UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

IN RE: BESTWAY ABOVE-GROUND POOLS LITIGATION	CASE NO. 1:25-cv-09570 Judge: Honorable Lindsay C. Jenkins

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS AND APPROVAL OF NOTICE PLAN

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page(s)**

Rules & Other Authorities

Plaintiffs Susana Castro, Pete Piceno, Shannon Gannon, Leah Holloway, Jamie DeSabio, Katrina Hill and Lisa Weeks (collectively, the "Plaintiffs," "Named Plaintiffs" or "Class Representatives"), by and through undersigned counsel, submit this Memorandum of Law in Support of their Unopposed Motion for Preliminary Approval of the Settlement Agreement ("Motion") entered into with Bestway (USA) Inc. ("Bestway USA"), Bestway Inflatables & Material Corp. ("Bestway Inflatables") and Bestway (Hong Kong) International Ltd ("Bestway Hong Kong") (collectively, "Bestway" or "Defendants") (together with Named Plaintiffs, the "Parties"). Defendants do not oppose this Motion.

I. INTRODUCTION

In this consolidated class action ("Action"), Named Plaintiffs assert that certain Bestway-branded above-ground Pools ("Class Products" or "Pools") contain a safety defect that creates a potential drowning hazard, and that Bestway issued a delayed and inadequate voluntary recall that failed to offer consumers an adequate remedy, including any monetary relief.

The proposed Settlement[1] provides substantial and meaningful relief for the Class, with a ***non-reversionary, all-cash*** Settlement Fund of $15,000,000.00. The Settlement is fair, reasonable and adequate, and satisfies all factors necessary for this Court to grant preliminary approval. This result is particularly strong given the substantial risks associated with class certification, liability and damages, all of which Defendants dispute, and the possibility of no recovery absent settlement.

Plaintiffs respectfully request an order that will: (1) grant preliminary approval of the Settlement; (2) certify the proposed Settlement Class for settlement purposes only under Rules

[1] All capitalized terms have the same meaning as defined in the Settlement Agreement, which is attached as Exhibit 1 ("Settlement Agreement" or "Settlement") to Class Counsel's Omnibus Declaration in Support of Plaintiffs' Motion for Preliminary Approval of Settlement, filed concurrently herewith ("Class Counsel Decl.").

23(a) and 23(b)(3); (3) appoint Plaintiffs as Class Representatives; (4) appoint Kevin Laukaitis of Laukaitis Law LLC and Rachel Soffin of Pearson Warshaw, LLP as Co-Lead Class Counsel and confirm the Executive Committee as Class Counsel; (5) approve the Notice Plan and the forms of Notice; (6) appoint EisnerAmper LLP as Settlement Administrator; (7) approve the procedures for claims, objections and requests for exclusion; (8) stay proceedings pending final approval; and (9) schedule the Final Approval Hearing.

II. SUMMARY OF THE ACTION

A. Plaintiffs' Allegations

This Action arises from the manufacture, distribution and sale of certain Bestway-branded above-ground Pools from 2008 to 2024 that are 48 inches in height or taller (including Power Steel, Steel Pro and Coleman Power Steel models),[2] with compression straps located outside the support poles that may create a foothold and allow children to gain access to the Pool, creating a drowning hazard ("Defect").[3] Class Counsel Decl. ¶ 4. Defendants later issued a voluntary recall in conjunction with the United States Consumer Product Safety Commission ("CPSC"), which Named Plaintiffs allege was delayed, deficient and inadequate, including that it failed to offer consumers any monetary relief ("Recall" or "Pool Recall"). *Id*. Based on these allegations, Named Plaintiffs filed multiple lawsuits, which were later consolidated into a single Action, as described below. Defendants deny all material allegations.

---

[2] A complete and accurate list of Class Product model numbers provided by Defendants is attached as Exhibit E to the Settlement Agreement.

[3] *See* Consolidated Amended Class Action Complaint, ECF No. 37 ("CAC" or "Complaint"), ¶ 1. The Complaint currently names only Bestway USA, but as this Settlement also resolves claims against Bestway Inflatables and Bestway Hong Kong, Plaintiffs filed, concurrently with this Motion, a Motion for Leave to File a Second Consolidated Amended Class Action Complaint that incorporates all Defendants subject to this Action and Settlement.

B. Litigation, Information Exchange, Mediation and Settlement

This Action began on August 12, 2025, when Plaintiff Susana Castro filed a putative class action against Bestway USA in the United States District Court for the Northern District of Illinois. *Castro v. Bestway USA, Inc.*, No. 1:25-cv-09570 (N.D. Ill.) (the "*Castro* Action"). *Id.* ¶ 5.

On August 21, 2025, Plaintiffs Pete Piceno and Shannon Gannon filed a putative class action in the Central District of California, alleging similar claims against Bestway USA relating to the Defect and alleged inadequate Pool Recall. *Piceno et al. v. Bestway USA, Inc.*, No. 1:25-cv-12315 (C.D. Cal.) (the "*Piceno* Action"). *Id.* ¶ 6.

On October 17, 2025, Plaintiffs Katrina Hill and Lisa Weeks filed a putative class action in the United States District Court for the Northern District of California, also alleging similar claims against Bestway USA relating to the Defect and alleged inadequate Pool Recall. *Hill et al. v. Bestway USA, Inc.*, No. 1:25-cv-13422 (N.D. Cal.) (the "*Hill* Action"). *Id.* ¶ 7.

On October 21, 2025, Plaintiff Leah Holloway filed a putative class action in the Northern District of Illinois, again alleging similar claims against Bestway USA relating to the Defect and alleged inadequate Pool Recall. *Holloway v. Bestway USA, Inc.*, No. 1:25-cv-12853 (N.D. Ill.) (the "*Holloway* Action"). *Id.* ¶ 8.

The *Castro, Piceno, Hill* and *Holloway* actions asserted claims against Bestway USA for violations of various nationwide common laws and state consumer protection statutes. These actions were the product of significant investigation, including consultation with experts and extensive review of prior similar litigation regarding the Defect. *Id.* ¶ 13.

