 settlement.

17 **NOTICE OF CLASS CERTIFICATION AND PRELIMINARY**
18 **SETTLEMENT APPROVAL**

19 3. Class counsel has informed me that Labrada, Inc. (“Labrada”) markets and
20 sells dietary supplements called the Labrada Green Coffee Bean Extract and the Labrada
21 Garcinia Cambogia that are the subject of this settlement. The majority of the covered
22 products sold to end-users during the class period came from retailers such as The
23 Vitamin Shoppe. Labrada also sold limited amounts of the covered products directly to
24 the public through its website (Labrada.com) during the class period.

25 4. Since most sales of the covered products were through a network of
26 distributors and retailers, no complete record of all sales of the covered products to
27 California consumers exists. Accordingly, I recommend that notice be disseminated
28

1 directly to all consumers for whom direct purchase information is available, and also
2 disseminated broadly to residents of California, with a focus on consumers most likely to
3 have purchased the covered products.

4 5. I recommend the creation of a class website to provide case information, as
5 well as phone, email, and postal contacts for class members to file a claim, and request
6 further information. The website would also allow class members to opt-out of the class.

7 **DIRECT NOTICE**

8 6. Where adequate records exist, direct notice is the preferred form of notice
9 as it provides the most effective and most cost-efficient notice to class members.

10 7. I have been informed that Labrada will provide me with records of direct
11 purchase class members. I recommend that an initial email should be sent to all class
12 members for whom direct purchase records exist providing a brief summary of the class
13 settlement, deadlines, their options, and directing class members to the settlement website
14 for more information or to file a claim.

15 8. To maximize the open rate of the email, the emails should be sent from
16 reputable mail servers to avoid the emails being erroneously classified as spam emails.
17 The sending of the emails should also be timed to reach the recipients during times of the
18 day when they are most receptive to opening emails and where possible this timing
19 adjusted to account for the recipients' time zones.

20 9. The email should be designed to maximize the response from class
21 members. The email should be written in plain language to make it easy to understand
22 and formatted to make it easy to skim. The email should be designed and presented in a
23 way that asserts credibility and avoids the email being discarded by the recipient as
24 fraudulent or spam. And the email should be responsively designed so that it is easily
25 viewed on a variety of devices. The email should contain a claim number, allowing these
26 direct purchase class members to file a claim by simply entering their claim number as
27 their proof of purchase.

1 10. A follow-up reminder email should be sent to class members whom did not
2 respond to the initial email – reminding them of the settlement, their options, and pending
3 deadlines. Depending on the response rate to the first two rounds of emails, further
4 rounds of emails can be sent. In subsequent rounds of email, messaging can be improved
5 based on feedback from class members on the initial email, and marketing techniques
6 such as A/B testing can be used to find messaging that is most effective for class
7 members.

8 **INDIRECT NOTICE**

9 11. Because a complete record of all buyers of the covered products does not
10 exist, I recommend that direct notice be supplemented with a broad California publication
11 notice. For this indirect notice I recommend targeted online advertising via Facebook and
12 a California press release.

13 12. Facebook is the single media outlet where Californians spend the most time,
14 with approximately 230 million adult registered users in the United States who use the
15 site at least once per month. For a California notice plan, I recommend that ads provide
16 a notice that a class has been certified, that there is a proposed settlement, and link to the
17 detailed class notice website. I recommend these ads be published 15,000,000 times on
18 the Facebook advertising network. This will duplicate the exposure and viewership of ads
19 in multiple large California newspapers.

20 13. PR Newswire is a national press release service used by journalists as a
21 source for news. Press releases sent through PR Newswire often end up as articles in
22 news media websites such as CNBC.com, MarketWatch.com, Reuters.com, Yahoo.com
23 and local media affiliates of the major television networks ABC, NBC, and CBS. The
24 press release will contain information about the class settlement and the address for the
25 dedicated settlement website. I recommend the publication of a California targeted press
26 release on PR Newswire.

1 14. I further recommend that details of the settlement be forwarded to class
2 action advocacy websites that are frequently used by members of the public interested in
3 keeping updated on their eligibility for settlements.

4 **CLRA NOTICE**

5 15. California's Consumers Legal Remedies Act (CLRA §1781) requires
6 published notice in a newspaper of general circulation in the county of the transaction,
7 Riverside, once a week for four consecutive weeks. Accordingly, I propose publication
8 over four consecutive weeks in The Press Enterprise.

9 **SETTLEMENT WEBSITE**

10 16. I recommend the creation of a dedicated settlement website to provide
11 detailed information to class members. The website will include documents fully
12 describing the case and include the Complaint, Class Certification, Settlement
13 Agreement, summary and long-form Notice of the Proposed Settlement, and other
14 relevant documents. The website will also describe who is a class member, how their
15 rights are affected by the class certification, and the process for filing a claim, opting-
16 out out of the settlement, or objecting to the settlement.

17 17. The website will provide email, phone, and postal contacts for class
18 members to request further information, hard copies of case-related, or other help they
19 may require.

