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**United States District Court
Central District of California**

ENZO FORCELLATI and LISA
ROEMMICH, on Behalf of Themselves
and all Others Similarly Situated,

Plaintiffs,

v.

HYLAND’S, INC., STANDARD
HOMEOPATHIC LABORATORIES,
INC., and STANDARD HOMEOPATHIC
COMPANY,

Defendants.

Case No. 2:12-CV-01983 ODW (MRW)

**PRELIMINARY APPROVAL
ORDER [275]**

Hon. Otis D. Wright, II

1 The parties in the above captioned action, including Plaintiffs Enzo Forcellati
2 and Lisa Roemmich on the one hand, and Defendants Hyland’s, Inc., Standard
3 Homeopathic Laboratories Inc., and Standard Homeopathic Company on the other,
4 have reached a Settlement Agreement that is set forth in the Stipulation of Settlement
5 filed with this Court.

6 Pending before the Court is the parties’ Motion for Preliminary Approval.
7 Having carefully reviewed the Stipulation of Settlement, including the exhibits
8 attached thereto and all papers, pleadings, records, and prior proceedings to date in
9 this Consolidated Action, the Court GRANTS Preliminary Approval and FINDS and
10 ORDERS as follows:

11 1. As an initial matter, for purposes of this Preliminary Approval Order,
12 except as otherwise indicated herein, the Court adopts and incorporates the
13 definitions contained in the Stipulation of Settlement.

14 2. The Settlement Agreement set forth in the parties’ Stipulation of
15 Settlement is within the range of reasonableness and possible final approval in that it
16 appears fair, reasonable, and adequate. The parties’ Agreement was reached as a
17 result of extensive arm’s length negotiations between the parties and their counsel.
18 This included five full day mediation sessions, the first two with Robert A. Meyer of
19 Loeb & Loeb LLP, and the final three with the Hon. Jay C. Gandhi, United States
20 Magistrate Judge. Additionally, before entering into the Agreement, this Action was
21 on the eve of trial. Thus, Plaintiffs and their counsel had sufficient information to
22 evaluate the strengths and weaknesses of the case and to conduct informed
23 settlement discussions.

24 3. The Court provisionally certifies, for settlement purposes only, a class
25 defined as: All persons in the United States who purchased the following Hyland’s
26 products on or after March 8, 2008: (i) Cold ‘n Cough 4 Kids, (ii) Cough Syrup with
27 100% Natural Honey, (iii) Sniffles ‘n Sneezes 4 Kids, (iv) Cold Relief Strips 4 Kids
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1 with Zinc, (v) Nighttime Cold 'n Cough 4 Kids, (vi) Complete Flu Care 4 Kids, (vii)
2 Baby Teething Gel, (viii) Baby Cough Syrup, (ix) Baby Gas Drops, (x) Baby Infant
3 Earache Drops, and (xi) Baby Nighttime Tiny Cold Syrup. Excluded from the Class
4 are: (a) Hyland's employees, officers and directors, (b) persons or entities who
5 purchased the Products for the purpose of re-sale, (c) retailers or re-sellers of the
6 Products, (d) governmental entities, (e) persons who timely and properly exclude
7 themselves from the Class as provided herein, and (f) the Court, the Court's
8 immediate family, and Court staff.

9 4. The requirements for certification of the Settlement Class under Fed. R.
10 Civ. P. 23(a), and (b)(3) have been satisfied for settlement purposes. The Court
11 finds, for settlement purposes, that: (a) the Settlement Class is defined by objective
12 criteria and ascertainable; (b) the numerosity requirement is satisfied; (c) there are
13 questions of law and fact that are common to the Settlement Class, and those
14 questions of law and fact common to the Settlement Class predominate over any
15 questions affecting any individual Settlement Class Member; (d) the claims of the
16 Plaintiffs are typical of the claims of the Settlement Class they seek to represent for
17 purposes of settlement; (e) a class action is superior to other available means of
18 adjudicating this dispute; (f) and Plaintiffs and Class Counsel are adequate
19 representatives of the Class. *See Forcellati v. Hyland's Inc.*, 2014 WL 1410264
20 (C.D. Cal. Apr. 9, 2014).

21 5. The Court provisionally appoints Plaintiffs Enzo Forcellati and Lisa
22 Roemmich as Class Representatives of the Settlement Class.

23 6. The Court provisionally appoints Bursor & Fisher, P.A., Vozzolo LLC,
24 and Faruqi & Faruqi, LLP and their counsel as Class Counsel.

25 7. Since the Settlement Agreement set forth in the parties' Stipulation of
26 Settlement is within the range of reasonableness and possible Final Approval, Class
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1 Notice Should be provided to the Settlement Class pursuant to the Stipulation of
2 Settlement, as follows:

3 a. On or before Thursday, March 30, 2017, the Settlement Administrator
4 shall cause a copy of the Short Form notice to be sent by email to all class members
5 for whom email addresses are identified.

6 b. On or before Thursday, March 30, 2017, the Settlement Administrator
7 shall cause a Postcard Notice to be sent by regular mail to all class members for
8 whom the parties do not have a valid email address but do have a mailing address.

