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Class Counsel

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

16 ADEL TAWFILIS, DDS d/b/a CARMEL
17 VALLEY CENTER FOR ORAL AND
18 MAXILLOFACIAL SURGERY and
19 HAMID A. TOWHIDIAN, M.D.,
individually and on behalf of all others
similarly situated,

20 Plaintiffs,

21 vs.

22 ALLERGAN, INC.,

23 Defendant.

CASE NO. 8:15-CV-307-JLS (JCGx)

**PARTIES' CORRECTED
STIPULATION REGARDING
CLASS NOTICE**

1 Following the Court’s Order Granting Plaintiff’s Motion For Class Certification in
2 which the Court directed Plaintiffs to submit a proposal for disseminating notice of this
3 class action to the absent class members in conformity with Federal Rule of Civil
4 Procedure 23(c)(2)(B) [Dkt. No. 251, at 29:28-30:2], and the Court’s June 30, 2017 Order
5 instructing Plaintiffs to file their class notice proposal either by stipulation or noticed
6 motion [Dkt. No. 268], the parties to the above-entitled action, having met and conferred,
7 hereby file this Stipulation. The parties seek Court approval to implement the class
8 notice proposal set forth below, and hereby Stipulate and agree, subject to Court
9 approval, as follows:

10 1. Subject to the terms of this Stipulation, Class Counsel shall be responsible
11 for undertaking and paying for the tasks entailed in preparing and disseminating the
12 notice to the absent class members. This Stipulation shall not preclude Class Counsel, in
13 the event of a judgment or Court-approved class settlement, from seeking reimbursement
14 of the reasonable costs incurred in implementing the class notice proposal approved by
15 the Court.

16 2. The parties hereby seek Court approval for Class Counsel to retain a Class
17 Action Administrator to undertake the task of drafting Court-approved class notice forms,
18 disseminating such notice forms to the absent class members, reporting to the Court on
19 the status of the notice dissemination, and to identify any persons who timely requested
20 to be excluded from the certified class.

21 3. The parties hereby submit firm brochure or website information about two
22 Class Action Administration firms, Dahl Administration LLC (“Dahl”) and Kurtzman
23 Claims Consultants, LLC (“KCC”), respectively. *See* Exs. 1 and 2 hereto. The parties
24 seek the Court’s approval to have Class Counsel retain its choice of either of these two
25 entities to act as a Class Action Administrator in this case for purposes of implementing
26 the class notice proposal approved by the Court. Each of these firms has been approved
27 by California federal courts to act as a Class Action Administrator in other class action
28 matters. *See, e.g., Brooks v. US Bank, N.A.*, 2014 WL 12647746, at * 1 (N.D. Cal. Feb.

1 12, 2014) (“The Court also approves Dahl Administration to act as the class action
2 administrator.”); *Dugan v. Lloyds TSB Bank, PLC*, 2014 WL 60008, at *1 (N.D. Cal.
3 Jan. 7, 2014) (“A May 22 order approved the class notice with modifications and
4 designated Dahl Administration, LLC as the administrator.”); *Barbosa v. Cargill Meat*
5 *Solutions LLC*, 297 F.R.D. 431, 439 (E.D. Cal. 2013)(referencing mailing of class notice
6 by Dahl Administration); *Seifi v. Mercedes-Benz USA, LLC*, 2015 WL 1737597, at *2
7 (N.D. Cal. Apr. 8, 2015) (“KCC Class Action Services, LLC (“KCC”), selected pursuant
8 to the terms of the Settlement Agreement, shall be responsible for providing notice of the
9 proposed settlement to the Settlement Class Members in accordance with the provisions
10 referenced above.”).

11 4. No later than July 21, 2017, Allergan shall serve Class Counsel with a class
12 member list, identifying the names of all class members and their last addresses on
13 record with Allergan.

14 5. The parties propose that the Class Action Administrator mail a Short-Form
15 Notice substantially in the form attached hereto as Exhibit 3 to all class members by
16 resort to the class member list provided by Allergan. The Class Action Administrator
17 shall also use mail tracing tools to attempt to redeliver any returned or otherwise
18 undelivered mail.