On October 3, 2025, the *Piceno* Action was transferred to the Northern District of Illinois, and on October 22, 2025, the *Piceno* Action was related to the *Castro* Action. *Id.* ¶ 9. On October 29, 2025, the *Hill* Action was transferred to the Northern District of Illinois. *Id.*

On November 6, 2025, the Court held an initial status conference. Following that conference, the Court consolidated the *Castro, Piceno, Hill* and *Holloway* actions into a single Action styled *In re: Bestway Above-Ground Pools Litigation*, No. 1:25-cv-09570 (N.D. Ill.). *Id.* ¶ 10 (citing ECF No. 29). The Court directed Plaintiffs to file any motion seeking appointment of interim class counsel pursuant to Rule 23 by November 7, 2025, and indicated that a consolidated amended complaint would follow. *Id.*

Following coordination among Plaintiffs' counsel, on November 7, 2025, Plaintiffs moved for the appointment of interim class counsel. *Id.* ¶ 11 (citing ECF No. 31). The Court granted that motion on November 12, 2025, appointing Kevin Laukaitis of Laukaitis Law LLC and Rachel Soffin of Pearson Warshaw, LLP as Interim Co-Lead Class Counsel and appointing additional counsel to the Executive Committee, including Leslie Pescia of Siri Glimstad, Nick Suciu of Bryson Harris Suciu & DeMay PLLC, Charles D. Moore of Reese, LLP, Jason Sultzer of Sultzer & Lipari, PLLC, and Alec Schultz of Hilgers Graben PLLC. *Id.* (citing ECF No. 35).

On November 24, 2025, Named Plaintiffs filed their consolidated amended class action complaint, alleging claims on behalf of consumers nationwide. *Id.* ¶ 12 (citing ECF No. 37). Named Plaintiff Jamie DeSabio was included in the Consolidated Amended Class Action Complaint as a Plaintiff in the Action. *Id.*

Following consolidation, the Parties began discussing a potential settlement. *Id.* ¶ 14. Prior to mediation, the Parties exchanged significant confidential informal discovery, including documents sufficient to identify all model numbers, brand names, product descriptions, retail pricing information, supply dates, number of Pool units sold, design changes made to the Pools consistent with industry standards, packaging information, user manuals, testing regarding evaluation of the repair kit subject to the Pool Recall and related Pool Recall data, as well Named

Plaintiffs' Pool purchase information and documentation. *Id*. This information allowed the Parties to evaluate the strengths and weaknesses of the claims and negotiate an informed resolution of the Action. *Id*. The Parties also exchanged detailed mediation briefs prior to mediation, outlining their respective positions. *Id*.

On January 16, 2026, the Parties participated in a full-day, in-person mediation before the Honorable Diane Welsh (Ret.) of JAMS in Philadelphia, Pennsylvania. Judge Welsh is particularly experienced and adept at resolving consumer class actions, and her involvement in the settlement process supports the Settlement's fairness. *Id*. ¶ 15. The mediation was hard-fought and conducted at arm's length but did not result in a settlement. *Id*.

On February 13, 2026, the Parties subsequently participated in a second full-day in-person mediation session before the Honorable Diane Welsh (Ret.) in Philadelphia, Pennsylvania. *Id*. ¶ 16. At that session, the Parties reached an agreement in principle to resolve the Action on a nationwide class basis, incorporating all Bestway defendants, including Bestway USA, Bestway Inflatables and Bestway Hong Kong. *Id*. In subsequent months, the Parties continued to negotiate the finer points of the Settlement Agreement, including the terms of the Release, the Settlement Administrator and its respective duties, the Notice Plan and the proposed schedule of settlement events. *Id*. ¶ 18. The Parties did not discuss attorneys' fees, costs, or service awards until after agreement was reached on the material terms of class relief. *Id*.

Based on Class Counsel's review and investigation, the Parties' significant informal exchange of information, and the mediation process, Named Plaintiffs and Class Counsel were able to thoroughly evaluate the strengths and weaknesses of Plaintiffs' claims and the prospects and risks associated with continued litigation, including those related to class certification, liability and damages, summary judgment and trial. *Id*. ¶¶ 30-36. Based on that evaluation, Named

Plaintiffs and Class Counsel believe the Settlement provides substantial and meaningful benefits to the Settlement Class and is fair, reasonable and adequate. *Id*.

Defendants deny all material allegations in the Action and deny any wrongdoing, defect or violation of law. Settlement Agreement § VIII(9). Defendants further deny that any class could be certified for litigation purposes. *Id*. at § IX(1). Throughout the litigation, Defendants maintained the position that the Pools did not suffer from the Defect and that the Pool Recall parameters were adequate. *Id*. at Recitals (O). Nonetheless, considering the uncertainty, expense and burden of continued litigation, without the admission of any fault, Defendants concluded that settlement is desirable to avoid further costs and risks. *Id*.

The Parties agree that, for settlement purposes only, the proposed Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23. *Id*. at § I(58). Nothing in the Settlement alters, limits or replaces any remedies available under the Pool Recall, including recall-related remedies available through the CPSC or Defendants' corrective action plan, which shall continue independently of this Settlement. *Id*. at Recitals (S).

III. MATERIAL TERMS OF THE SETTLEMENT

A. Settlement Class Definition

Plaintiffs seek Preliminary Approval of the Settlement on behalf of the following Settlement Class:

> All Persons in the United States (including states, districts, territories, and tribal reservations) who purchased a Class Product, for personal use and not for resale, before the date of the Preliminary Approval Order.

Settlement Agreement § II(1).

> Specifically excluded from the Settlement Class are the following:
>
> (1) the presiding judge and immediate family; (2) Defendants and their parents, subsidiaries, affiliates, and their current and former officers, directors, employees,

> agents, and counsel; (3) Persons who timely and properly Opt-Out; (4) successors/assigns of excluded Persons; (5) wholesalers, distributors, or retailers of the Class Products; (6) second-hand purchasers; (7) any federal, state, or local governmental entity; and (8) Class Counsel.

Id. at § II(1).

B. The Settlement Includes Significant, Meaningful Monetary Relief to the Settlement Class

Cash Settlement Fund. The Settlement provides for a $15,000,000.00 ***non-reversionary all-cash*** Settlement Fund. The Settlement Fund shall be used to pay: (1) Cash Payments to Settlement Class Members with valid claims; (2) Court-approved Service Awards to Class Representatives; (3) Court-approved attorneys' fees and Cost Reimbursement to Class Counsel; and (4) all Settlement Notice and Administration Costs. *Id*. at §§ I(53), III. The Settlement Fund will be maintained in a qualified settlement fund administered by the Settlement Administrator, with staged funding to ensure timely payment of administration costs, fees and class member relief. *Id*. at § III(4).

Claims Process. A Settlement Class Member who submits a timely and valid Claim Form may receive a Cash Payment for the purchase of a Class Product during the Settlement Class Period on the following terms. *Id*. at § V(7)(a).

Cash Payment. To qualify for a Cash Payment, a Claimant must submit a Claim Form no later than the Claim Deadline. *Id*. at §§ V(6), (7).

Claimants submitting Valid Proof of Purchase (*e.g.*, receipt, packaging, model number, or serial number) shall receive a Cash Payment equal to ten percent (10%) of either: (i) the actual purchase price as reflected in the Valid Proof of Purchase (*e.g.*, receipt); or (ii) if the Valid Proof of Purchase does not reflect the actual purchase price, the Average Retail Price assigned to the identified Class Product in the product pricing schedule. The product pricing schedule shall identify, by model, the Average Retail Price assigned to each Class Product and shall be provided by Defendants to the Settlement Administrator and Class Counsel within fourteen (14) days after the Preliminary Approval Date. *Id.* at § V(7)(b).