9 c. On or before Thursday, March 30, 2017, Class Counsel shall cause a
10 copy of the Long Form Notice, in both English and Spanish, to be posted on a
11 dedicated website together with links to important case documents, such as the
12 Preliminary Approval Order, this Stipulation of Settlement, the Consolidated
13 Amended Class Action Complaint, Defendants' Answer to Consolidated Amended
14 Class Action Complaint, and any Second Amended Class Action Complaint;

15 d. Class Counsel shall register www.HylandsLawsuit.com for notice
16 purposes, along with several additional domains that will mirror and/or link to that
17 website, including www.HylandsClassAction.com. Class members will be directed
18 to the website by hyperlinks embedded in the email version of the Short Form Notice
19 and by references in both the Short Form and Postcard Notices. The
20 www.HylandsLawsuit.com website will allow Class Members to submit Claim
21 Forms online and will contain information relevant to Class Members, including but
22 not limited to the Long Form Notice, all applicable deadlines, the Stipulation of
23 Settlement, Class Notice, a downloadable Claim Form, all papers filed by the parties
24 in support of the proposed Settlement Agreement (including Plaintiffs' anticipated
25 motion for a Fee and Expense Award), orders of the Court pertaining to the
26 Stipulation of Settlement, and contact information for the Settlement Administrator
27 for a toll-free telephone number, e-mail, and U.S. mail.

1 e. On or before Thursday, March 30, 2017, the Settlement Administrator
2 shall undertake Publication Notice, which means publication of the Short Form
3 Notice in the National Edition of USA Today once a week for four consecutive
4 weeks, and a Facebook campaign targeting people who have expressed an interest in
5 or “like” pages related to Hyland’s, homeopathy, homeopathic medicine, and
6 wellness as well as those people who have expressed an interest in or “like” pages
7 related to parenting.

8 f. The Notice Period shall run from Thursday, March 30, 2017 to
9 Wednesday, June 28, 2017.

10 8. The Court approves the Class Notice forms, including the Long Form
11 Notice, the Short Form Notice, and the Postcard Notice, attached as Exhibits 2-3 of
12 the 2/6/2017 Declaration of L. Timothy Fisher Regarding Preliminary Approval,
13 which are substantially in the form attached to the Stipulation of Settlement.

14 9. The Court determines that the Notice of the Settlement Agreement and
15 of the Fairness Hearing, as set forth in the parties’ Stipulation of Settlement,
16 complies with all legal requirements, including but not limited to the Due Process
17 Clause of the United States Constitution. Thus, the Court directs that Class Notice
18 shall be given to the Class as provided herein and in Section V of the parties’
19 Stipulation of Settlement.

20 10. Settlement Class Members will have until the Claim Deadline, on
21 Wednesday, June 28, 2017, to submit a Claim Form.

22 11. If a Settlement Class Member wishes to exclude himself or herself from
23 the Settlement Agreement, that Settlement Class Member will have until the Opt-Out
24 Date, on Wednesday, June 28, 2017, to submit a valid Request for Exclusion in the
25 manner set forth in Section VI of the Stipulation of Settlement. All Settlement Class
26 Members who do not timely submit a valid Request for Exclusion will be bound by
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1 the Final Order and Final Judgment, and enjoined from bringing or prosecuting any
2 action relating to the Released Claims.

3 12. The Court appoints KCC Class Action Services, LLC, a well-qualified
4 and experienced claims administrator, as the Settlement Administrator.

5 13. The Court will hold a Fairness Hearing on Monday August 14, 2017 at
6 1:30 p.m. to determine whether the Settlement Agreement should be approved as
7 fair, reasonable, and adequate, and to determine whether a Final Order and Final
8 Judgment should be entered. The Fairness Hearing will be held at the United States
9 District Court for the Central District of California, First Street Courthouse, 350 w.
10 1st Street, Los Angeles, CA. 90012 - Courtroom 5D, 5th Floor.

11 14. The deadline for the parties to file and serve papers in support of their
12 application for final approval of the Settlement Agreement, as well as Class
13 Counsel's motion for fees, costs, and incentive awards, shall be on Monday, June 19,
14 2017. Class Counsel will also include contemporaneous time records sufficient to
15 enable the court to do a lodestar analysis.

16 15. At least seven calendar days prior to the Fairness Hearing, Class
17 Counsel shall prepare or cause the Settlement Administrator to prepare a list of the
18 persons who have excluded themselves in a valid and timely manner from the
19 Settlement Class, and Class Counsel shall file that list with the Court.

20 16. Any objections by any Settlement Class Member to the certification of
21 the Settlement Class or to the approval of the proposed Settlement Agreement set
22 forth in the parties' Stipulation of Settlement shall be heard and any papers submitted
23 in support of said objections shall be considered by the Court at the Fairness Hearing
24 only if, on or before the Objection Deadline, on Wednesday, June 28, 2017,, such
25 objector files with the Court a written objection and notice of the objector's intention
26 to appear, and otherwise complies with the requirements set for in Section VI of the
27 Stipulation of Settlement.

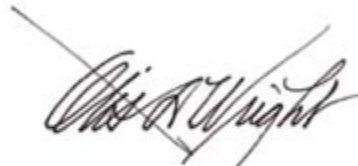
1 17. The deadline for the parties to file and serve any response to any timely
2 objections shall be on Friday, July 28, 2017.

3 18. The parties shall, pursuant to the terms and conditions of the Stipulation
4 of Settlement, take all necessary and appropriate steps to establish the terms and
5 conditions of the Stipulation of Settlement and this Preliminary Approval Order.

6 19. Pending the Fairness Hearing, all proceedings, other than the
7 proceedings necessary to carry out or enforce the terms and conditions of the
8 Agreement and the Preliminary Approval Order in the Consolidated Action are
9 stayed, and Class Members are enjoined from bringing or prosecuting any action
10 relating to the Released Claims.

11 **IT IS SO ORDERED.**

12 February 7, 2017

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17 **OTIS D. WRIGHT, II**
18 **UNITED STATES DISTRICT JUDGE**