19 6. The parties propose that the Class Action Administrator shall publish a
20 Long-Form Notice substantially in the form attached hereto as Exhibit 4 on a website to
21 be hosted by the Class Action Administrator. The website shall also link to pertinent
22 public versions of filings made in this case (e.g., the operative First Amended Complaint,
23 the Class Certification Order, and such other publicly filed documents as the Class
24 Action Administrator may determine appropriate to inform the class members about the
25 case). The Class Action Administrator shall provide and publish within the website a
26 toll-free telephone number that class members may call to request documents, ask
27 questions, or otherwise seek to contact Class Counsel.
28

1 7. The parties hereby agree, subject to Court approval, that dissemination of
 2 the notice by way of mailing the proposed Short-Form Notice and publishing the
 3 proposed Long-Form Notice comports with due process and Rule 23 requirements, is the
 4 best and most practicable notice under the circumstances, adequately informs absent
 5 class members about the nature of the action, their rights, and the consequences of
 6 remaining or excluding themselves from the certified class, and is the type of class notice
 7 proposal that has been approved by the United States District Court for the Central
 8 District of California in other class actions. *See, e.g., Corson v. Toyota Motor Sales*
 9 *U.S.A., Inc.*, 2016 WL 1375838, at *2(C.D. Cal. Apr. 4, 2016) (approving same form of
 10 notice whereby “Kurtzman Carson Consultants LLC (‘KCC’ or ‘Settlement
 11 Administrator’) would deliver a Short Form Notice to each class member by U.S. Mail. .
 12 . . . KCC would also establish a website containing, among other things, the terms of the
 13 Settlement Agreement and all related documents, including a Long Form Notice and
 14 claim forms. Finally, KCC would set up a toll-free telephone number that would provide
 15 settlement-related information to class members.”); *Wannemacher v. Carrington*
 16 *Mortgage Srvcs., LLC*, 2014 WL 12586117, at *3 (C.D. Cal. Dec. 22, 2014) (approving
 17 same mechanism of disseminating short-form and long-form of class notice).

18 8. The parties agree, subject to Court approval, that the following tasks related
 19 to the dissemination of the class notice be performed by the deadlines set forth below:

<u>CLASS NOTICE EVENT</u>	<u>PROPOSED DEADLINE</u>
Allergan to provide Class Counsel complete list identifying class members and their last known addresses	no later than July 21, 2017
Claims Administrator to complete mailing of approved Class Notice Short Form to all Class Members identified on Allergan’s Class List	45 days following entry of Order approving Class Notice Proposal

<p>1 Claims Administrator to set up and post 2 class action website containing Long- 3 Form Notice, case documents, Opt-Out 4 Request Instructions, and toll-free 5 telephone line for class member inquiries</p>	<p>45 days following entry of Order approving Class Notice Proposal</p>
<p>6 Deadline by which any class member 7 request to be excluded from certified class 8 must be postmarked</p>	<p>120 days following entry of Order approving Class Notice Proposal [equivalent to 54 days from the date that mailing of the Class Notice Short Form has been completed]</p>
<p>9 10 11 Claims Administrator or Class Counsel to 12 file list of timely received requests from 13 absent Class Members for exclusion from 14 certified Class</p>	<p>145 days following entry of Order approving Class Notice Proposal</p>

15
 16
 17 Respectfully submitted,

18 Dated: July 17, 2017

19 /s/ Roy A. Katriel
 20 Roy A. Katriel
 21 THE KATRIEL LAW FIRM
 22 *Class Counsel*

23 Dated: July 17, 2017

24 /s/ Jack E. Pace III
 25 Jack E. Pace III
 26 WHITE & CASE LLP
 27 *Counsel for Allergan, Inc.*

28 I, Roy A. Katriel, hereby attest that on July 17, 2017, I received the consent of Jack E. Pace III to file the foregoing Stipulation with his e-signature affixed.

/s/ Roy A. Katriel