Claimants without Valid Proof of Purchase shall receive a Cash Payment of $40.00, subject to *pro rata* adjustment as defined in the Agreement. *Id.* at § V(7)(c).

Any remaining funds will first be distributed on a *pro rata* basis to participating Settlement Class Members, to the extent feasible, before any residual funds are distributed to the *Cy Pres* Recipient, subject to Court approval at final approval. Id. at § VI(2). The *Cy Pres* Recipient shall be a nonprofit organization with a mission reasonably related to consumer safety, product safety, or drowning prevention, and shall have no affiliation with the Parties or their counsel. *Id.* at § I(20).

C. Scope of Release

The Release is narrowly tailored to economic loss claims arising from the alleged Defect and does not extend to personal injury or other non-economic claims. *Id*. at §§ I(45), X(4).

In exchange for the benefits allowed under the Settlement, Class Members will release any and all claims, demands, rights, suits, liabilities and causes of action of every nature and description whatsoever, known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that were asserted in the Action or that could have been asserted in the Action based on the same factual predicate as the Action, arising from the purchase of a Class Product before the Preliminary Approval Date and seeking recovery for alleged economic loss, overpayment, diminution in value, or other non-personal-injury monetary relief. *Id*. at §§ I(45), VIII.

Released Claims **do not** include: (a) personal injury, bodily injury, wrongful death, emotional distress, or mental anguish; (b) property damage; (c) insurers' subrogation claims; (d) claims based on conduct occurring after the Preliminary Approval Date; or (e) claims to enforce recall-related remedies or governmental enforcement actions. *Id*. at §§ I(45), X(4).

D. Settlement Class Notice and Administration

The proposed Settlement Administrator, EisnerAmper LLP, is well-respected and reputable and was mutually selected by the Parties after a competitive bidding process. *Id*. at § IV(1); Class Counsel Decl. ¶¶ 25-29. Pursuant to the Notice Plan, EisnerAmper will implement a multi-channel notice program, including targeted digital advertising (such as social media and programmatic display advertising), a press release, and, where feasible, direct notice via email and/or U.S. Mail using customer data obtained from Defendants and, where available, third-party retailers or other reasonably available sources. This multi-channel approach—including digital advertising, search-based notice and direct notice where available—is reasonably calculated to reach a substantial portion of the Settlement Class and constitutes the best notice practicable under the circumstances, consistent with Rule 23 and due process. *See* Declaration from EisnerAmper, ¶¶ 11-24 ("EisnerAmper Decl."), filed concurrently herewith; *see also* Settlement Agreement § IV.

EisnerAmper will also be responsible for maintaining the Settlement Website, http://www.poolsettlementbw.com, and a toll-free telephone number for Settlement Class Members. *See* EisnerAmper Decl. ¶¶ 22-23; Settlement Agreement §§ V(5)(a) and (b). The Settlement Website shall contain all relevant documents and information, and shall provide: (i) a summary of the Settlement, important dates and deadlines, (ii) information pertaining to Settlement Class Members' rights under the Settlement, deadlines for filing a Claim Form, and the dates and locations of relevant Court proceedings, including the Fairness Hearing; (iii) the toll-free telephone number applicable to the Settlement; (iv) copies of the Settlement Agreement, the Class Notices, the Claim Form, Court Orders regarding the Settlement and other relevant Court documents, including Class Counsel's not-yet-filed Motion for Approval of Attorneys' Fees, Cost

Reimbursement, and Class Representative Service Awards; (v) information concerning the process for submission of Claim Forms; and (vi) the process Class Members must follow to opt-out or object to the Settlement. *See* EisnerAmper Decl. ¶¶ 22-23; Settlement Agreement §§ V(5)(a). The Settlement Fund will first be used to pay for Class Notice and Settlement Administration Costs. Settlement Agreement §§ III(2), (3).

The Parties agreed that notice will commence on the later of: (i) thirty (30) days after entry of the Preliminary Approval Order; or (ii) August 1, 2026. Settlement Agreement § V(3). This timing reflects the coordination required to implement a comprehensive notice program, including obtaining contact information for Settlement Class members from online and brick-and-mortar retailers, processing class data and deploying digital and direct notice components, and ensures that notice is disseminated accurately and effectively. Class Counsel Decl. ¶¶ 25-29. Importantly, this schedule does not prejudice the Settlement Class and instead ensures that notice is executed in a coordinated and effective manner designed to maximize participation. *Id.*; *see generally* EisnerAmper Decl. This timing also ensures that notice follows preliminary approval and complies with Rule 23(c)(2)(B)'s requirement that notice be disseminated after certification of the settlement class.

E. <u>Opt-Outs and Objections</u>

The Settlement Agreement provides mechanisms by which Settlement Class Members may opt-out of, or object to, the proposed Settlement. Settlement Agreement § V(18).

If any Settlement Class Member wishes to be excluded (in other words, opt-out) from this Settlement, the Settlement Class Member may do so by submitting a written request for exclusion as described in the Class Notice to the Settlement Administrator by U.S. Mail, postmarked no later than the Objection/Exclusion Deadline (90 days after the Notice Date), or submitted through the

Settlement Website and verified no later than the Objection/Exclusion Deadline (90 days after the Notice Date). *Id.* at § V(18)(a). Any Settlement Class Member who elects to exclude themselves from the Settlement will not be bound by the Settlement and will not be entitled to object or receive Settlement benefits. *Id.* at § V(18)(c). Any Settlement Class Member who does not submit a timely request for exclusion shall be bound by all subsequent proceedings, orders, and the Final Approval in the Action relating to this Settlement Agreement, even if he or she has pending, or subsequently initiates litigation or any other proceeding against Defendants relating to the Released Claims. *Id.*

Any Settlement Class Member who wishes to object to the Settlement must file a written objection on the docket as described in the Class Notice no later than the Objection/Exclusion Deadline (90 days after the Notice Date). *Id.* at § V(18)(e). The objector must also send a copy of the objection to the Settlement Administrator and to counsel for the Parties at the addresses identified in the Class Notice so that it is postmarked (if mailed) or transmitted (if emailed) no later than the Objection/Exclusion Deadline (90 days after the Notice Date). *Id*. Any response to an objection shall be filed with the Court no later than seven (7) days prior to the Fairness Hearing. *Id*. A Settlement Class Member who submits an objection may still submit a Claim Form, which shall be processed in the same manner as all other claims. *Id.*

