

Name _____
Address _____
City, State, Zip _____
Phone _____
Fax _____
E-Mail _____
 FPD Appointed CJA Pro Per Retained

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

CASE NUMBER: _____

PLAINTIFF(S),
v.
DEFENDANT(S).

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that _____ hereby appeals to
Name of Appellant
the United States Court of Appeals for the Ninth Circuit from:

Criminal Matter

- Conviction only [F.R.Cr.P. 32(j)(1)(A)]
- Conviction and Sentence
- Sentence Only (18 U.S.C. 3742)
- Pursuant to F.R.Cr.P. 32(j)(2)
- Interlocutory Appeals
- Sentence imposed:

Civil Matter

- Order (specify): _____
- Judgment (specify): _____
- Other (specify): _____

Bail status:

Imposed or Filed on _____. Entered on the docket in this action on _____.

A copy of said judgment or order is attached hereto.

Date

Signature
 Appellant/ProSe Counsel for Appellant Deputy Clerk

Note: The Notice of Appeal shall contain the names of all parties to the judgment or order and the names and addresses of the attorneys for each party. Also, if not electronically filed in a criminal case, the Clerk shall be furnished a sufficient number of copies of the Notice of Appeal to permit prompt compliance with the service requirements of FRAP 3(d).

JS-6

BURSOR & FISHER, P.A.
Scott A. Bursor (State Bar No. 276006)
L. Timothy Fisher (State Bar No. 191626)
1990 North California Boulevard, Suite 940
Walnut Creek, CA 94596
Telephone: (925) 300-4455
E-Mail: scott@bursor.com
ltfisher@bursor.com

Co-Lead Class Counsel

NORTON ROSE FULBRIGHT US LLP
Jeffrey Margulies, State Bar No. 126002
Spencer Persson, State Bar No. 235054
Stephanie Stroup, State Bar No. 235071
Jade Jurdi, State Bar No.273401
555 South Flower Street
Forty-First Floor
Los Angeles, CA 90071
Telephone: (213) 892-9200
E-Mail: jeff.margulies@nortonrosefulbright.com
spencer.persson@nortonrosefulbright.com
stephanie.stroup@nortonrosefulbright.com
jade.jurdi@nortonrosefulbright.com

Attorneys for Defendants
[Additional counsel on signature page]

**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)

~~PROPOSED~~ **SETTLEMENT
APPROVAL ORDER AND FINAL
JUDGMENT**

Hon. Otis D. Wright, II

1 On February 7, 2017, this Court granted preliminary approval of a proposed
2 class action settlement between the parties in this Consolidated Action. In the
3 Preliminary Approval Order, the Court provisionally certified a Settlement Class of
4 all persons in the United States who purchased the following Hyland’s products on
5 or after March 8, 2008: (i) Cold ‘n Cough 4 Kids, (ii) Cough Syrup with 100%
6 Natural Honey, (iii) Sniffles ‘n Sneezes 4 Kids, (iv) Cold Relief Strips 4 Kids with
7 Zinc, (v) Nighttime Cold ‘n Cough 4 Kids, (vi) Complete Flu Care 4 Kids, (vii) Baby
8 Teething Gel, (viii) Baby Cough Syrup, (ix) Baby Gas Drops, (x) Baby Infant
9 Earache Drops, and (xi) Baby Nighttime Tiny Cold Syrup.¹ The Court also approved
10 the procedures for giving notice and the forms of notice. Additionally, in the
11 Preliminary Approval Order, the Court concluded that the parties’ proposed
12 settlement, as set forth in the Stipulation of Settlement, was within range of possible
13 final approval.

14 Now, pending before the Court is the parties’ Motion for Final Approval of
15 Class Action Settlement, and Plaintiffs’ Motion for an Award of Attorneys’ Fees,
16 Costs, and Incentive Awards. In accordance with the Preliminary Approval Order
17 and the parties’ Stipulation of Settlement, on August 14, 2017, the Court held a duly
18 noticed Fairness Hearing for purposes of: (a) determining the fairness, adequacy, and
19 reasonableness of the settlement; and (b) ruling upon an application by Class
20 Counsel for a Fee and Expense Award and Plaintiffs’ Incentive Awards.