20 18. The website will be updated as needed.

21 19. Monetary claims and opt-out requests may be made online using an
22 automated form, secured using 128-bit encryption, which is the commercial standard.
23 The site would also allow class members to download the claim or opt-out forms that can
24 be printed and submitted by mail.

25 **METHODS FOR PREVENTING PAYMENT OF ERRONEOUS,**
26 **DUPLICATIVE, AND FRAUDULENT CLAIMS**

1 20. I would undertake several methods of preventing payment of invalid
2 claims.

3 21. To prevent duplication, all online claims would be loaded into an
4 electronic database. Claims received by mail would be manually entered into the
5 same database. An algorithm would then be run to identify duplicate entries,
6 including those that are not exact duplicates, but involve small variations in names or
7 addresses.

8 22. One type of erroneous claim is an incomplete claim. To the extent
9 possible, the information contained within the incomplete claims will be used to
10 notify the submitter of the incomplete claim. A second type of erroneous claim is one
11 that does not match with a database of United States addresses. Where possible, these
12 addresses will be corrected or individuals will be contacted and encouraged to
13 resubmit a correct claim.

14 23. Fraudulent claims can be deterred by requiring claim forms be submitted
15 under “penalty of perjury.” Fraud can be further reduced by utilizing fraud detection
16 techniques and rejecting fraudulent claims. The claims database will be queried to
17 report signs of fraud such as: (1) multiple online claims made from the same Internet
18 Protocol (“IP”) address; (2) multiple highly similar claims, and (3) claims requesting
19 payment be sent to penal institutions.

20 24. Fraudulent out-of-state claims can be minimized by requiring that
21 claims requesting that payment be sent out-of-state also require some proof that the
22 claimant resided in California during the covered period.

23
24 **COSTS**

25 25. The costs to provide notice of the settlement via publication, settlement
26 website, press release, online notice, and CAFA is \$77,135. The costs to administer
27 the settlement, and process claims is \$5,000 (assuming 25,000 claims). The cost to
28

1 distribute payment to class members is \$15,000 (assuming 20,000 approved claims).
2 This brings the total cost to \$97,135.

3
4 I declare under penalty of perjury of the laws of the United States that the foregoing
5 is true and correct.

6
7 Executed on May 31, 2022, in Atlanta, GA.

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10 Gajan Retnasaba
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VEDA WOODARD, TERESA RIZZO-
MARINO, and DIANE MORRISON,
on behalf of themselves, all others
similarly situated, and the general
public,

Plaintiffs,

vs.

LEE LABRADA; LABRADA
BODYBUILDING NUTRITION, INC.;
LABRADA NUTRITIONAL
SYSTEMS, INC.; DR. MEHMET C.
OZ, M.D.; ENTERTAINMENT
MEDIA VENTURES, INC. d/b/a OZ
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NUTRACEUTICALS, INC.,

Defendants.

CASE NO. 5:16-cv-00189-JGB-SP

CLASS ACTION

**[PROPOSED] ORDER
GRANTING MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

1 This matter having been submitted to the Court by Plaintiff Veda Woodard,
2 on her own behalf and on behalf of the Class defined below (hereafter referred to as
3 “Plaintiff” or “Class Representative”) and Law Offices of Ronald A. Marron, APLC
4 and Cohelan, Khoury, and Singer (together, “Class Counsel”) on behalf of the
5 Plaintiff and by Defendant Labrada Bodybuilding Nutrition, Inc. (“Labrada” or
6 “Defendant”) through its Counsel, by way of Plaintiff’s motion for preliminary
7 approval of the proposed settlement in the above captioned action;

8 WHEREAS, the Court having reviewed and considered the Plaintiff’s motion
9 for preliminary approval and supporting materials filed by Class Counsel; and

10 WHEREAS, this Court has fully considered the record and the requirements
11 of law; and good cause appearing;

12 **IT IS THIS ____ DAY OF _____, 2022**

13 **ORDERED** that the settlement (including all terms of the Settlement
14 Agreement and exhibits thereto) is hereby **PRELIMINARILY APPROVED**. The
15 Court further finds and orders as follows:

16 1. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 and
17 venue is proper in this district.

18 2. The Court has personal jurisdiction over the Class Representative,
19 Settlement Class Members, and the Defendant.

20 3. The settlement is the product of arm’s length bargaining conducted by
21 experienced legal counsel after extensive discovery and with the assistance of an
22 impartial mediator. The Settlement Agreement is not the result of collusion.

23 4. The proceedings that occurred before the parties reached the Settlement
24 Agreement gave counsel and the parties an opportunity to adequately assess the
25 strengths and weaknesses of their respective positions in this case, and, thus, to
26 structure the settlement in a way that adequately accounts for those strengths and
27 weaknesses.

1 5. The settlement falls within the range of reason and has no obvious
2 deficiencies.

3 6. Because the settlement meets the standards for preliminary approval,
4 the Court preliminarily approves all terms of the settlement, including the Settlement
5 Agreement and all of its exhibits.