F. Attorneys' Fees, Cost Reimbursement and Class Representative Service Awards

The Court shall determine the amount of any Attorneys' Fees, Cost Reimbursement and Class Representative Service Awards. *Id*. at § VII. No later than thirty-five (35) Days before the Objection/Exclusion Deadline, Class Counsel may file a motion seeking an award of Attorneys' Fees, Cost Reimbursement and Class Representative Service Awards, all to be paid from the Settlement Fund. *Id*. at § VII(1). The motion (and any supporting papers) shall be posted on the Settlement Website. *Id.* at § V(5)(a). The Notice shall provide that Class Counsel may apply for attorneys' fees not to exceed one-third (33 1/3%) of the Settlement Amount, exclusive of Settlement Administration Costs and Class Representative Service Awards. *Id*. at § VII(1). Class Counsel may also seek a Cost Reimbursement of reasonable litigation costs incurred in prosecuting the Action through final approval, subject to the Court's approval. *Id.* Class Counsel will seek Class Representative Service Awards in the amount of $2,500.00 to each Named Plaintiff for their efforts in effectively and diligently pursuing the claims in this litigation and achieving the benefits of the Settlement Agreement on behalf of the Settlement Class. *Id.* at § VII(4).

Counsel and Named Plaintiffs agree that the denial, downward modification, failure to grant the request for Attorneys' Fees and Cost Reimbursement, or a Class Representative Service Award, or the reversal or modification on appeal of any such awards, shall not constitute grounds for modification or termination of the Settlement. *Id.* at § VII(3).

IV. THE COURT SHOULD PRELIMINARILY APPROVE THE CLASS ACTION SETTLEMENT

The Settlement was negotiated at arm's length by competent, experienced counsel, with the assistance of a highly regarded mediator, Judge Diane Welsh. Class Counsel Decl. ¶¶ 14-18, 30. Given the substantial risks associated with class certification, liability and damages, the Settlement falls well within the range of possible approval under Rule 23(e). *Id.* ¶ 30. The Settlement meets all the Seventh Circuit's standards for approving class action settlements and, therefore, warrants Preliminary Approval. *See Counts v. Arkk Food Co. et al.*, No. 1:23-cv-0236 (N.D. Ill.) (Jenkins, J.) (ECF No. 61) (granting preliminary approval for settlement purposes of all cash common fund involving allegedly misrepresented and deceptively advertised consumer good products).

There is an overriding public interest in resolving litigation through settlement; this is particularly true in complex class actions. *See Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996)

("Federal courts naturally favor the settlement of class action litigation."); 4 Newberg on Class Actions (4th ed.2002) §§ 11.41 ("The compromise of complex litigation is encouraged by the courts and favored by public policy."). At the preliminary approval stage, the Court's task is to "determine whether the proposed settlement is within the range of possible approval." *Armstrong v. Bd. of Sch. Dirs. of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980) (internal citation and quotation marks omitted) (at the final fairness hearing, the court will "adduce all information necessary to enable [it] intelligently to rule on whether the proposed settlement is fair, reasonable, and adequate"), overruled on other grounds by *Felzen v. Andreas*, 134 F.3d 873 (7th Cir. 1998). Courts in this district may perform a "summary version" of the final fairness inquiry at the preliminary approval stage. *See, e.g.*, *In re AT&T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 346 (N.D. Ill. 2010) (quoting *Kessler v. Am. Resorts Int'l's Holiday Network, Ltd.*, Nos. 05 Civ. 5944, 07 Civ. 2439, 2007 WL 4105204, at *5 (N.D. Ill. Nov. 14, 2007)). Accordingly, the Court's task on a motion for preliminary approval is "limited to the consideration of whether the proposed settlement is lawful, fair, reasonable, and adequate." *Isby*, 75 F.3d at 1196; *see also E.E.O.C. v. Hiram Walker & Sons, Inc.*, 768 F.2d 884, 889 (7th Cir. 1985).

"In deciding whether to preliminarily approve a settlement, courts must consider: (1) the strength of plaintiffs' case compared to the terms of the proposed settlement; (2) the likely complexity, length and expense of continued litigation; (3) the amount of opposition to settlement among effected parties; (4) the opinion of competent counsel; and (5) the stage of the proceedings and the amount of discovery completed." *In re AT&T*, 270 F.R.D. at 346. Here, all factors weigh in favor of preliminarily approving the Settlement as fair, reasonable and adequate.

A. **<u>The Settlement Amount is Substantial Given the Strengths of Plaintiffs' Claims and Attendant Risks</u>**

The most important factor in evaluating a proposed settlement is the strength of Plaintiffs' case balanced against the amount offered. *Synfuel Techs., Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006) (internal quotes and citations omitted). "Because the essence of settlement is compromise, courts should not reject a settlement solely because it does not provide a complete victory to the plaintiffs." *In re AT&T*, 270 F.R.D. at 347 (citations omitted).

Here, the $15,000,000.00 non-reversionary all-cash fund represents a substantial recovery when weighed against the risks of continued litigation. Class Counsel Decl. ¶¶ 30-36. Defendants deny liability and would vigorously oppose class certification, summary judgment, and trial. Plaintiffs would face significant risks, including the possibility of no recovery at all. Settlement Agreement § VIII(9); *see In re Southwest Airlines Voucher Litig.*, No. 11-cv8176, 2013 WL 4510197, at *7 (N.D. Ill. Aug. 26, 2013) ("In considering the strength of plaintiffs' case, legal uncertainties at the time of settlement favor approval."). The Settlement eliminates these risks while providing monetary relief for Settlement Class Members. Accordingly, this factor supports Preliminary Approval.

B. <u>Further Litigation Would Be Complex, Costly and Lengthy</u>

Preliminary approval is also favored because "[s]ettlement allows the class to avoid the inherent risk, complexity, time, and cost associated with continued litigation." *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 586 (N.D. Ill. 2011). If this litigation were to continue on the merits, it would be lengthy, expensive and involve extensive motion practice, including a motion to dismiss, motion for class certification (and possibly a motion for decertification), motions for summary judgment and various pretrial motions, as well as extensive fact and expert discovery, including the preparation of expert reports, expert depositions and *Daubert* motions. Class Counsel Decl. ¶ 23. Further, proceeding to trial would take years and incur substantial costs for both sides. *See Lane v. Facebook, Inc.*, 696 F.3d 811, 820 (9th Cir. 2012) ("the immediate benefits represented by the Settlement outweighed the possibility—perhaps remote—of obtaining a better result at trial").

Rather than undertaking years of protracted and uncertain litigation, Plaintiffs and their counsel took the opportunity to negotiate a Settlement that provides meaningful relief to all Settlement Class Members. Class Counsel Decl. ¶¶ 30-36; Settlement Agreement § III; *Schulte*, 805 F. Supp. 2d at 586. Accordingly, this factor supports Preliminary Approval.