21 The Court, having reviewed the papers filed in support of the Motions, heard
22 the arguments of counsel, and good cause appearing therefore, hereby GRANTS the
23

24 _____
25 ¹ Excluded from the provisionally certified Settlement Class are: (a) Hyland’s
26 employees, officers and directors, (b) persons or entities who purchased the Products
27 for the purpose of re-sale, (c) retailers or re-sellers of the Products, (d) governmental
28 entities, (e) persons who timely and properly exclude themselves from the Class as
provided herein, and (f) the Court, the Court’s immediate family, and Court staff.
See Stipulation of Settlement Sections I-II.

1 Motion for Final Approval and Plaintiffs' Motion for an Award of Attorneys' Fees,
2 Costs, and Incentive Awards and hereby FINDS and ORDERS as follows:

3 1. This Court has personal jurisdiction over all Settlement Class Members,
4 and subject matter jurisdiction over the claims asserted in the Consolidated Action.
5 Venue is proper.

6 2. The parties have agreed to settle this Consolidated Action upon the
7 terms and conditions set forth in the Stipulation of Settlement, which has been filed
8 with the Court.

9 3. The Court has carefully reviewed the Stipulation of Settlement, as well
10 as the files, records, and proceedings to date in this matter. The definitions in the
11 Stipulation of Settlement are hereby incorporated as though fully set forth in this
12 Settlement Approval Order, and capitalized terms shall have the meanings attributed
13 to them in the Stipulation of Settlement.

14 4. Class Notice was given substantially in the form approved by the Court,
15 and in the manner approved by the Court. The Court-approved notice to the
16 Settlement Class, as set forth in the Preliminary Approval Order, was the best notice
17 practicable under the circumstances. Notice included direct mail and email notice,
18 publication in a national edition of USA Today, and online publication. Notice has
19 been successfully implemented and satisfies the requirements of Fed. R. Civ. P. 23
20 and due process. The Court further finds that Notice was sent in accordance with the
21 Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715.

22 5. The Court affirms certification of the Settlement Class for settlement
23 purposes only. Settlement Class Members who have excluded themselves from the
24 settlement, pursuant to the procedures set forth in Section VI of the Stipulation of
25 Settlement, shall no longer be considered Settlement Class Members and shall not be
26 bound by the Stipulation of Settlement or be eligible to make a claim for any benefit
27 under the terms of the Stipulation of Settlement.

1 6. The Court appoints Enzo Forcellati, and Lisa Roemmich as Class
2 Representatives.

3 7. The Court appoints Bursor & Fisher, P.A., Vozzolo LLC, and Faruqi &
4 Faruqi, LLP as Class Counsel.

5 8. The Class Representatives and Class Counsel adequately represented
6 the Settlement Class for purposes of entering into and implementing the Stipulation
7 of Settlement.

8 9. The Court finds that the settlement set forth in the Stipulation of
9 Settlement is fair, reasonable, adequate, and in the best interests of the Settlement
10 Class. The settlement set forth in the Stipulation of Settlement provides meaningful
11 relief to the Class including, cash relief, and injunctive relief, and certainly falls
12 within the range of possible recoveries by the Class. Additionally, among other
13 things, the fact that the parties' agreement is the result of arm's length negotiations,
14 the risk of trial, and the complex legal and factual posture of this Consolidated
15 Action support the finding that the settlement is fair, adequate, and reasonable. Any
16 objections to the settlement are overruled as without merit.

17 10. Accordingly, the Stipulation of Settlement is hereby finally approved in
18 all respects, and the Parties are hereby directed to perform its terms.

19 11. The Court awards to Class Counsel \$2.9 million, which includes
20 reimbursement of Class Counsel's costs and expenses, as attorney's fees and costs.

21 12. The Court awards to the Class Representatives \$5,000 as an Incentive
22 Award for their roles in this Action.

23 13. Defendants shall pay the Fee Award and Incentive Awards pursuant to
24 and in the manner provided by the Stipulation of Settlement.

25 14. Effective as of the Final Settlement Approval Date, each and every
26 Settlement Class Members (except any such person who has filed a proper and
27 timely Request for Exclusion) shall release and forever discharge, and shall be
28

1 forever barred from asserting, instituting or maintaining against any or all of the
2 Released Persons, any and all claims, demands, actions, causes of action, lawsuits,
3 arbitrations, damages, or liabilities whether legal, equitable, or otherwise, relating in
4 any way to the claims asserted or the factual allegations made in the Consolidated
5 Action, including without limitation the allegation that Settlement Class Products’
6 ingredients are ineffective, the allegation that the Settlement Class Products are not
7 all natural, and/or the purchase of any of the Settlement Class Products during the
8 Settlement Class Period (collectively, the “Claims”).