6 7. The Court has reviewed the content of the notice plan and the Claim
7 Form and finds that they satisfy the requirements of Federal Rule of Civil Procedure
8 23(c)(2), Federal Rule of Civil Procedure 23(e)(1), and due process. Accordingly,
9 the Court approves the Notice and the Claim Form.

10 8. The Court further approves the methods for giving notice of the
11 settlement to the members of the Settlement Class, as reflected in the Settlement
12 Agreement and proposed in the motion for preliminary approval. In addition to the
13 Class Notice, the Court has also reviewed the notice procedures and finds that the
14 members of the Settlement Class will, thereby, receive the best notice practicable
15 under the circumstances. The Court also approves payment of the costs of notice as
16 provided in the settlement. The Court finds that the notice procedures, carried out
17 with reasonable diligence, will constitute the best notice practicable under the
18 circumstances and will satisfy the requirements of Federal Rule of Civil Procedure
19 23(c)(2), Federal Rule of Civil Procedure 23(e)(1), and due process.

20 9. The Court further approves the appointment of Classaura LLC, or an
21 equivalent class action administrator identified by the parties to administer and
22 oversee, among other things, the processing, handling, reviewing, and approving of
23 claims made by Claimants; communicating with Claimants; and distributing
24 payments to qualified Claimants.

25 10. The Court directs that pursuant to Federal Rule of Civil Procedure
26 23(e)(2) a hearing will be held on [REDACTED], 2022, to consider final approval
27 of the settlement (the “Final Approval Hearing” or “Fairness Hearing”) including,
28 but not limited to, the following issues: (a) whether the Settlement Class should be

1 finally certified for settlement purposes only; (b) the fairness, reasonableness, and
2 adequacy of the settlement; (c) Class Counsel’s application for an award of
3 attorneys’ fees and costs; and (d) approval of an award of service payments to the
4 Class Representative. The Final Approval Hearing may be adjourned by the Court
5 and the Court may address the matters set out above, including final approval of the
6 Settlement, without further notice to the Settlement Class other than notice that may
7 be posted at the Court and on the Settlement Website.

8 11. Any member of the Settlement Class wishing to object (an “Objector”)
9 to the proposed settlement and/or be heard at the Fairness Hearing shall comply with
10 the following procedures:

11 a. To object, a member of the Settlement Class, individually or
12 through counsel, must file a written objection with the Court, with a copy delivered
13 to Class Counsel and the Defendant’s Counsel at the addresses set forth below:

14 Ronald A. Marron
15 **LAW OFFICES OF RONALD A. MARRON**
16 651 Arroyo Drive
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18 Telephone: (619) 696-9006
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20 Jay Munisteri
21 **FOLEY & LARDNER LLP**
22 1000 Louisiana Street, Suite 2000
23 Houston, TX 77002
24 Telephone: 713.276.5752
25 Email: jmunisteri@foley.com

26 b. A written objection filed with the Court regarding or related to
27 the settlement shall contain a reference to this litigation, *Veda Woodard et al. v. Lee*
28 *Labrada, et al.*, Case No. 5:16-cv-00189-JGB-Sp and must be accompanied by any

1 documentary or other evidence and any factual or legal arguments that the objecting
2 Class Member intends to rely upon in making the objection.

3 c. Any member of the Settlement Class who files and serves a
4 timely written objection in accordance with this Order may also appear at the
5 Fairness Hearing, to the extent permitted by the Court, either in person or through
6 an attorney hired at the Settlement Class member’s expense, to object to the fairness,
7 reasonableness or adequacy of the proposed settlement.

8 12. Members of the Settlement Class who elect not to participate in the
9 settlement (i.e., “opt-out”) must submit a written request for exclusion that is
10 postmarked no later than [REDACTED], 2022.

11 13. Any member of the Settlement Class who fails to timely submit a
12 Request for Exclusion shall be bound by all subsequent proceedings, orders, and the
13 Final Judgment, even if he or she has a pending lawsuit, arbitration, or any other
14 proceeding against Labrada, or subsequently initiates litigation, arbitration, or any
15 other proceeding against Labrada relating to the Class Released Claims.

16 14. In order to participate in the settlement and receive a cash payment from
17 the Settlement Fund, members of the Settlement Class must properly complete a
18 Claim Form (online or in paper format) and submit it to the Claims Administrator.
19 To be effective, any such Claim Form must be postmarked no later than
20 [REDACTED], 2022 and must otherwise comply with the procedures and
21 instructions set forth in the Claim Form.

22 15. The deadlines for key events are as follows:

EVENT	DEADLINE
Deadline for publishing Notice	
Filing of papers in support of Final Approval and Class Counsel’s Application for Attorneys’ Fees and Expenses	

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For filing an objection with the Court, or submitting a Request for Exclusion to the Settlement Administrator	
Filing of response to objections	
Final Approval Hearing	
Deadline for submitting claims forms	

IT IS SO ORDERED.

DATED: _____, 2022

HON. JESUS G. BERNAL
United States District Judge