C. <u>The Reaction of the Class Cannot Yet Be Assessed</u>

Notice regarding the Settlement has not yet been distributed. Plaintiffs will report on the reaction of the Settlement Class Members to the Settlement once that time period has passed and as they brief their motion for final approval of the Settlement.

D. <u>Competent Counsel Support the Settlement</u>

Class Counsel are experienced in complex class action litigation and conducted substantial investigation and analysis prior to settlement. Class Counsel Decl. ¶¶ 30-36. They reviewed relevant information, assessed the risks of continued litigation and negotiated the Settlement at arm's length. *Id*. Their endorsement supports a finding that the Settlement is fair and reasonable. *Id*. Accordingly, this factor supports Preliminary Approval.

E. <u>The Parties Had Sufficient Information to Evaluate the Settlement</u>

Prior to settlement, Defendants provided Plaintiffs with significant documents to assist in evaluating a potential settlement, as well as the strengths and weaknesses of Plaintiffs' claims, including documents sufficient to identify all model numbers, brand names, product descriptions, retail pricing information, supply dates, number of Pool units sold, design changes made to the Pools consistent with recently revised industry standards in which CPSC and consumer pool safety advocates participated, packaging information, user manuals, testing regarding evaluation of the repair kit subject to the Pool Recall and related Pool Recall data, as well Plaintiffs' Pool purchase information and documentation. *Id.* ¶ 14. This significant information allowed the Parties to evaluate the strengths and risks of the claims and negotiate an informed resolution. *Id.* Courts routinely approve class action settlements at this stage of litigation because it allows the class members to recover without the delay that such complex cases usually entail, especially where, as here, the Settlement was brought about by the skill and diligence of Class Counsel in evaluating the claims and damages in the litigation.[4] Accordingly, this factor supports Preliminary Approval.

V. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS IS APPROPRIATE

Plaintiffs seek to certify the Settlement Class for settlement purposes. Settlement Agreement § II(1). At the preliminary approval stage, the Court must determine whether the proposed Settlement Class should be certified for settlement purposes under Federal Rule of Civil Procedure 23. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591 (1997). As presented below, this Settlement satisfies Rule 23.

A. Class Certification for Settlement Purposes Only is Appropriate Because the Requirements of Federal Rule of Civil Procedure 23 Are Met

Certification of a settlement class must satisfy each requirement of Rule 23(a), as well as at least one of the separate provisions of Rule 23(b). *Id.* at 613-14. As described below, the proposed Class meets the requirements of Rule 23(a) and Rule 23(b)(3).

[4] *See, e.g.*, *Rugg-Harrell, et al. v. Treehouse Foods, Inc.*, No. 1:24-cv-10992 (N.D. Ill. Feb. 13, 2026) (granting final approval of consumer class action prosecuted by members of Class Counsel where the case settled at a similar stage of the litigation); *Isby*, 75 F.3d at 1200 (affirming district court's approval of settlement, noting that "while settlement discussions began at an early stage in the litigation, [the district court] was satisfied that the discovery and investigation conducted by class counsel prior to entering into settlement negotiations was 'extensive and thorough'").

1. The Rule 23(a) Requirements Are Satisfied for Purposes of a Class Settlement

Rule 23(a) requires that (1) a class must be "so numerous that joinder of all individual class members is impracticable" (numerosity); (2) there must be "questions of law or fact common to the proposed settlement class" (commonality); (3) Plaintiffs' claims must be "typical" of those of the class members (typicality); and (4) Plaintiffs and Class Counsel must "fairly and adequately protect the interests of the class" (adequacy). *In re AT&T*, 270 F.R.D. at 344. For purposes of approving a settlement class, each of these requirements are satisfied here.

(a) Rule 23(a)(1): The Settlement Class is so Numerous that Joinder of All Members is Impracticable

Rule 23(a)(1) requires that the class be so "numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1); *see McCabe v. Crawford & Co.*, 210 F.R.D. 631, 643 (N.D. Ill. 2002) ("Although there is no 'bright line' test for numerosity, a class of forty is generally sufficient to satisfy Rule 23(a)(1)."). Defendants' sales data reflects that approximately 2.5 million Class Products were sold to Settlement Class Members nationwide, making joinder impracticable. Class Counsel Decl. ¶ 14. Thus, the numerosity requirement is easily met.

(b) Rule 23(a)(2): There are Questions of Fact and Law Common to the Settlement Class

The commonality requirement is satisfied where, as here, there are "questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). To establish commonality, class members must have "suffered the same injury," and "[t]heir claims must depend upon a common contention." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011). "[F]or purposes of Rule 23(a)(2) even a single common question will do." *Id.* at 359; *Parker v. Risk Mgmt. Alts., Inc.*, 206 F.R.D. 211, 213 (N.D. Ill. 2002) ("[A] common nucleus of operative fact is usually enough to satisfy the [commonality] requirement"). Commonality of damages is not required. *In re IKO*

Roofing Shingle Prods. Liab. Litig., 757 F.3d 599, 602 (7th Cir. 2014).

Here, common questions include but are not limited to: (1) whether the Class Products contain the Defect; (2) whether Defendants knew, or should have known, of the Defect; (3) whether Defendants had a duty to disclose the Defect to Plaintiffs and Class Members; (4) whether Defendants failed to adequately warn Plaintiffs and Settlement Class Members that the Class Products contained the Defect; (5) whether Defendants' representations and omissions were misleading or deceptive; (6) whether Defendants' conduct was unfair or illegal; and (7) whether Plaintiffs and Settlement Class Members are entitled to damages. *See, e.g*., CAC ¶¶ 202(a)-(r). Resolution of these common questions would require evaluating their merits under a single objective standard. *Kitzes v. Home Depot, USA, Inc.*, 374 Ill. App. 3d 1053, 1061 (2007).

(c) Rule 23(a)(3): Plaintiffs' Claims are Typical of the Claims of the Settlement Class

Rule 23(a)(3) requires that class representatives' claims be "typical" of class members' claims. Fed. R. Civ. P. 23(a)(3). "[T]ypicality is closely related to commonality and should be liberally construed." *Saltzman v. Pella Corp*., 257 F.R.D. 471, 479 (N.D. Ill 2009). Typicality is a "low hurdle," requiring "neither complete coextensivity nor even substantial identity of claims." *OwnerOperator Indep. Drivers' Ass'n v. Allied Van Lines, Inc*., 231 F.R.D. 280, 282 (N.D. Ill. 2005). "Typicality is satisfied if a plaintiff's claims arise from the same event, practice or course of conduct that gives rise to the claim of the other class members, and if the claims are based on the same legal theory." *Parker*, 206 F.R.D. at 213.