9 15. Upon the Final Settlement Approval Date, the above release of claims
10 and the Stipulation of Settlement will be binding on, and have *res judicata* and
11 preclusive effect in all pending and future lawsuits or other proceedings maintained
12 by or on behalf of all Plaintiffs, Class Representatives, and Settlement Class
13 Members, and their predecessors, successors, assigns, heirs, or executors. All
14 Settlement Class Members who have not been properly excluded themselves from
15 the Settlement Class are hereby permanently barred and enjoined from filing,
16 commencing, prosecuting, intervening in, or participating (as class members or
17 otherwise) in any lawsuit or other action in any jurisdiction based on or arising out of
18 the Released Claims.

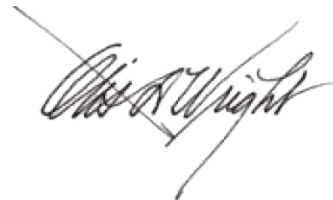
19 16. Neither the Stipulation of Settlement nor the releases given therein, nor
20 any consideration therefor, nor any actions taken to carry out the terms of the
21 Stipulation of Settlement, are intended to be, nor may they be deemed or construed
22 to be, an admission or concession of liability, or the validity of any claim, defense, or
23 of any point of fact or law on the part of any party. Hyland’s denies the material
24 allegations of the Consolidated Amended Class Action Complaint and the Second
25 Amended Complaint.

26 17. The parties are hereby authorized, without needing further approval
27 from the Court, to agree to written amendments, modifications, or expansions of the
28

1 Stipulation of Settlement and its implementing documents (including all exhibits)
2 without further notice to the Settlement Class or approval by the Court if such
3 changes are consistent with this Settlement Approval Order and Final Judgment and
4 do not materially alter, reduce, or limit the rights of Settlement Class Members under
5 the Stipulation of Settlement.

6 18. This Settlement Approval Order and Final Judgment constitutes a
7 judgment within the meaning and for purposes of Rule 54 of the Federal Rules of
8 Civil Procedure. Subject to the terms and conditions of the Stipulation of Settlement,
9 this Court hereby dismisses the Action on the merits with prejudice except that,
10 without affecting the finality of this Final Judgment in any way, this Court hereby
11 retains continuing jurisdiction over, (a) implementation, enforcement, administration
12 of the settlement, including any releases in connection therewith; (b) resolution of
13 any disputes concerning class membership or entitlement to benefits under the terms
14 of the Stipulation of Settlement; and (c) all parties hereto, for the purpose of
15 enforcing and administering the settlement and the Action until each and every act
16 agreed to be performed by the parties has been performed pursuant to the Stipulation
17 of Settlement.

18 **IT IS SO ORDERED.**



19
20 Dated: August 14, 2017

By: _____

Hon. Otis D. Wright, II
United States District Judge

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24
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27
28

FRAP 12B

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)

CLASS ACTION

OBJECTION

Enzo Forcellati v. Hylands Inc et al
Assigned to: Judge Otis D. Wright, II
Referred to: Magistrate Judge Michael R. Wilner
Related Case: [2:12-cv-06256-GHK-MRW](#)
Cause: 28:1331 Fed. Question

Date Filed: 03/08/2012
Date Terminated: 08/14/2017
Jury Demand: Both
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: Federal Question

Plaintiff

Enzo Forcellati
*on Behalf of Himself and all
Others Similarly Situated*

represented by **Adam R Gonnelli**
Faruqi and Faruqi LLP
685 Third Avenue 26th Floor
New York, NY 10017
212-983-9330
Fax: 212-983-9331
Email: agonnelli@faruqilaw.com
TERMINATED: 05/24/2017
PRO HAC VICE

Andrea Clisura
Faruqi and Faruqi LLP
369 Lexington Avenue 10th Floor
New York, NY 10017
212-983-9330
Fax: 212-983-9331
TERMINATED: 11/05/2014
PRO HAC VICE

Annick Marie Persinger
Bursor and Fisher PA
1990 North California Boulevard SUite
940

Walnut Creek, CA 94596
925-300-4455
Email: apersinger@tzlegal.com
TERMINATED: 04/06/2017