Here, Plaintiffs' claims, legal theories and evidence are identical to those of other Settlement Class Members. Class Counsel Decl. ¶ 35. Plaintiffs, like all members of the Settlement Class, purchased the Class Products during the Class Period and suffered economic damages because of Defendants' alleged material misstatements and omissions. *See generally* CAC.

Accordingly, Rule 23(a)(3) typicality requirement is satisfied.

(d) Rule 23(a)(4): Plaintiffs Fairly and Adequately Protect the Interests of the Settlement Class

Rule 23(a)(4) is satisfied if "the representative parties will fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). This prerequisite of Rule 23(a) has two components: (1) "the representatives must not possess interests which are antagonistic to the interests of the class," and (2) "the representatives' counsel must be qualified, experienced, and generally able to conduct the proposed litigation." *In re TikTok, Inc., Consumer Priv. Litig.*, 565 F. Supp. 3d 1076, 1085 (N.D. Ill. 2021) (citation omitted).

Here, Plaintiffs' interests are coextensive with those of the Settlement Class, and there is no evidence that the Plaintiffs' interests are antagonistic to other Settlement Class Members. Class Counsel Decl. ¶¶ 34-35. Like all members of the Settlement Class, Plaintiffs have claims against Defendants in connection with their purchase of Class Products during the Class Period. *Id.* Plaintiffs, like all members of the Settlement Class, were also allegedly injured economically by Defendants' wrongful acts. Proof of Plaintiffs' claims would necessarily involve adjudicating the same issues of law and fact as the claims of the Settlement Class as a whole. Thus, Plaintiffs, and the Settlement Class they seek to represent, have the same interests in recovering damages allegedly caused by Defendants' wrongful conduct. *Id.* Also, Class Counsel are highly qualified and have vast experience litigating consumer class actions. *See generally id.*, Exs. A & B. They zealously represented the interests of the Settlement Class and will continue to do so. *Id.* Accordingly, Class Counsel will also adequately protect the Settlement Class.

2. The Requirements of Rule 23(b)(3) Are Satisfied

Rule 23(b)(3) requires Plaintiffs to show that "questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). Both requirements are readily satisfied here.

District courts have broad discretion in deciding class certification. *In re AT&T*, 270 F.R.D. at 340. Factors particularly pertinent to these issues here "include: (A) the class members' interests in individually controlling the prosecution ... of separate actions" and "(B) the extent and nature of any litigation concerning the controversy already begun." *See id*. These prerequisites are satisfied here. Further, the manageability concerns of Rule 23(b)(3) are not an issue for a settlement class. *See Amchem*, 521 U.S. at 620 ("a district court need not inquire whether the case if tried, would present intractable management problems . . . for the proposal is that there be no trial.").

(a) Common Questions Predominate

"Considerable overlap exists between the court's determination of commonality and a finding of predominance. A finding of commonality will likely satisfy a finding of predominance because, like commonality, predominance is found where there exists a common nucleus of operative facts." *Saltzman*, 257 F.R.D. at 484. Where the predominance inquiry is undertaken in the context of a settlement, the "court need not inquire whether the case, if tried, would present intractable management problems, for the proposal is that there be no trial." *Amchem*, 521 U.S. at 620; *see also Carnegie v. Household Int'l, Inc*., 376 F.3d 656, 660 (7th Cir. 2004). Here, as detailed above, Plaintiffs' claims involve common questions of law and fact because the same set of operative facts applies to the Settlement Class.

(b) Class Treatment of Plaintiffs' Claims is Superior

For purposes of settlement, a class action is also appropriate here, particularly when weighed against the alternative course of attempting to settle numerous—if not thousands or more—individual actions. Further, "[a] class action is superior where potential damages may be too insignificant to provide class members with incentive to pursue a claim individually." *Jackson v. Nat'l Action Fin. Servs., Inc*., 227 F.R.D. 284, 290 (N.D. Ill. 2005).

B. The Proposed Settlement Notice Program Contains the Best Notice Practicable and Satisfies Rule 23(e)(1)

If the Court finds that it will likely be able to certify the Settlement Class and that the proposed Settlement is within the range of possible approval, the Court must then direct the Plaintiffs to provide notice "in a reasonable manner to all class members who would be bound" by the proposed Settlement Agreement. Fed. R. Civ. P. 23(e)(1). For any Rule 23(b)(3) class proposed to be certified for purposes of a settlement under Rule 23(e), "the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B). This notice requirement "is designed to guarantee that those bound by the ruling in a class action were accorded their due process rights to notice and an opportunity to be heard." *Chaffee v. A&P Tea Co.*, Nos. 79 C 2735, 79 C 3625, 1991 WL 5859, at *2 (N.D. Ill. Jan. 16, 1991).

Rule 23(e)(1)(B) is also satisfied. Rule 23's Advisory Committee Notes to the 2018 Amendments "recognize contemporary methods of giving notice to class members" and that "technological change" has "introduced other means of communication that may sometimes provide a reliable additional or alternative means of giving notice" other than first class mail. Consequently, notice can be effectuated through "United States mail, electronic means, or other appropriate means." *Id.*

The Notice Plan satisfies the foregoing criteria. *See* Settlement Agreement § V(1), Exs. B, C, D; Class Counsel Decl. ¶¶ 25-29; EisnerAmper Decl. As detailed in herein, pending the Court's approval, EisnerAmper, an experienced third-party Settlement Administrator, will institute a robust Notice Plan, that will include a Long Form Notice, Publication Notice, Settlement Website and toll-free telephone number, and shall provide in clear language, among other information: a description of the material terms of the Settlement; how to submit a Claim Form; the Claim Filing Deadline; a date by which Settlement Class members may opt-out of the Settlement Class; a date by which Settlement Class Members may object to the Settlement and/or to Class Counsel's Application for Attorneys' Fees, Cost Reimbursement and Class Representative Service Awards; the date the Fairness Hearing is scheduled to occur; and the Settlement Website address (www.poolsettlementbw.com) at which Settlement Class members may access this Agreement and other related Settlement documents and information. Settlement Agreement § V(5); EisnerAmper Decl. ¶¶ 11-24; Settlement Agreement, Exs. B (Short Form Notice), C (Postcard Notice), D (Long Form Notice). This detailed Notice protects the rights of absent class members, thereby weighing in favor of settlement approval. Further, the Notice Plan is designed to directly reach a very high percentage of Settlement Class members through the Publication Notice, which will be published on websites and/or social media platforms to be agreed upon by the Parties and the Settlement Administrator. *See* Settlement Agreement § V; Class Counsel Decl. ¶¶ 25-29; EisnerAmper Decl. To the extent reasonably available, direct notice will be provided using customer data obtained from Defendants and, where available, third-party retailers or other reasonably available sources. Between direct and publication notice, 80% of Settlement Class Members are expected to be reached by the Notice Plan. EisnerAmper Decl. ¶ 33

VI. THE PROPOSED SETTLEMENT FALLS WITHIN THE RANGE OF POSSIBLE APPROVAL UNDER RULE 23(e)(2) BECAUSE IT IS FAIR, REASONABLE AND ADEQUATE

Upon conditionally certifying a class for settlement, the Court must also consider whether the proposed settlement is "within the range of possible approval" following the factors outlined in Rule 23(e)(2). Fed. R. Civ. P. 23(e)(1)(B)(i). A proposed settlement is within the range of possible approval when the Court finds it is "fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). In making this determination, Rule 23(e)(2) requires courts to consider whether: (1) the class representatives and class counsel have adequately represented the class; (2) the proposal was negotiated at arm's length; (3) the relief provided by the settlement is adequate; and (4) the proposal treats class members equitably relative to each other. *Isby*, 75 F.3d at 1199. When evaluating the above factors, courts within this Circuit should "consider the facts in the light most favorable to settlement." *Id*. The Court should preliminarily approve the Settlement because a review of each of the four factors will likely allow the Court to approve the proposal under Rule 23(e)(2). *See* Class Counsel Decl. ¶¶ 30-36.

A. <u>Rule 23(e)(2)(A): The Class Representatives and Class Counsel are Adequate and Served the Best Interest of the Class</u>

Under the first factor, courts consider whether class representatives and class counsel will adequately represent the class. Fed. R. Civ. P. 23(e)(2). In this case, the adequacy factor is easily satisfied because Plaintiffs and Class Counsel zealously represented the Settlement Class Members' interests and negotiated a favorable class-wide resolution only after both sides were fully apprised of the facts, risks and obstacles involved with protracted litigation. Class Counsel Decl. ¶¶ 13-18, 32. Therefore, the Court should find the Settlement Class Members are adequately represented.

B. <u>Rule 23(e)(2)(B): The Settlement was Negotiated at Arm's Length by Vigorous Advocates in Good Faith, and There is No Fraud or Collusion</u>

Regarding the second factor, courts consider whether the settlement negotiations "were conducted in a manner that would protect and further the class interests." Fed. R. Civ. P. 23(e), Advisory Committee Notes. Here, this factor is satisfied because the Settlement was achieved through arm's-length negotiations with experienced class counsel over the course of two separate full-day mediations before mediator Judge Welsh, who has significant experience mediating class action settlements. *See* Class Counsel Decl. ¶¶ 13-18. The Parties did not discuss attorneys' fees, costs or service awards until after agreement was reached on all material terms of class relief. *Id.* ¶ 18.

C. Rule 23(e)(2)(C): The Settlement Provides Meaningful Relief

Under Rule 23(e) the Court must evaluate whether the relief provided to the Settlement Class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreements beyond the Settlement Agreement. Fed. R. Civ. P. 23(e)(2)(C). Each of these factors strongly supports Preliminary Approval here.

1. The Settlement is Superior to the Costs, Risks and Delay of Trial and Appeal

Preliminary Approval of the Settlement is warranted because the Settlement provides a superior outcome when compared to the significant costs, risks and delay of continued litigation. *See* Fed. R. Civ. P. 23(e)(2)(c)(i); Class Counsel Decl. ¶¶ 14, 32. While Plaintiffs believe their claims have merit, they recognize significant risks associated with continued litigation, including challenges in establishing liability, class certification and damages. Class Counsel Decl. ¶¶ 14, 32. Defendants deny all wrongdoing and would vigorously oppose certification and liability at every stage. Absent settlement, Plaintiffs would face the risk of no recovery at all. Furthermore, continued litigation would require extensive expert discovery, motion practice and trial, with no guarantee of recovery. Class Counsel Decl. ¶¶ 32-33. The Settlement eliminates these risks and provides meaningful monetary relief to the Settlement Class. Settlement Agreement § III.

2. The Settlement Provides for an Effective Method for Distributing Relief to the Settlement Class and Claims Processing

The Settlement provides Settlement Class Members with an easy and effective method to submit claims and to obtain relief. *See* Fed. R. Civ. P. 23(e)(2)(C)(ii). Settlement Agreement §§ V(6), (7), Ex. A. To make a claim, each claimant needs only to provide basic information to receive a Cash Award. *Id.* The submission of a Valid Claim for monetary relief is designed to be easy to understand and to ensure meaningful relief goes to as many Class Members as possible. EisnerAmper Decl. ¶¶ 8, 32-34. The Claim Form requires only basic identifying and purchase information, can be completed in minutes without extensive documentation and can be submitted online or by mail. Settlement Agreement §§ V(6), (7), Ex. A. The Settlement includes a deficiency and cure process, whereby claimants will be notified of any deficiencies in their submissions and provided an opportunity to cure within a defined period, ensuring that technical deficiencies do not result in unnecessary denial of otherwise valid claims. *Id*. at § V(8). The Settlement Administrator will also employ reasonable procedures to identify and prevent fraudulent or duplicative claims while ensuring that legitimate claims are paid. EisnerAmper Decl. ¶¶ 26-27. This approach appropriately balances ease of access with safeguards against fraudulent or duplicative claims, ensuring that Settlement funds are preserved for legitimate claimants.

The Settlement Administrator shall provide Claimants with options to receive Cash Awards that will maximize how the Net Settlement Fund is distributed to the Settlement Class, including offering payment by electronic means or paper check. Settlement Agreement § V(11). In the event any payments are issued via check, the checks will remain valid up to 180 days, providing claimants with ample time to submit a deposit. *Id*. at § V(12). Therefore, "this procedure is claimant-friendly, efficient, cost-effective, proportional, and reasonable under the particular circumstances of this case," and supports preliminary approval. *Hale v. State Farm Mut. Auto. Ins.*

Co., No. 12-0660-DRH, 2018 WL 6606079, at *5 (S.D. Ill. Dec. 16, 2018).

3. The Relief Provided to the Settlement Class is Adequate Considering the Terms of the Proposed Award of Attorneys' Fees

Class Counsel will apply for attorneys' fees not to exceed 33.33% of the Settlement Amount, and also seek reimbursement of litigation expenses, both of which fall squarely in line with other approved class settlements in this Circuit. *Gaskill v. Gordon*, 160 F.3d 361, 362-63 (7th Cir. 1998) (affirming award of 38% of fund); Settlement Agreement § VII(1). Accordingly, this factor also supports Preliminary Approval.

4. There are no Agreements Between the Parties Other Than the Settlement

Under Rule 23(e)(2)(C)(iv), the Court should consider any agreements between the parties. The Parties confirm that no agreements have been made in connection with the proposed Settlement other than the Settlement Agreement presented to the Court. Class Counsel Decl. ¶ 18. Thus, this factor also supports Preliminary Approval. *Hale*, 2018 WL 6606079, at *5.