Antonio Vozzolo
Faruqi and Faruqi LLP
369 Lexington Avenue 10th Floor
New York, NY 10017
212-983-9330
Fax: 212-983-9331
Email: avozzolo@vozzolo.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara A Rohr
Faruqi and Faruqi LLP
10866 Wilshire Boulevard Suite 1470
Los Angeles, CA 90024
424-256-2884
Fax: 424-256-2885
Email: brohr@faruqilaw.com
ATTORNEY TO BE NOTICED

Beatrice Skye Resendes
P.O. Box 83532
San Diego, CA 92138
619-729-8328
Email: skye.esq@gmail.com
ATTORNEY TO BE NOTICED

Benjamin Heikali
Faruqi and Faruqi LLP
10866 Wilshire Boulevard Suite 1470
Los Angeles, CA 90024
424-256-2884
Fax: 424-256-2885
Email: Bheikali@faruqilaw.com
ATTORNEY TO BE NOTICED

Christopher B Hayes
Faruqi and Faruqi LLP
10866 Wilshire Boulevard Suite 1470
Los Angeles, CA 90024
424-256-2884
Fax: 424-256-2885

Email: chayes@faruqilaw.com
TERMINATED: 04/25/2014

Christopher Marlborough
Faruqi and Faruqi LLP
369 Lexington Avenue 10th Floor
New York, NY 10017
212-983-9330
Fax: 212-983-9331
TERMINATED: 10/25/2013
PRO HAC VICE

David E Bower
Bower Law Group PC
600 Corporate Pointe Suite 1170
Los Angeles, CA 90024
424-256-2884
Fax: 424-256-2885
Email: dbower@bowerlawgroup.com
TERMINATED: 03/16/2016

Deborah S Dixon
Gomez Trial Attorneys
655 West Broadway Suite 1700
San Diego, CA 92101
619-237-3490
Fax: 619-237-3496
Email: Ddixon@gomeztrialattorneys.com
TERMINATED: 06/29/2015

Jacob A Goldberg
Faruqi and Faruqi LLP
101 Greenwood Avenue Suite 600
Jenkintown, PA 19046
215-277-5770
Fax: 215-277-5771
Email: jgoldberg@faruqilaw.com
TERMINATED: 02/21/2014
PRO HAC VICE

Javier O Hidalgo
Faruqi and Faruqi LLP
369 Lexington Avenue 10th Floor
New York, NY 10017
212-983-9330
Fax: 212-983-9331

Email: jhidalgo@faruqilaw.com
TERMINATED: 09/17/2015
PRO HAC VICE

John H Gomez
Gomez Trial Attorneys
655 West Broadway Suite 1700
San Diego, CA 92101
619-237-3490
Fax: 619-237-3496
Email: john@gomeztrialattorneys.com
TERMINATED: 06/29/2015

Lawrence Timothy Fisher
Bursor and Fisher PA
1990 North California Boulevard Suite
940
Walnut Creek, CA 94596
925-300-4455
Fax: 925-407-2700
Email: ltfisher@bursor.com
ATTORNEY TO BE NOTICED

Nadeem Faruqi
Faruqi and Faruqi LLP
685 Third Avenue 26th Floor
New York, NY 10017
212-983-9330
Fax: 212-983-9331
Email: nfaruqi@faruqilaw.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Ronald A Marron
Law Offices of Ronald A Marron
651 Arroyo Drive
San Diego, CA 92103
619-696-9006
Fax: 619-564-6665
Email: ron@consumersadvocates.com
ATTORNEY TO BE NOTICED

Sarah N Westcot
Bursor and Fisher PA
1990 North California Boulevard Suite
940

Walnut Creek, CA 94596
925-300-4455
Fax: 925-407-2700
TERMINATED: 05/08/2014

Scott A Bursor
Bursor and Fisher PA
888 Seventh Avenue
New York, NY 10019
212-989-9113
Fax: 212-989-9163
Email: scott@bursor.com
ATTORNEY TO BE NOTICED

Timothy J Peter
Faruqi and Faruqi LLP
101 Greenwood Avenue Suite 600
Jenkintown, PA 19046
215-277-5770
Fax: 215-277-5771
Email: tpeter@faruqilaw.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Vahn Alexander
The Alexander Firm P.C.
11693 San Vicente Blvd.
#151
Los Angeles, CA 90049
310-345-3378
Email: info@alexanderfirmnpc.com
TERMINATED: 06/05/2012