D. Rule 23(e)(2)(D): The Settlement Treats Settlement Class Members Equitably

The Settlement treats all Settlement Class Members equitably because "[a]ll class members are entitled to the same relief under the proposed settlement." *Hale*, 2018 WL 6606079, at *5. All Settlement Class Members are eligible for relief under the same objective criteria, ensuring equitable treatment. Settlement Agreement § V(7).

VII. CLASS COUNSEL SHOULD BE APPOINTED AS CLASS COUNSEL

Rule 23(g), which governs the standards and framework for appointing class counsel for a certified class, sets forth four criteria the district court must consider in evaluating the adequacy of proposed counsel: (1) "the work counsel has done in identifying or investigating potential claims in the action;" (2) "counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;" (3) "counsel's knowledge of the applicable law;"

and (4) "the resources that counsel will commit to representing the class." Fed. R. Civ. P. 23(g)(1)(A). The Court may also "consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class[.]" Fed. R. Civ. P. 23(g)(1)(B). The Advisory Committee notes that "[n]o single factor should necessarily be determinative in a given case." Fed. R. Civ. P. 23(g), Notes of Advisory Committee on Rules.

On November 12, 2025, following consideration of these factors, the Court appointed Kevin Laukaitis of Laukaitis Law LLC and Rachel Soffin of Pearson Warshaw, LLP as Interim Co-Lead Class Counsel ("Co-Lead Counsel") and appointed additional counsel to the Executive Committee, including Leslie Pescia of Siri Glimstad, Nick Suciu of Bryson Harris Suciu & DeMay PLLC, Charles D. Moore of Reese, LLP, Jason Sultzer of Sultzer & Lipari, PLLC and Alec Schultz of Hilgers Graben PLLC ("Executive Committee"). Class Counsel Decl. ¶ 11 (citing ECF No. 35).

Each firm is a leader in the class action field, and each attorney has extensive experience prosecuting and resolving complex class actions. Before commencing litigation, Class Counsel investigated the potential claims against Defendants, interviewed potential plaintiffs and gathered information regarding the alleged Defect and Recall. *Id*. ¶¶ 2, 11, Exs. A and B. Class Counsel also reviewed Defendants' pre-mediation production and sales and assessed the overall value of this Action should it proceed to trial. *Id*. ¶¶ 14-18. Considering the exceptional monetary relief achieved by this Settlement, Co-Lead Counsel and the Executive Committee should be re-appointed as Class Counsel.

VIII. <u>PROPOSED SCHEDULE OF POST-SETTLEMENT EVENTS</u>

Plaintiffs respectfully propose the following schedule for the Court's review and approval, summarizing the deadlines set forth in the Preliminary Approval Order. If the Court approves the proposed schedule, Plaintiffs request that the Court schedule the Fairness Hearing for November 20, 2026, or as soon thereafter as may be heard by the Court.

Event	**Deadline**
Motion for Preliminary Approval	April 30, 2026
CAFA Notice pursuant to 28 U.S.C. § 1715(b)	Within 10 Days of the filing of the motion for preliminary approval
Defendants to deposit anticipated costs of notice and administration with Settlement Administrator	Within 14 Days of the Preliminary Approval Date
Defendants provide Class Data to Settlement Administrator	No later than 14 days before the Notice Date
Settlement Administrator establishes Notice Website and toll-free number for Parties' review	No later than twenty-one (21) Days after the Preliminary Approval Date
Notice Date	Anticipated to be August 1, 2026
Application for Service Awards and Attorneys' Fees and Cost Reimbursement	September 25, 2026 (or 35 Days before Objection Deadline)
Objection & Exclusion Deadline	October 30, 2026 (or 90 Days after Notice Date)
Claims Deadline	October 30, 2026 (or 90 Days after Notice Date)
Final Approval Motion and response to any objections	November 13, 2026 (or 7 Days before Final Approval Hearing)
Settlement Administrator declaration regarding notice dissemination, claims, opt-outs, and objections	November 13, 2026 (or 7 Says before Final Approval Hearing)
Final Approval Hearing	November 20, 2026, or as soon thereafter as may be heard by the Court

Defendants to deposit remainder of Settlement Fund with Settlement Administrator	No later than one (1) business day after the Effective Date
Attorneys' Fee Award, Cost Reimbursement, and Service Award Issuance Date	No later than three (3) business days after the Effective Date

IX. CONCLUSION

For the foregoing reasons, Plaintiffs and Class Counsel respectfully request that the Court:

1. Preliminarily approve the Settlement;
2. Certify the Settlement Class for settlement purposes;
3. Approve the Class Notice Plan, including the Opt-Out and Objection procedures;
4. Approve the claims process;
5. Appoint Rachel Soffin of Pearson Warshaw, LLP and Kevin Laukaitis of Laukaitis Law LLC as Co-Lead Class Counsel;
6. Appoint EisnerAmper as the Settlement Administrator;
7. Enter the proposed Preliminary Approval Order filed concurrently herewith; and
8. Schedule the Fairness Hearing.

Date: April 30, 2026

/s/ Kevin Laukaitis
Kevin Laukaitis
LAUKAITIS LAW LLC
954 Avenida Ponce DeLeon
Suite 205 - #10518
San Juan, PR 00907
Telephone: (215) 789-4462
klaukaitis@laukaitislaw.com

RACHEL SOFFIN (Fla. Bar. No. 18054)
Mailing Address:
PEARSON WARSHAW, LLP
15165 Ventura Boulevard, Suite 400
Sherman Oaks, CA 91403
Telephone: (818) 788-8300
Facsimile: (818) 788-8104
rsoffin@pwfirm.com

Plaintiffs' Interim Co-Lead Class Counsel

Nick Suciu III
BRYSON HARRIS SUCIU & DEMAY PLLC
6905 Telegraph Road, Suite 115
Bloomfield Hills, MI 48301
Telephone: (616) 678-3180
nsuciu@brysonpllc.com

Charles D. Moore
REESE LLP
121 N. Washington Avenue, 2nd Floor
Minneapolis, MN 55401
Telephone: (212) 643-0500
cmoore@reesellp.com

Jason P. Sultzer, Esq.
SULTZER & LIPARI, PLLC
85 Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601
Phone: (845) 483-7100
Fax: (888) 749-7747
sultzerj@thesultzerlawgroup.com

Leslie Pescia
SIRI & GLIMSTAD LLP
745 Fifth Avenue, Suite 500

New York, NY 10151
T: (212) 532-1091
lpescia@sirillp.com

Alec Schultz
HILGERS GRABEN PLLC
1221 Brickell Avenue, Suite 900
Miami, FL 33131
aschultz@hilgersgraben.com

Plaintiffs' Executive Committee