Plaintiff

Lisa Roemmich
*on Behalf of Themselves and all
Other Similarly Situated*

represented by **Andrea Clisura**
(See above for address)
TERMINATED: 11/05/2014
PRO HAC VICE

Annick Marie Persinger
(See above for address)
TERMINATED: 04/06/2017

Antonio Vozzolo
(See above for address)

PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara A Rohr
Faruqi and Faruqi LLP
10866 Wilshire Boulevard Suite 1470
Los Angeles, CA 90024
424-256-2884
Fax: 424-256-2885
Email: brohr@faruqilaw.com
ATTORNEY TO BE NOTICED

Benjamin Heikali
Faruqi and Faruqi LLP
10866 Wilshire Boulevard Suite 1470
Los Angeles, CA 90024
424-256-2884
Fax: 424-256-2885
Email: bheikali@faruqilaw.com
ATTORNEY TO BE NOTICED

David E Bower
(See above for address)
ATTORNEY TO BE NOTICED

Deborah S Dixon
(See above for address)
TERMINATED: 06/29/2015

Jacob A Goldberg
(See above for address)
TERMINATED: 02/21/2014
PRO HAC VICE

Javier O Hidalgo
(See above for address)
TERMINATED: 09/17/2015
PRO HAC VICE

John H Gomez
(See above for address)
TERMINATED: 06/29/2015

Ronald A Marron
Law Offices of Ronald A Marron APLC
651 Arroyo Drive

San Diego, CA 92103
619-696-9006
Fax: 619-564-6665
Email: ron@consumersadvocates.com
ATTORNEY TO BE NOTICED

Scott A Bursor
(See above for address)
ATTORNEY TO BE NOTICED

Timothy J Peter
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Lawrence Timothy Fisher
(See above for address)
ATTORNEY TO BE NOTICED

V.

Movant

Ashley Hammack

represented by **Michael F Creamer, Jr**
Michael Creamer Jr Law Offices
P.O. Box
Anaheim, CA 92817
714-623-2299
Email: shoya@yahoo.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Hylands Inc

represented by **Jade F Jurdi**
The Scali Law Firm
The Scali Law Firm
800 Wilshire Blvd, Suite 400
Los Angeles, CA 90017
(213) 892-9200
Fax: (213) 892-9494
Email: jjurdi@scalilaw.com

ATTORNEY TO BE NOTICED

Jeffrey B Margulies

Norton Rose Fulbright US LLP
555 South Flower Street, 41st Floor
Los Angeles, CA 90071
213-892-9200

Fax: 213-892-9494

Email:

jeff.margulies@nortonrosefulbright.com

ATTORNEY TO BE NOTICED

Joseph H Park

Liberty Utilities (California)

9750 Washburn Road

Downey, CA 90241

562-299-5120

Fax: 562-861-5902

Email: joe.park@libertyutilities.com

TERMINATED: 05/01/2013

Matthew Marshall Gurvitz

Norton Rose Fulbright US LLP

555 South Flower Street, Floor 41

Los Angeles, CA 90071

213-892-9200

Fax: 213-892-9494

Email: MMGurvitz@Venable.com

TERMINATED: 05/12/2015

Spencer Persson

Norton Rose Fulbright US LLP

555 South Flower Street 41st Floor

Los Angeles, CA 90071

213-892-9200

Fax: 213-892-9494

Email:

spencer.persson@nortonrosefulbright.com

ATTORNEY TO BE NOTICED

Stephanie Anne Stroup

Norton Rose Fulbright US LLP

555 South Flower Street, 41st Floor

Los Angeles, CA 90071

213-892-9200

Fax: 213-892-9494

Email:
stephanie.stroup@nortonrosefulbright.com
ATTORNEY TO BE NOTICED

Defendant

**Standard Homeopathic
Laboratories Inc**

represented by **Jade F Jurdi**
(See above for address)
ATTORNEY TO BE NOTICED

Jeffrey B Margulies
(See above for address)
ATTORNEY TO BE NOTICED

Joseph H Park
(See above for address)
TERMINATED: 05/01/2013

Matthew Marshall Gurvitz
(See above for address)
TERMINATED: 05/12/2015

Spencer Persson
(See above for address)
ATTORNEY TO BE NOTICED

Stephanie Anne Stroup
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**Standard Homeopathic
Company**

represented by **Jade F Jurdi**
(See above for address)
ATTORNEY TO BE NOTICED

Jeffrey B Margulies
(See above for address)
ATTORNEY TO BE NOTICED

Joseph H Park
(See above for address)
TERMINATED: 05/01/2013

Matthew Marshall Gurvitz

(See above for address)
TERMINATED: 05/12/2015

Spencer Persson
(See above for address)
ATTORNEY TO BE NOTICED

Stephanie Anne Stroup
(See above for address)
ATTORNEY TO BE NOTICED

Objector

Patrick S Sweeney

represented by **Patrick S Sweeney**
6666 Odana Road Suite 116
Madison, WI 53719
310-339-0548
Fax: 561-395-9093
PRO SE

Objector

Zeynep Vitale

represented by **Zeynep Vitale**
12 Chestnut Street
Garden City, NY 11530
718-459-0930
PRO SE

Plaintiff

Brian Warner

*individually and on behalf of all
others similarly situated*

represented by **Ben Barnow**
Barnow and Associates PC
One North LaSalle Street Suite
4600
Chicago, IL 60602
312-621-2000
Fax: 312-641-5504
Email: b.barnow@barnowlaw.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Erich P Schork
Barnow and Associates PC
One North LaSalle Street Suite
4600
Chicago, IL 60602

312-621-2000
Fax: 312-641-5504
Email: e.schork@barnowlaw.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jeffrey S Hurst
Monteleone and McCrory LLP
725 South Figueroa Street Suite
3200
Los Angeles, CA 90017-5446
213-612-9900
Fax: 213-612-9930
Email: hurst@mmlawyers.com
ATTORNEY TO BE NOTICED

Michael L Roberts
Roberts Law Firm PA
20 Rahling Circle
Little Rock, AR 72223
501-821-5575
Fax: 501-821-4474
Email:
mikeroberts@robertslawfirm.us
PRO HAC VICE
ATTORNEY TO BE NOTICED

Paula R Brown
Blood Hurst and O'Reardon LLP
701 B Street Suite 1700
San Diego, CA 92101
619-338-1100
Fax: 619-338-1101
Email: pbrown@bholaw.com
ATTORNEY TO BE NOTICED

Phillip J Milligan
Milligan Law Offices
500 South 16th Street
Fort Smith, AR 72901
479-783-2213
Fax: 479-783-4329
Email: milliganlaw@sbcglobal.net
PRO HAC VICE
ATTORNEY TO BE NOTICED

Timothy G Blood
Blood Hurst and O Reardon LLP
701 B Street Suite 1700
San Diego, CA 92101
619-338-1100
Fax: 619-338-1101
Email: tblood@bholaw.com
ATTORNEY TO BE NOTICED

Plaintiff

Kenneth MacLeod
*individually and on behalf of all
others similarly situated*

represented by **Ben Barnow**
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Erich P Schork
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jeffrey S Hurst
(See above for address)
ATTORNEY TO BE NOTICED

Michael L Roberts
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Paula R Brown
(See above for address)
ATTORNEY TO BE NOTICED

Phillip J Milligan
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Thomas Joseph O'Reardon , II
Blood Hurst and O'Reardon LLP
701 B Street Suite 1700
San Diego, CA 92101
619-338-1100
Fax: 619-338-1101
Email: toreardon@bholaw.com

ATTORNEY TO BE NOTICED

Timothy G Blood
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Michael Meade
*individually and on behalf of all
others similarly situated*

represented by **Ben Barnow**
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Erich P Schork
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jeffrey S Hurst
(See above for address)
ATTORNEY TO BE NOTICED

Michael L Roberts
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Paula R Brown
(See above for address)
ATTORNEY TO BE NOTICED

Phillip J Milligan
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Timothy G Blood
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Michael Watson
*individually and on behalf of all
others similarly situated*

represented by **Ben Barnow**
(See above for address)
PRO HAC VICE

ATTORNEY TO BE NOTICED

Erich P Schork
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jeffrey S Hurst
(See above for address)
ATTORNEY TO BE NOTICED

Michael L Roberts
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Paula R Brown
(See above for address)
ATTORNEY TO BE NOTICED

Phillip J Milligan
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Timothy G Blood
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

James Fuller
*individually and on behalf of all
others similarly situated*

represented by **Ben Barnow**
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Erich P Schork
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jeffrey S Hurst
(See above for address)
ATTORNEY TO BE NOTICED

Michael L Roberts

(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Paula R Brown
(See above for address)
ATTORNEY TO BE NOTICED

Phillip J Milligan
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Thomas Joseph O'Reardon , II
(See above for address)
ATTORNEY TO BE NOTICED

Timothy G Blood
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Dale Franquet
individually and on behalf of all
others similarly situated

represented by **Ben Barnow**
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Erich P Schork
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Jeffrey S Hurst
(See above for address)
ATTORNEY TO BE NOTICED

Michael L Roberts
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Paula R Brown
(See above for address)
ATTORNEY TO BE NOTICED

Phillip J Milligan
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Thomas Joseph O'Reardon , II
(See above for address)
ATTORNEY TO BE NOTICED

Timothy G Blood
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Ryan Burns

represented by **Ben Barnow**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Timothy G Blood
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

James Good

represented by **Ben Barnow**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Timothy G Blood
(See above for address)
ATTORNEY TO BE NOTICED

V.

Objector and Appellant

Ms. Gay Hopkins

Represented by Michael Creamer
PO Box 17743
Anaheim, CA 92817
714-623-2299
shoya@yahoo.com
ATTORNEY TO BE NOTICED

V.

Defendant

Toyota Motor Sales, U.S.A., Inc.
a California corporation

represented by **David L Schrader**
Morgan Lewis and Bockius LLP
300 South Grand Avenue 22nd
Floor
Los Angeles, CA 90071-3132
213-612-2500
Fax: 213-612-2501
Email:
david.schrader@morganlewis.com
ATTORNEY TO BE NOTICED

Eric F Gladbach
Reed Smith LLP
599 Lexington Avenue 28th Floor
New York, NY 10022
212-205-6130
Fax: 212-521-5450
Email: egladbach@reedsmith.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Esther Kyungmin Ro
Morgan Lewis and Bockius LLP
300 South Grand Avenue 22nd
Floor
Los Angeles, CA 90071-3132
213-612-2500
Fax: 213-612-2501
Email: ero@morganlewis.com
ATTORNEY TO BE NOTICED

Galen Driscoll Bellamy
Wheeler Trigg ODonnell LLP
370 Seventeenth Street Suite 4500
Denver, CO 80202
303-244-1844
Fax: 303-244-1879
Email: bellamy@wtotrial.com
ATTORNEY TO BE NOTICED

John P Hooper
Reed Smith LLP

599 Lexington Avenue 26th Floor
New York, NY 10022
212-521-5400
Fax: 212-521-5450
Email: jhooper@reedsmith.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Peter W Herzog , III
Wheeler Trigg O'Donnell LLP
211 North Broadway Suite 2825
St Louis, MO 63102
314-326-4129
Fax: 303-244-1879
Email: pherzog@wtotrial.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Raymond A Cardozo
Reed Smith LLP
355 South Grand Avenue Suite
2900
Los Angeles, CA 90071
213-457-8000
Fax: 213-457-8300
Email: rcardozo@reedsmith.com
ATTORNEY TO BE NOTICED

Special Master

Patrick A Juneau

V.

Objector

Andrew Behlman

represented by **Andrew Behlman**
11 Tallwood Court
Morris Plains, NJ 07950
908-235-1040
PRO SE

Objector

Cemil Hope

V.

Intervenor

Devin Forbes

TERMINATED: 03/06/2017

represented by **Alfredo Torrijos**

Arias Sanguinetti Stahle and Torrijos
LLP

6701 Center Drive West 14th Floor

Los Angeles, CA 90045

310-844-9696

Fax: 310-861-0168

Email: alfredo@asstlawyers.com

TERMINATED: 03/06/2017

ATTORNEY TO BE NOTICED

Mike M Arias

Arias Sanguinetti Stahle and Torrijos
LLP

6701 Center Drive West 14th Floor

Los Angeles, CA 90045-1558

310-844-9696

Fax: 310-861-0168

Email: mike@asstlawyers.com

TERMINATED: 03/06/2017

ATTORNEY TO BE NOTICED

CERTIFICATE OF SERVICE

I, Michael Creamer, hereby certify that a true copy of the above document was served upon the attorneys of record for each other party through the Court's electronic filing service ECM/ECF on 9-10-17.

/s/Michael Creamer
Michael Creamer